HOUSE OF REPRESENTATIVES—*Thursday, September 23, 1982*

The House met at 10 a.m.

Rev. John C. Fletcher, Ph. D., Assistant for Bioethics, Warren G. Magnuson Clinical Center, National Institutes of Health, Bethesda, Md., offered the following prayer:

Eternal God, Creator and Redeemer of all, we thank You for this new day and its possibilities. We appeal to You, O Lord, from this House of the people's chosen leaders. Your kingdom is not of this world, but Your truth and justice is the judgment seat before which we all stand today and forever. We confess that our confidence in truth is often shaken by a thousand half-truths uttered in the contexts of self-interest. We confess that our commitment to justice is often undone by the blatant pride and prejudice of those in and out of power who contend for special treatment and position, and by our own unruly ambitions that often overreach the limits of fairness. But teach us to love truth and not grow weary in the pursuit of those goals which best serve the people. Help us to love justice and not despair about the mission of this House to preserve and extend the liberties and responsibilities of our Nation to all its people and to be a shining example to those in other nations who desire such a destiny. Give us, we pray, on this new day, a new heart to do the people's work of truth and justice. Cleanse our hearts and renew a right spirit within us, we beseech Thee. Amen.

THE JOURNAL

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

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

Mr. BLILEY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

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

Mr. BLILEY. 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 332, nays 32, answered "present" 3, not voting 65, as follows:

[Roll No. 362]

YEAS—332

Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Bailey (PA)
Barnard
Barnes
Bedell
Beilenson
Benedict
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Bliley
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Broyhill
Burgener
Campbell
Carney
Chappie
Clausen
Clinger
Coelho
Coleman
Collins (IL)
Conable
Conte
Corcoran
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Dellums
DeNardis
Derrick
Dicks
Dingell
Dorgan
Dornan
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (AL)
Edwards (CA)
Emery
English
Erdahl
Erlenborn
Evans (DE)
Evans (IN)
Fary
Fazio
Ferraro
Findley
Fish
Flippo
Florio
Foglietta
Foley
Ford (TN)
Frank
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hatcher
Hefner
Heftel
Hendon
Hertel
Hightower
Hillis
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Jeffords
Jeffries
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
LeBoutillier
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Lundine
Lungren
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McClory
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
Mica
Michel
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rinaldo
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Roukema
Roybal
Rudd
Russo
Santini
Sawyer
Schneider
Schulze
Schumer
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Staton
Stenholm
Stokes
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Udall
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Winn
Wirth
Wolf
Wolpe
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki

NAYS—32

Bailey (MO)
Brown (CO)
Butler
Clay
Coats
Coughlin
Derwinski
Dickinson
Edwards (OK)
Emerson
Evans (IA)
Fields
Gejdenson
Goodling
Harkin
Hartnett
Hawkins
Hiler
Jacobs
Johnston
Luken
Markey
Miller (OH)
Mitchell (MD)
Murphy
Roemer
Sabo
Schroeder
Smith (OR)
Walker
Washington
Weber (MN)

ANSWERED "PRESENT"—3

Oberstar
Obey
Ottinger

NOT VOTING—65

Addabbo
Applegate
Badham
Bafalis
Beard
Bingham
Bolling
Bowen
Breaux
Brown (OH)
Burton, John
Burton, Phillip
Byron
Carman
Chappell
Cheney
Chisholm
Collins (TX)
Conyers
Crockett
Deckard
Dixon
Donnelly
Dougherty
Edgar
Ertel
Evans (GA)
Fascell
Fenwick
Fiedler
Fithian
Ford (MI)
Forsythe
Fountain
Fowler
Garcia
Gingrich
Goldwater
Heckler
Holland
Hyde
Ireland
Lee
Marks
Mattox
McCloskey
McKinney
Moffett
Rhodes
Ritter
Rose
Rosenthal
Rousselot
Savage
Scheuer
Seiberling
Stanton
Stark
Stratton
Trible
Weiss
Williams (MT)
Wilson
Wortley
Zeferetti

□ 1020

So the Journal was approved.

The result of the vote was announced as above recorded.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 907. An act to amend sections 351 and 1751 of title 18 of the United States Code to provide penalties for crimes against Cabinet officers, Supreme Court Justices, and Presidential staff members, and for other purposes.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 2457) entitled "An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MATHIAS, Mr. RUDMAN, and Mr. EAGLETON to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 5890) entitled "An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, 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. PACKWOOD, Mr. SCHMITT, Mr. GOLDWATER, Mr. CANNON, and Mr. RIEGLE to be the conferees on the part of the Senate.

THE PLIGHT OF REFUGEES

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

Mrs. SCHROEDER. Mr. Speaker, in 1980, women in Congress under the leadership of the gentlewoman from New York, Liz Holtzman, took the lead in focusing world attention on the plight of Southeast Asian refugees. We joined together with elected women around the world saying let us put politics aside and let us make sure the victims of politics, refugees, are no longer victimized. We worked hard to see refugees finally got supplies and medical needs they desperately needed.

Women in Congress have continued to put politics aside and focus on humanitarian needs of refugees all over the world because most refugees are women and children. Women and children were not political participants but often the easy victims of politics.

The situation of refugees in Southeast Asia, Africa, the Middle East, and Latin America has been taken up by Congresswomen at different times.

Today we are joining together and calling upon Lebanon to see if there is some international organization the Lebanese would agree to put in charge of the refugee camps to stabilize their situation. They need security and supplies. World opinion was shocked by the treatment of innocent refugees by we have been responding to the political, rather than the humanitarian situation. Today Congresswomen are again joining together, saying let us put politics aside and dwell on the immediate humanitarian needs of the refugees.

THE PLIGHT OF REFUGEES

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

Mrs. BOGGS. Mr. Speaker, we do not raise our voices in protest or in condemnation of any nation or any political faction of any nation, but instead, we raise them in concert with the whimper of a little child too ill and too hungry to cry and the anguished cry of its mother and the wail of its grandmother crying out for their plight and for their beloved dead.

We members of the Congressional Women's Caucus who had the opportunity of being sent on a mission by the Speaker and by this House to Cambodia and to Thailand and to other places in the Far East wish also to join our voices in concert with all the people throughout the world who really wish to relieve the refugee situation.

We know that in a very practical sense there is a network of help through the international agencies which have a pipeline of goods and supplies and of expert knowledge in sanitation, in health care, in nutrition, and in construction.

We hope that you will join your voices with ours to ask that this kind of help be given to the refugees of Lebanon.

THE PLIGHT OF THE REFUGEES

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

Ms. OAKAR. Mr. Speaker, I have visited the refugee camps in Cambodia and I have also seen the refugee camps in Lebanon after the initial devastation in July. The innocent people there were the elderly, women, and children. They were standing outside their former homes which were then rubble. They had nowhere to go, no medical supplies, little food and water. Today they have lost their babies, their parents, and their mothers.

I call upon the President to help the Congresswomen to relieve the despair of these innocent people. We request that a proper international agency assist these people. They are devastated. Let us help them. Let us assure their safety—let us assure that medical supplies, food and shelter, and so forth, assist them and indeed get through to reach them.

Mr. President, surely we can unite in these humanitarian efforts.

THE PLIGHT OF THE REFUGEES

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

Ms. MIKULSKI. Mr. Speaker, one of the most important functions of a government is to save lives. Throughout the world there is a particular population that deserves our consideration, refugees. Refugees are not hostages. Refugees are not people who are combatants. Refugees are people who seek protection from danger, for safety; they look for shelter and a sanctuary.

When refugees are not protected, the most grisly atrocities are perpetrated, whether that is in Cambodia, El Salvador, or now in Lebanon.

I join with the other Congresswomen to call for an international humanitarian refugee protection force to be there to supervise the refugees just as we have sent an international military peacekeeping force to protect the government; for while we are protecting the governments, it is more important that we then protect the people.

We have the international resources to do it and we need to do it, because we are talking about women, about children, and about old people, the most vulnerable, fragile populations in the world who are in danger.

THE PLIGHT OF THE REFUGEES

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

Ms. FERRARO. Mr. Speaker, last week's massacre of Palestinian refugees by Christian Phalangists was the latest example of the vicious brutality which has compounded the miseries of the people of that troubled area in our times. It is important that we distinguish between armed conflict between opposing military forces, which is tragic enough, and the savage slaughter of unarmed civilians, including women, children, and the elderly, which is intolerable.

It will not be an easy task to bring stable peace to the Middle East, which has known constant war for more than three decades. We know it will be difficult, and we must not delude ourselves.

But while we strive for the solution that will send the armies home, we must provide for the security of civil-

ians, including those in the refugee camps.

The letter we are sending today to President Reagan seeks to have an international organization oversee and supervise the refugee camps to give the refugees new hope that they will be secure in the wake of the massacres at Shatila and Sabra. I am hopeful that this action will help prevent any recurrence of those horrors.

□ 1030

WE SHOULD NOT JUDGE TOO QUICKLY

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

Mr. ANNUNZIO. Mr. Speaker, I rise today to express my concern over the recent events in Lebanon, which I feel we should not judge too quickly. The current tragic situation began with the occupation of Lebanon by a group which set up an international terrorist network headquartered in Beirut. This inhumane army of terrorists is the enemy of all countries in the free world, maintaining no respect for territorial sovereignty or human life.

With the support and financial assistance of the Soviet Union, these international gangsters have imposed a reign of terror upon innocent civilians in Lebanon and Israel. The list of atrocities perpetrated by this group is endless—in 1974, when they burst into an elementary school and murdered 20 Israeli schoolchildren; in 1978, on a coastal road when they ambushed and grenaded a civilian bus, killing 35. They have even callously violated the evacuation agreement, leaving behind weapons and followers to continue their worldwide terrorist operations.

Israel has singlehandedly attempted to break up this large force of terrorists, advancing the cause of freedom and human dignity. It has been Israel that has tried gallantly to maintain the peace and insure stability in a troubled Middle East. Israel's policy has been one of trying to live in harmony with its neighbors and to preserve human life.

Israel is the only democracy in the Middle East. Our belief in freedom and self-determination is too great to abandon our commitment to Israel's survival and integrity and our joint commitment to a free Lebanon. We should continue to stand up for Israel during these difficult times to make certain that the forces of civilization and order prevail over the forces of terrorism and anarchy.

LET US CONTINUE CYSTIC FIBROSIS RESEARCH

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

Mr. SIMON. Mr. Speaker, many of us have had our pictures taken with a cystic fibrosis child each year.

When I checked into cystic fibrosis research, I found we were spending $400,000 a year on it. That seemed to me a small amount, but I did not know that much about it.

I have now learned that because of cutbacks in NIH, NIH is closing cystic fibrosis research, not even spending the $400,000 that we are now spending. That is incredible.

I understand tough decisions have to be made when there are cutbacks, but for this wealthy Nation of 220 million people to say we are going to stop research on cystic fibrosis, I do not believe that is what this body wants and I do not believe that is what the American people want. I shall propose an amendment to the HHS appropriation when it comes up to make certain that this Nation continues cystic fibrosis research.

NEED FOR INTERNATIONAL INTERVENTION IN LEBANON CRISIS

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

Mr. MAZZOLI. Mr. Speaker, let me first congratulate the female Members of Congress today having taken several of these 1 minute speeches for the purpose of calling attention to the need for some type of an international intervention to protect the refugees created by the Lebanon crisis.

We want to be sure that the women, the children, the innocents who have been slaughtered indiscriminately, both in the original bombing of Beirut and now, in more recent times, in the terrible tragedy in the refugee camps, are protected and that such events not happen again.

I congratulate the gentlewomen who have brought this matter to the country's attention. As chairman of the Subcommittee on Immigration, Refugees, and International Law of the Committee on the Judiciary, I offer to them my total support. My signature is on that letter which will be sent to the President asking for an international force to protect the Lebanon refugees.

My subcommittee will be anxious to help here, but I think one thing ought to be brought to the attention of this body: We do not, by this activity, want to perpetuate refugee camps. Refugee camps stand as a symbol of the fact that the people who need a homeland have not been able to find a homeland to return to. We do not seek to say refugee living is the best. We simply want to protect human life, and I join with my colleagues in that noble endeavor.

BAN WEAPONS IN SPACE

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

Mr. MOAKLEY. Mr. Speaker, it has been said that it is much easier to prevent something from happening than to correct the situation after the event. It is in this spirit, that I invite my colleagues to join me and some 15 other Members in cosponsoring a joint resolution, calling for the President to immediately engage in negotiations with the Soviet Union, directed toward a complete and verifiable ban of weapons of any kind, in space or based elsewhere, for use against space targets. The resolution also calls on the President to vigorously pursue multilateral talks aimed at banning all weapons from space—launched by any nation—through the appropriate organs of the United Nations, including, but not limited to, establishment of a working group within the U.N. Committee on Disarmament to provide a forum for discussion of this topic leading to a verifiable treaty.

As we all know the potentials of space are infinite, however, it is my feeling that the traditional, peaceful approach to space exploration will not be maintained in that the weaponization of space is indeed at our doorstep. It is true that there are existing treaties which limit space weapons activities, however, under these treaties an arms race of enormous proportions is still possible—indeed probable.

It is high time we realized that deployment of space weapons will jeopardize American security interests and increase the probability of nuclear war. Both the United States and the Soviet Union depend on satellites for early warning, communication, navigation, and treaty verification. Jeopardizing this central nervous system of strategic nuclear forces, by stationing antisatellite weapons or any other type of weapons in space, will greatly increase the chance of accidental nuclear war.

The greatest challenge before us is the salvation or the destruction of our civilization from nuclear death.

Let us not increase the likelihood of a nuclear holocaust by failing to take action now to prevent a dangerous and costly arms race in space.

END THE MISERY IN LEBANON

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

Mrs. ROUKEMA. Mr. Speaker, the political consequences of the atrocities in Lebanon are not yet known, but the human misery is known.

Today I want to join, as a cosigner of the letter calling upon the President

of the United States to take the leadership in calling for international relief agencies to help relieve this human misery.

We must do all we can as leaders of the free world to assure that the women and children and other innocents will not continue to suffer unnecessarily. They need medical supplies, they need food, they need shelter, they need the help of the United States and that of the President of the United States working through the acknowledged worldwide relief agencies.

WE MUST DEBATE THESE "SHIPWRECKED" ISSUES

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

Mr. SMITH of Alabama. Mr. Speaker, I rise this morning to urge my colleagues to consider the many issues which greatly concern the American people, but which this Congress has failed to address. If we are to be responsive to the American people, we must seriously consider the issues of crime, schoolbusing, abortion, balanced budget amendment, and school prayer.

Many Members are concerned for these issues and have introduced legislation. But have these bills been debated? No; they are bottled up in committee. It is unfair to the American people to allow these issues to be shipwrecked because of a powerful few. The list of bottled up legislation is like the graveyard off the Hatteras coast.

Bottled up legislation includes: H.R. 2047, by HENSON MOORE, restricting schoolbusing; House Joint Resolution 372, by the late John Ashbrook, regarding school prayer and abortion; H.R. 3541, by BOB LIVINGSTON concerning the death penalty; House Joint Resolution 350 introduced by BARBER CONABLE calling for a balanced budget amendment and H.R. 6718 by MARK SILJANDER to limit the use of the insanity plea.

How long will the American people accept the excuse that these issues will be addressed in the future? I urge my colleagues here to take our citizenry seriously and debate these issues.

□ 1040

WHO IS TO BLAME FOR APATHY OF AMERICAN CITIZENS?

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

Mr. SILJANDER. Mr. Speaker, I was reading in today's Washington Post, which had an amazing survey as to why the American people are so apathetic, one of the reasons given was that they did not know where their men in office or their women in office stood on the issues.

It is time in this Congress that we were honest with the American people and told them the reasons why they do not know the positions of their public servant. The reason is clear, the leadership of this Congress is fearful of bringing up the issues which would clarify many, many political points for the voters of this country. Yesterday, some of us held a news conference identifying many bills in this Congress, key issues, which are bottled up in committee.

The bills include the balanced budget, regulatory reform, prayer in schools, insanity pleas; major issues dealing with the housing industry and jobs, abortion, and busing—and so many others that this Congress has yet to address and yet to have one rollcall vote on.

I ask the people of this Congress one simple question: Where does the blame for apathy lie? Does it lie with the American people or does it lie here in this Congress because of our inaction and cowardice in bringing up these issues to a vote.

LEGISLATION INTRODUCED PROVIDING FOR INCREASED PURCHASES OF AMERICAN AGRICULTURAL PRODUCTS BY DEFENSE DEPARTMENT

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

Mr. NELLIGAN. Mr. Speaker, yesterday I introduced two pieces of legislation to promote the purchase of American agricultural products by the Department of Defense. I introduced House Resolution 600, which urges the Secretary of Defense to make maximum use of U.S. agricultural products at U.S. military installations overseas, and to devise new ways to use surplus agricultural commodities.

I also introduced H.R. 7165, which would require the Department of Defense to report to Congress concerning its utilization of U.S. agricultural products. Under H.R. 7165, the Department will be required to account for past, present, and future defense purchases, to specify all treaties, laws, executive orders which could require foreign purchases, and what steps could be taken to increase the purchase of domestic agricultural products.

Approval of these two measures would create a specific defense policy favoring the procurement of American agricultural products, and produce the data and information needed to construct a concrete plan to effectively implement this policy.

I invite my colleagues to cosponsor this legislation and join me in supporting the American farmer.

MR. BAXTER SHOULD ENFORCE THE LAW

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

Mr. PORTER. Mr. Speaker, the law states and the Supreme Court has so interpreted that agreements between sellers and buyers to fix the price at which the buyer may resell a product is in violation of the Sherman Antitrust Act. Under the Constitution, the executive branch, of course, is required to enforce the laws of the land.

In at least one case, however, the executive branch is not doing so. Assistant Attorney General William Baxter, who heads Justice's Antitrust Division, has stated he does not intend to enforce the Nation's price-fixing laws with respect to manufacturer-dealer agreements. While a prosecutor in his discretion can decide not to prosecute a particular case, no one has authority not to carry out the laws the Congress has passed.

It is Mr. Baxter's constitutional responsibility to stop ignoring illegal resale price maintenance agreements and to begin prosecuting those firms which enter into such collusive price-fixing agreements which act to stifle free-market competition and increase prices to consumers.

DEFENSE INDUSTRIAL BASE REVITALIZATION ACT SHOULD BE DEFEATED

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

Mr. BETHUNE. Mr. Speaker, every Member here—in fact, every American—knows that Federal spending programs are out of control, and so much time has been spent here talking about that problem. But, what is little known throughout the country, even here in the Congress, is that Federal lending programs are growing faster than the Federal spending programs. Let me say that again: Federal lending programs are growing faster than the Federal spending programs.

That is a real problem. If you want to contribute to that problem, then be sure today to vote for the Defense Industrial Base Revitalization Act, which will add $6.75 billion in spending which will be used to leverage all sorts of loan guarantees, credit assistance programs, interest subsidies, for those hard-pressed defense-related industries who cannot seem to make it now in rebuilding our industrial base in the country on $176 billion that we have set aside for Defense spending in the next year.

I encourage Members to support those of us who will be fighting this

legislation as it comes to the floor today.

DEMOCRATIC LEADERSHIP RESPONSIBLE FOR LACK OF IMPORTANT LEGISLATIVE ACTION

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

Mr. WALKER. Mr. Speaker, back along about March of this year I began the process of pointing out that there were a number of major issues that had been before this Congress for many months, and had not yet not been acted upon. Among these were the balanced budget, school busing, school prayer, regulatory reform, and anitcrime proposals. At least two of those issues, the regulatory reform proposal and the balanced budget proposal, are key to the economic recovery of this Nation.

And yet today we come here and we still not have acted on those particular bills. The question becomes, why, when in March we were told, "Don't worry about it, we are going to act on them later."

The fact that we were doing nothing then did not seem to make any difference, we were going to wait unitl later. Now, when it is later, we are told, "Gee, we are just too busy now to act on such items."

I think some can make those kinds of excuses, but there is no doubt where the responsibility lies for the fact that schoolbusing, school prayer, balanced budget, and regulatory reform, have not been acted upon. The responsibility lies with the Democratic leadership of this Congress.

When the American people ask, "Why did Congress not pass a balanced budget amendment," the answer is, "The Democratic leadership would not let it."

When the American people ask, "Why did Congress not pass regulatory reform," the answer is, "The Democratic leadership would not let it."

When the American people ask, "Why did Congress not pass the school prayer amendment," the answer is, "The Democratic leadership would not let it."

DEMOCRATIC LEADERSHIP RESPONSIBLE FOR DELAY IN CONSIDERING IMPORTANT ISSUES

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

Mr. HILER. Mr. Speaker, the American people are becoming somewhat disconcerted with the action of this Congress, and the reason is because this Congress has not been acting. In January and February and March and April, while we were passing such notable pieces of legislation as National Peach Month, the people were demanding that we take up issues like regulatory reform and the balanced budget.

Now, as we approach the end of this session, with adjournment possibly only a week or 2 weeks away, we will no longer have time to take up these issues. However, we may have a special session to come back after adjournment to take up those issues which we did not have time to do in January, February, March, and April.

Mr. Speaker, I hope that in the future, that if the Democratic leadership continues to control this House, that they decide to work in January and February and March, and not bring the Congress back after an election to take up those issues which they feel the American people would not like the way in which they voted.

JOBS FOR DISPLACED WORKERS

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

Ms. FIEDLER. Mr. Speaker, if unemployment is a major problem in your congressional district, I know that you are concerned as I am about structural changes in our economy that may continue to put American workers out of jobs, even as we recover from the current recession.

Unfair foreign competition is causing this long-term economic dislocation in a number of traditional manufacturing industries. In 1983 alone this may account for 20 percent of the Nation's unemployed.

I have introduced two bills which directly address the cause and effect of economic dislocation. H.R. 7006 strengthens Congress power to act under the Trade Act of 1974. It would allow Congress, by passing a concurrent resolution, to directly request Presidential action under the Trade Act. It would also require the President to submit a report on each country with which the United States has a negative balance of trade, setting forth to what extent this is due to unfair trade practices.

My second bill, H.R. 7007, provides a targeted jobs tax credit to employers who hire long-term unemployed workers. Eligibility requirements would target the incentive to benefit those hardest hit by foreign competition in high-unemployment States.

I believe these two initiatives provide an approach to unemployment which will strengthen our economy in the years ahead.

DELAY IN HOUSE ACTION CAUSED BY REPUBLICANS

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

Mr. RUSSO. Mr. Speaker, I did not intend to address the House this morning but I feel compelled to respond to the gentleman from Indiana, who has criticized this body for not taking a sufficient amount of legislative action earlier this year.

Let me take just a moment to refresh the gentleman's recollection as to just what was happening in the Congress during the months of January, February, March, and April.

As my friend may remember, the President submitted a budget to the Congress during that period of time; a budget based on assumption so unrealistic that pivotal Members of his own party could not accept it. As I recall, the President's February version of the fiscal year 1983 budget projected a deficit of some $93 billion, a figure that has proven to be more than a bit optimistic. As a result of the wide differences that existed between the President and the leaders of his own party, negotiations were undertaken. These talks consumed a great deal of time, and were often heated and contentious. I should point out that leading Republicans were active participants in these discussions, which were designed to encourage the President to prepare a more realistic Federal budget, a document that Members of his own party were willing to bring to the floor.

Inevitably, these negotiations prevented the Congress from taking up a great number of legislative matters, postponing action for a considerable period of time. I would urge the gentleman from Indiana to accept the facts associated with this situation. By doing this, my friend will eventually recognize that a Republican President bears a considerable share of the responsibility for the unfortunate delays in action that have forced us to deal with a great number of appropriations measures at this late date.

ISRAEL IS BETTER THAN BEGIN AND SHARON

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

Mr. OBEY. Mr. Speaker, almost a decade ago Americans justifiably resented efforts to blame the United States as a nation for the actions of a few at My Lai. Our mistakes in Vietnam did not make us an immoral nation, they simply made us a misguided one, and today we have a similar situation in Lebanon.

All of us have an obligation to remember that Israel as a nation is

something quite separate from the outrageous massacre in the Palestinian refugee camps. Israel is a vigorous and decent democracy which at this moment is engaged in vigorous self-criticism, much to their credit.

Having said that, however, let me also say, as one who admires the State of Israel, that Mr. Sharon and Mr. Begin have by their recklessness tragically crippled so much of Israel's good will around the world that it is my honest view that secure peace or anything resembling it may be almost impossible to obtain unless those two gentleman accept the necessity to moderate their reckless policies or else step aside in favor of others who will.

PROVIDING FOR FURTHER EXPENSES OF INVESTIGATIONS AND STUDIES BY COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT IN 2D SESSION, 97TH CONGRESS

Mr. ANNUNZIO. Mr. Speaker, by direction of the Committee on House Administration, I call up the resolution (H. Res. 568) providing amounts from the contingent fund of the House for further expenses of investigations and studies by the Committee on Standards of Official Conduct in the 2d session of the 97th Congress, and ask unanimous consent for its immediate consideration in the House.

The SPEAKER pro tempore (Mr. MINISH). The Clerk will report the resolution.

The Clerk read the resolution, as follows:

Resolved, That (a) for further expenses of investigations and studies by the Committee on Standards of Official Conduct (hereinafter in this resolution referred to as the "committee"), including expenses for procurement of consultant services under section 202(i) of the Legislative Reorganization Act of 1946, there shall be paid out of the contingent fund of the House not more than $200,000.

(b) Not more than $200,000 of the amount specified in subsection (a) may be used for consultant services referred to in such subsection.

SEC. 2. Payments under this resolution shall be made on vouchers authorized by the committee, signed by the chairman of the committee, and approved by the Committee on House Administration.

SEC. 3. Amounts shall be available under this resolution for investigations and studies carried out during the period beginning at noon on January 3, 1982, and ending immediately before noon on January 3, 1983.

SEC. 4. Amounts made available under this resolution shall be expended in accordance with regulations prescribed by the Committee on House Administration.

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

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so to allow the gentleman from Illinois (Mr. ANNUNZIO) to explain what we are doing here. I see no Member from the minority side here, and I want to make certain this has been cleared with the minority.

Mr. ANNUNZIO. Mr. Speaker, if the gentleman will yield, I was about to yield 30 minutes to the gentlewoman from Illinois (Mrs. MARTIN) for debate purposes only.

Mr. WALKER. Mr. Speaker, the gentleman asks unanimous consent to proceed, and I wanted to make certain it had been cleared with the minority. I now understand the minority member is here, and I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ANNUNZIO) is recognized for 1 hour.

Mr. ANNUNZIO. Mr. Speaker, I yield 30 minutes, for debate purposes only, to the distinguished gentlewoman from Illinois (Mrs. MARTIN) pending which I yield myself such time as I may consume.

Mr. Speaker, the purpose of House Resolution 568 is to provide funds for the special investigation authorized by House Resolution 518 which passed this Chamber on July 13, 1982, by a vote of 407 to 1.

House Resolution 568 was favorably reported by a unanimous voice vote of the Subcommittee on Accounts, September 15, 1982. The Committee on House Administration favorably reported the resolution by unanimous consent on September 22, 1982.

House Resolution 518, adopted in July, directs the Committee on Standards of Official Conduct to determine whether any Members or employees of the House have violated the Code of Official Conduct or any law, rule, or regulation with respect to any improper or illegal sex acts and/or any improper or illegal involvement in controlled narcotics. The committee is also directed to determine whether any preferential treatment has been offered by any Member or employee of the House in exchange for either of these two items. After the committee has investigated these matters, it is directed to report to the House its findings, conclusions, and any recommendations.

The Committee on Standards of Official Conduct has made a reasonable request for the financing of this special investigation. In its original budget for 1982, it asked for 55 percent less than its 1981 authorization in hopes of a good year with no problems. It went from a 1981 budget of $450,000 down to a 1982 budget of $200,000. With adoption of this resolution, the total budget for 1982 will be $400,000, which is less by $50,000 than its authorization for 1981.

The Committee on Standards of Official Conduct has been frugal in its budgeting and spending practices. Its chairman and ranking minority member assure us that this frugality will continue.

The committee's request is reasonable; it is timely; and it is necessary. It deserves the complete support of this House.

Mr. Speaker, I urge adoption of the resolution.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman of the subcommittee quite accurately states the feeling of the majority and the minority. This committee has been most responsible in its outlays, and we do support this paricular additional appropriation, not just for the committee but because it is something that is necessary for the honor of the House itself.

Mr. ANNUNZIO. Mr. Speaker, there being no further requests for time, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

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

There was no objection.

TRANSFER OF CERTAIN LANDS TO WASHOE TRIBE OF NEVADA AND CALIFORNIA

Mr. SANTINI. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5081) to declare that the United States holds certain lands in trust for the Washoe Tribe of Nevada and California and to transfer certain other lands to the administration of the U.S. Forest Service, 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 (a) subject to the provision of subsection (b), all right, title, and interest of the United States in the following lands (including all improvements thereon and appurtenances thereto, particularly all water rights appurtenant thereto which are presently administered by the Bureau of Indian Affairs of the Department of the Interior) are hereby declared to be held by the United States in trust for the benefit and use of the

Washoe Tribe of Nevada and California and are hereby declared to be part of the Washoe Indian Reservation:

Township 14 North, Range 19 East, Mount Diablo Meridian, Nevada

Section 1: Lot 2 northeast quarter, lot 3; 84.90 acres.

Section 3: West half lot 1 west half lot 2, northeast quarter, east half lot 1, east half lot 2, northwest quarter; 157.14 acres.

Section 14: East half southwest quarter, southwest quarter northeast quarter, southeast quarter northwest quarter excluding any portion lying west of Jack's Valley Road as it presently exists; 160.00 acres.

Section 22: South half, north half; 160.00 acres.

Section 23: South half, south half northwest quarter, northeast quarter northwest quarter; 440.00 acres.

Section 24: South half south half; 160.00 acres.

Section 25: North half, southeast quarter, northeast quarter southwest quarter; 520.00 acres.

Section 36: West half, north half northeast quarter, southwest quarter northeast quarter, south half southeast quarter, northwest quarter southeast quarter; 560.00 acres.

Total acreage: 2,242.04 acres more or less.

Township 14 North, Range 20 East, Mount Diablo Meridian, Nevada

Section 5: The north half of the northeast quarter lying west of the V and T right-of-way and south of Clear Creek; and the east half of lot 2 in the northwest quarter. Total acreage: 108.01 acres more or less.

Section 6: Lots 1 and 2; 144.13 acres.

Section 18: West half northeast quarter, southeast quarter northeast quarter, northwest quarter southeast quarter; 160.00 acres more or less.

Section 19: South half lot 2 northwest quarter, lot 2 southwest quarter; 98.36 acres more or less.

Township 15 North, Range 20 East, Mount Diablo Meridian, Nevada

Section 32: The east half of the southeast quarter and the southwest quarter of the southeast quarter; and two parcels of land lying within the northwest quarter of the southeast quarter of section 32 in township 15 north of range 20 east of the Mount Diablo Meridian in Ormsby County, Nevada. Parcel numbered 1 is south of the highway leading from the Stewart Indian School to the Minden-Carson City Highway and is described as beginning at a point at the southeast corner of the parcel, the corner being also the southwest corner of the missionary lot, said point of beginning and further described as bearing north 52 degrees 43 minutes west, a distance of 2,198.00 feet from the southeast corner of section 32.

thence north 89 degrees 50 minutes west, a distance of 900.00 feet to the southwest corner of the parcel, said corner being also the southwest corner of the above described subdivision;

thence north 0 degrees 04 seconds east, a distance of 1,102.00 feet to a point at the northwest corner of the parcel and the southerly side of the highway 100-foot right-of-way line;

thence south 51 degrees 32 minutes east, along the southerly side of the highway right-of-way line a distance of 1,600.28 feet to a point at the intersection of the highway right-of-way line and the northerly property line of the missionary lot;

thence north 55 degrees 24 minutes west along the northerly property line of said lot a distance of 430.00 feet to a point;

thence south 0 degrees 04 minutes west, along the west boundary of said lot a distance of 354.40 feet to the point of beginning; said parcel numbered 1 containing 15.51 acres, more or less.

Parcel numbered 2 is north of the highway leading from the Stewart Indian School to the Minden-Carson City highway and is described as beginning at a point at the southeast corner of the parcel, said corner being on the northerly side of the highway 100-foot right-of-way line and the east side of the above described subdivision, said point of beginning being further described as bearing north 41 degrees 18 minutes west, a distance of 2,010 feet from the southeast corner of section 32:

thence north 51 degrees 32 minutes west, along the northerly side of the highway right-of-way line a distance of 1,690.00 feet to a point;

thence north 0 degrees 04 minutes east, a distance of 35.80 feet to the northwest corner of the parcel, said corner being also the northwest corner of the above described subdivision;

thence south 89 degrees 50 minutes east, along the subdivision line a distance of 1,239.50 feet to the northeast corner of the parcel and the west right-of-way line of the Virginia and Truckee Railroad;

thence south 0 degrees 04 minutes west, along the railroad right-of-way line a distance of 44.50 feet to a point;

thence from a tangent whose bearing is the last described course curving to the left with a radius of 1,196.28 feet through an angle of 21 degrees 15 minutes 40 seconds a distance of 443.90 feet to a point on the railroad right-of-way line and the east side of the subdivision;

thence south 0 degrees 04 minutes west, along the east side of the subdivision a distance of 655.70 feet to the point of beginning.

And the south half of the southwest quarter excepting the following parcels:

(1) land lying west of the V and T Railroad right-of-way contained in the southeast quarter southeast quarter; and

(2) southwest quarter southeast quarter. Total acreage 165.54 acres more or less.

(b) Nothing in this section shall deprive any person or entity of any legal existing right-of-way, legal mining claim, legal grazing permit, legal water right (including any water right with respect to the Carson River as decreed by order of the United States District Court of the State of Nevada on October 28, 1980, in the matter of the determination of the relative rights in and to the waters of the Carson River and its tributaries in Douglas County, Nevada), or other legal right or legal interest which such person or entity may have in land described in subsection (a).

(c) The lands which are declared to be held in trust and part of the Washoe Indian Reservation under subsection (a) shall be used primarily for agricultural purposes.

(d) Section 164 of the Act of July 14, 1955 (69 Stat. 322, 42 U.S.C. 7474), as amended, shall be applied without regard to the provisions of this section.

SEC. 2. On or before the expiration of one hundred and eighty days from the date of enactment of this Act the Bureau of Indian Affairs shall transfer to the Forest Service, United States Department of Agriculture, the following lands which shall become national forest system lands subject to all laws, rules, and regulations applicable to the national forest system:

Township 14 North, Range 19 East, Mount Diablo Meridian, Nevada

Section 21: Southeast quarter northeast quarter; 40 acres.

Section 28: Northeast quarter northeast quarter; 40 acres.

Total acreage: 80.00 acres more or less.

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

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

There was no objection.

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

Mr. LUJAN. Mr. Speaker, reserving the right to object, I take this time simply to ask the gentleman from Nevada (Mr. SANTINI) to explain the effects of the Senate amendment.

Mr. SANTINI. Mr. Speaker, if the gentleman will yield, the Senate amended the House bill with an amendment in the nature of a substitute containing the language of the Senate bill, S. 1858.

However, the language of the two bills are identical except that there was a minor error in one of the land descriptions of the house bill. The Senate language corrects that error.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

A motion to reconsider was laid on the table.

AUTHORIZING EXCHANGE OF CERTAIN LAND HELD BY THE NAVAJO TRIBE AND THE BUREAU OF LAND MANAGEMENT

Mr. SANTINI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3589) to authorize the exchange of certain land held by the Navajo Tribe and the Bureau of Land Management, 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 resolving clause and insert:

That (a) subject to the approval of the Secretary of the Interior and to the provisions of this Act, the Navajo Tribe is authorized to exchange any surface interests of such Tribe in the lands described in subsection (b) for surface interests of the United States in lands described in subsection (c) which are approximately equal in value to such tribal interests.

(b) Lands located within the following New Mexico principal meridian townships are described in this subsection:

Township 8 north, range 12 west
Township 8 north, range 11 west;
Township 7 north, range 12 west;
Township 7 north, range 11 west;
Township 6 north, range 12 west;
Township 7 north, range 5 west;
Township 6 north, range 5 west;
Township 6 north, range 4 west;
Township 6 north, range 3 west; and
Township 7 north, range 3 west.

(c) The lands described in this subsection are the lands withdrawn for exchange by Public Land Order 5721 (Federal Register, May 2, 1980, pages 29295-29297) other than the following lands:

Township 23 north, range 13 west, New Mexico principal meridian: section 3, southeast quarter; section 13, southeast quarter; and section 28, southest quarter;

Township 16 north, range 10 west, New Mexico principal meridian: section 6, southeast quarter; and section 18, northeast quarter; and

Township 22 north, range 10 west, New Mexico principal meridian: section 16, north half and southwest quarter.

SEC. 2. Any interests in lands acquired by the Navajo Tribe under section 1(a) shall be held by the Secretary of the Interior in trust for the benefit and use of the Navajo Tribe.

SEC. 3. (a) Lands received by the Navajo Tribe in an exchange under section 1(a) shall be subject to such easements or rights-of-way as the Secretary of the Interior may create in order to provide necessary access to lands adjacent to such lands. The Secretary of the Interior may create such an easement or right-of-way only after he has consulted the governing body of the Navajo Tribe with regard to the location, scope, and use of such easement or right-of-way.

(b) Nothing in this Act shall affect—

(1) the mineral interests of any person, or

(2) any easement or other rights of any person (other than the United States or the Navajo Tribe),

in lands exchanged under section 1(a) which existed prior to the enactment of this Act. The development of such interests and the exercise of such rights may only be controlled by the Navajo Tribe or the Secretary of the Interior to the same extent that such development or exercise could have been controlled by the Secretary of the Interior prior to the enactment of this Act.

SEC. 4. (a) No exchange shall be made under section 1(a) if, at the time such exchange is proposed, the value of the interests in lands described in section 1(b) which are proposed to be exchanged exceeds an amount equal to 125 percent of the value of interests in lands described in section 1(c) which are proposed to be exchanged.

(b)(1) If, at the time of an exchange under section 1(a), the value of the interests in lands described in section 1(b) which are exchanged under section 1(a) exceeds the value of the interests in lands described in section 1(c) which are exchanged under section 1(a), the Secretary of the Interior shall pay to the Navajo Tribe an amount equal to such excess value.

(2) If, at the time of any exchange under section 1(a), the value of the interests in lands described in section 1(c) which are exchanged under section 1(a) exceeds the value of the interests in lands described in section 1(b) which are exchanged under section 1(a), the Navajo Tribe shall pay to the United States an amount equal to such excess value.

SEC. 5. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of section 4(b)(1).

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

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

There was no objection.

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

Mr. LUJAN. Mr. Speaker, reserving the right to object, I do so only to ask the gentleman from Nevada (Mr. SANTINI) to explain the effect of this Senate amendment.

Mr. SANTINI. Mr. Speaker, if the gentleman will yield, the Senate amended the bill H.R. 3589 with an amendment in the nature of a substitute. While there is considerable language difference, there is no substantial difference, with one small exception, between the provisions of the House-passed bill and the Senate substitute.

When we passed the House bill on July 19 of this year, there was pending before the House a similar Senate bill, S. 159. Normally, we would have vacated action on the House bill and passed the similar Senate bill.

However, the Senate managers requested us to pass the House bill and table the Senate bill to permit them to correct an oversight which was contained in the language of both bills.

Both bills authorized the Secretary of the Interior to retain easements across lands exchanged to the tribe to provide access to adjacent Federal lands. This implied that no such access was required for other adjacent lands.

The Senate substitute simply inserts the language of S. 159 as passed by the Senate and which would have been acceptable to us, but provides that the easements for access shall be for any lands, not just Federal lands.

All concerned parties find this acceptable.

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

A motion to reconsider was laid on the table.

□ 1100

AMENDING BOUNDARY OF THE CIBOLA NATIONAL FOREST

Mr. SANTINI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2405) to further amend the boundary of the Cibola National Forest to allow an exchange of lands with the city of Albuquerque, N. Mex., and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

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

Mr. LUJAN. Mr. Speaker, reserving the right to object, I do so to have the gentleman explain this marvelous piece of legislation before us.

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

Mr. LUJAN. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Speaker, because of the distinguished authorship of this legislation I rise on behalf of the gentleman from Ohio (Mr. SEIBERLING) and the gentleman from Arizona (Mr. UDALL) of the Committee on Interior and Insular Affairs in support of S. 2405.

This bill would clear the way for the Forest Service to complete acquisition of approximately 7,935.84 acres in the Elena Gallegos tract on the outskirts of Albuquerque, N. Mex., and add the bulk of the tract, 6,527 acres, to the existing Sandia Mountain Wilderness; 640 acres of the area will be maintained by the city of Albuquerque as a park.

Mr. LUJAN. Mr. Speaker, the purpose of S. 2405 is to expedite the aquisition of 7,986 acres of the Elena Gallegos land grant so that a portion may be added to the Sandia Mountain Wilderness in the Cibola National Forest of New Mexico.

This legislation corrects the acreage figure and the forest boundary as established in Public Law 95-614; and it directs the Secretary of Agriculture in cooperation with the Secretary of the Interior to exchange approximately 32,800 acres of Federal lands in New Mexico with the city of Albuquerque for the acreage that is to be added to our national forest.

This is to be accomplished within 90 days of the date of enactment of this bill.

Before going any further, let me say that I want to thank the Speaker and my two colleagues on the House Interior Committee, Mr. SEIBERLING and Mr. UDALL, for their cooperation in expediting consideration of this legislation.

The bill has the unanimous support of all parties involved in the transaction, including the Forest Service, the city of Albuquerque and the State of New Mexico which contributed money for the land acquisition. It also had the unanimous support of Committee on Energy and Natural Resources when the bill received committee passage in the Senate.

Efforts to acquire the Elena Gallegos grant began more than 10 years ago and have taken several directions before winding up in the form of this legislation which is before us today.

Elena Gallegos has been owned by a private school, the Albuquerque Academy, and is the last major private

holding affecting the Cibola National Forest—an important recreation resource in New Mexico.

The grant is 7,986 acres in area, and extends from the foothills to the crest of the Sandia Mountains. It cuts the existing Cibola National Forest in half.

By preserving the grant, and adding it to the Sandia Mountain Wilderness, we will have taken an important step in protecting this valuable resource and insuring the natural beauty of this wilderness area for many generations to come.

I should point out that the city of Albuquerque, with enthusiastic support from many community groups, as well as cooperation from Federal agencies and the Congress, has taken many actions to assure that this land acquisition take place.

The city's activities intensified in 1978, after Congress enacted Public Law 95-614, which incorporated 7,461 acres of the Elena Gallegos grant into the Cibola National Forest and authorized up to $12 million for the Forest Service to acquire the tract.

That law also required that the city of Albuquerque purchase the remaining 640-acre tract for open space or city park use before the Federal acquisition would be triggered.

In 1980 Congress amended the Endangered American Wilderness Act in order to increase the authorization for the Federal acquisition of Elena Gallegos from $12 million to $20 million and to acknowledge that the city of Albuquerque had met the requirement by Congress for local participation.

This had been done through an option agreement to purchase not only the 640 acres required, but also the entire 8,100 acres. This option agreement was necessary because the Albuquerque Academy, understandably, did not want to sell just the 640 acres.

Albuquerque's citizens first voted $2.3 million in local bonds for open space acquisition; and then earlier this year the city council voted to back a temporary one-fourth-cent sales tax to purchase the 7,986 acres.

The tax is expected to generate $19 million over its maximum life of 3 years, and will provide the city's cash share of the $24 million purchase price as well as money to maintain existing open space areas, and for acquiring some new lands.

A further indication of Albuquerque's support for this exchange was demonstrated by the fact that more than 13,000 citizens signed a petition supporting the sales tax proposal.

I should point out, Mr. Speaker, that the Federal Government will ultimately be reimbursing the city for much of this money through the exchange of more than 30,000 acres of unneeded forest land which will be swapped to the city for the Elena Gallegos grant.

However, the city has taken an innovative approach in providing the vehicle for initially acquiring this property and making it available for the addition to the Sandia Mountain Wilderness.

The overall transaction has been a cooperative effort on the part of the city of Albuquerque, the Forest Service, the State of New Mexico, other Federal agencies, and the Congress.

The city of Albuquerque, and its leaders, have been the catalyst for working out this agreement and I congratulate them on their efforts.

By our actions here today, the House of Representatives can put the finishing touches on a land exchange agreement that will ultimately be beneficial for all parties concerned.

Thank you, Mr. Speaker. I will be happy to answer any questions.

● Mr. SEIBERLING. Mr. Speaker, I rise in strong support of S. 2405. This bill would clear the way for the Forest Service to complete acquisition and the approximate 7,935.84-acre Elena Gallegos tract on the outskirts of Albuquerque, N. Mex., and add the bulk of the tract (6,527 acres) to the existing Sandia Mountain Wilderness; 640 acres of the area will be maintained by the city of Albuquerque as a park.

The Elena Gallegos tract is currently owned by the Albuquerque Academy and is surrounded on three sides by the existing Sandia Mountain Wilderness. The area is highly scenic throughout and can be viewed from most points in the wilderness as well as when riding the spectacular Sandia Mountain aerial tramway. The rugged terrain in the tract rises from the city limits to the crest of the Sandia Mountains, a dramatic elevation change of over 3,000 feet. I was fortunate to be able to view the area in the fall of 1980, and feel that it would be a tragedy if it is not acquired by the Government and is allowed to be subdivided and developed for housing. Not only would development seriously degrade the scenic and other natural values of the surrounding wilderness, but it would also deprive the public of the opportunity to enjoy a fully protected wilderness ecosystem that literally begins at the city's edge.

Mr. Speaker, we are bringing this bill up on unanimous consent because acquisition of the tract has twice been approved by the House and because it is in the public interest to have the acquisition completed as speedily as possible.

Public Law 95-614, enacted November 8, 1976, authorized the acquisition of the Elena Gallegos grant and its addition to the Cibola National Forest. Subsequently, Public Law 96-248 was enacted on May 23, 1980, to provide for designation of the bulk of the tract as wilderness, to increase authorized funding for the acquisition, and to provide for certain boundary adjustments. Unfortunately, due to fiscal constraints and the Reagan administration's general philosophy against land acquisition, funds have yet to be appropriated for the acquisition and the possibility has been raised that the lands could be sold for subdivision unless acquisition is completed in the near future.

In recognition of this threat to the area's integrity, our distinguished colleague, MANUEL LUJAN, the rest of the New Mexico congressional delegation, the city of Albuquerque, the Albuquerque Academy, the Forest Service, the Bureau of Land Management, and others sat down and negotiated a compromise whereby the Elena Gallegos lands would be acquired without cash outlay through a land exchange. This would be accomplished by exchanging up to 32,800 acres of Forest Service and BLM lands elsewhere in New Mexico for the Elena Gallegos tract. More precise details of the exchange proposal are outlined on pages 2-4 of the Senate committee report on S. 2405 (S. Rept. No. 97-539), so I will not repeat them in this statement. Suffice it to say that the proposal is supported by the entire New Mexico congressional delegation, the city of Albuquerque, the Albuquerque Academy, the Reagan administration, the Federal agencies involved, the environmental community, and numerous other individuals and organizations.

I should also note that the exchange approach to land or mineral interest acquisition by the Federal Government is one which holds forth considerable promise for furthering acquisition efforts in a time of fiscal austerity. This is because the exchange approach involves minimal or no cash outlays by the Government. The House has recognized this in numerous bills over the past several years, and has passed various forms of exchange packages.

In summary, Mr. Speaker, I believe S. 2405 represents a long-overdue solution to expediting the acquisition of esthetically and environmentally sensitive lands which the House has twice voted to acquire. There appears to be support for this bill from every single interested party, and I would therefore urge that we pass the bill forthwith and send it to the White House. In so doing, I would particularly commend my friend and colleague from New Mexico, MANUEL LUJAN. Without his persistent efforts on behalf of the Elena Gallegos acquisition we would not be where we are today in recommending this bill to the President for his signature.●

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2405

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to expedite the acquisition of land authorized by the Act of November 8, 1978 (92 Stat. 3095, as amended), that Act is hereby amended as follows:

(a) Delete all of section 1 and insert the following language in lieu thereof:

"All that portion of the Elena Gallegos Grant, lying east of a line depicted on a subdivision plat entitled 'Summary Plat of a Portion of the Elena Gallegos Grant' (the 'Summary Plat'), recorded in the office of the County Clerk of Bernalillo County, New Mexico, on June 29, 1982, in Volume C19, Folio 183, consisting of eight pages, said line being the western limits of the tract described herein being further described as follows: Beginning at the closing corner between sections 35 and 36 of township 11 north, range 4 east, New Mexico principal meridian, on the south boundary of said grant; thence north 00 degrees 03 minutes 21 seconds east, 2,670.40 feet to a point; thence north 00 degrees 03 minutes 21 seconds east, 1,244.73 feet to the projected section corner common to sections 25, 26, 35, and 36; thence continuing along the projected section line common to said sections 25 and 26, north 00 degrees 17 minutes 37 seconds east, 1,346.11 feet to a point; thence leaving said section line and continuing south 84 degrees 40 minutes 00 seconds east, 178.00 feet to a point; thence south 53 degrees 20 minutes 00 seconds east, 218.00 feet to a point; thence north 52 degrees 50 minutes 00 seconds east, 364.00 feet to a point; thence east 225.00 feet to a point; thence north 66 degrees 00 minutes 00 seconds east, 1,244.14 feet to a point; thence north 06 degrees 12 minutes 25 seconds west, 1,765.08 feet to a point; thence north 07 degrees 27 minutes 00 seconds west, 2,008.00 feet to a point; thence south 80 degrees 38 minutes 00 seconds west, 984.00 feet to a point; thence south 64 degrees 45 minutes 00 seconds west, 621.00 feet to the projected section corner common to sections 23, 24, 25, and 26; thence north 00 degrees 44 minutes 22 seconds west, 1,382.97 feet to the southeast corner of Sandia Heights South, unit 14, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on February 12, 1975; thence continuing along the easterly boundary of said unit 14, north 00 degrees 04 minutes 20 seconds east, 1,951.64 feet to the northeast corner of said unit 14, said corner also being the southeast corner of Sandia Heights South, Unit 10, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on March 11, 1974; thence continuing along the easterly boundary of said Unit 10, north 00 degrees 02 minutes 31 seconds east, 1,493.53 feet to the northeast corner of said Unit 10, said corner also being the southeast corner of Sandia Heights South, Unit 3, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on August 3, 1971; thence continuing along the easterly boundary of said Unit 3, north 00 degrees 03 minutes 29 seconds east, 1,867.10 feet to the northeast corner of said Unit 3, said corner also being the southeast corner of Sandia Heights South, Unit 2, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on October 20, 1970; thence continuing along easterly boundary of said Unit 2, north 00 degrees 03 minutes 29 seconds east, 1,869.70 feet to the northeast corner of said Unit 2, said corner also being the southeast corner of Sandia Heights South, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on June 20, 1966; thence continuing along the easterly boundary fo said Sandia Heights South, north 00 degrees 03 minutes 29 seconds east, 1,725.76 feet to the northwest corner of the tract herein described, said corner being a point on the northerly boundary of the Elena Gallegos Grant: *Provided, however,* That the tract of land described in this section not be included within the Cibola National Forest until the Secretary of Agriculture determines that the city of Albuquerque, New Mexico, has acquired a tract of land containing approximately six hundred and forty acres located in such tract for open space or city park use.".

(b) Add a new section 5 to read as follows:

"SEC. 5. (a) Notwithstanding any other provision of law, the Secretary of Agriculture, in cooperation with the Secretary of the Interior, is authorized and directed to acquire the lands described in section 1 in lieu of purchase as authorized by section 4 of this Act by exchanging with the City of Albuquerque so much of the Federal lands administered by the Forest Service and Bureau of Land Management in the State of New Mexico and consisting of approximately 32,800 acres, more or less, as the Secretary of Agriculture and the Secretary of the Interior determine are needed to equal the value of the land conveyed by the City of Albuquerque.

"(b) The lands to be conveyed are subject to valid existing rights.

"(c) Transactions necessary to effect the exchange authorized by this section shall be made pursuant to the provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743) and other applicable law except to the extent necessary to expeditiously carry out the provision of this section and shall be made within 90 days of enactment of this Act: *Provided,* That rights and responsibilities of the respective owners shall remain with such owners until such time as the conveyances are executed.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SANTINI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill, S. 2405.

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

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 5447, FUTURES TRADING ACT OF 1982

Mr. BONIOR of Michigan. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 566 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 566

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5447) to extend the Commodity Exchange Act, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one and one-half hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections, and each title shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instruction.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. BONIOR) is recognized for 1 hour.

Mr. BONIOR of Michigan. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 566 provides for the consideration of H.R. 5447, a bill to extend the Commodity Exchange Act and for other purposes.

It provides an open rule with 1½ hours of general debate. One hour is to be divided equally between the chairman and ranking minority member of the House Committee on Agriculture and the remaining time is equally divided between the chairman and ranking minority member of the House Committee on Energy and Commerce.

The Agriculture Committee amendment in the nature of a substitute is made in order as original text for purposes of amendment so that second-degree amendments might be offered.

The bill will be read for amendment by titles and, as usual, Members will be able to demand separate votes in the House on amendments that are

successful in the Committee of the Whole.

One motion to recommit with or without instructions is in order. No waivers were requested and none were provided.

Mr. Speaker, there are numerous provisions in H.R. 5447 that deal with futures trading.

First, this bill reauthorizes funding for the Commodity Futures Trading Commission (CFTC) through September 30, 1986. No specific amount is authorized but the CBO has estimated the authorization level for fiscal year 1983 at $21 million.

Second, along with a related bill (H.R. 6156), it attempts to codify an agreement between the CFTC and the Securities and Exchange Commission regarding the overlapping jurisdiction of the two agencies.

Until recently, the jurisdiction of the two agencies was relatively clear. The SEC oversaw and regulated transactions on securities—investment stocks and bonds, certificates of deposits, and so forth. The CFTC was given regulatory responsibility over futures transactions, which were primarily in agricultural commodities and natural resources.

However, that jurisdictional distinction has been blurred in recent times by the proliferation of creative financial instruments called securities options that resemble futures transactions even though the underlying instruments are securities.

According to the agreement, the SEC would have jurisdiction over all direct trading in securities and options on securities and indices. The CFTC would have jurisdiction over commodity futures—such as agriculture, metal, and forest products—futures contracts on exempted securities, and futures on certain broad-based stock index futures.

Regarding stock index futures, the agreement and the Agriculture Committee bill required that the CFTC consult with the SEC before approving a contract application. If the SEC objected to the application, it was entitled to an oral hearing before the CFTC. If the application was approved anyway, the SEC could seek judicial review.

The House Energy and Commerce Committee, in sequential referral, amended this section to provide that the CFTC could not approve an application if the SEC objected within certain time limits.

This provision is a source of continuing disagreement between the two committees.

This bill also provides the CFTC with enhanced authority with regard to the regulation of the sale of foreign futures and the establishment of speculative limits on futures. It also provides for the enforcement of the Commission's actions and requires the performance of two studies: One dealing with the National Futures Association and transaction fees, the other, a comprehensive study of the futures industry.

Mr. Speaker, I would only reiterate that this is an open rule that provides the time requested by each committee and I would urge Members to support it.

I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, the rule has been explained thoroughly.

I know of no objection to the rule although there will be some controversy when the measure is discussed on the floor of the House because of proposed user fees.

This is an important piece of legislation which extends the funding authorization for the Commodity Futures Trading Commission for 4 years. It should be passed.

Mr. Speaker, I support the rule and urge its adoption.

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

Mr. QUILLEN. I yield to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. I thank the gentleman for yielding.

I just wanted to thank the gentleman again for yielding yesterday where he found himself in the midst of some controversy here on the floor. I just wanted to assure the gentleman that this rule is so harmonious that one can almost hear the choir singing in the Chamber here today. I thank the gentleman for yielding.

Mr. QUILLEN. That is a wonderful tempo. I thank the gentleman.

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

Mr. HOPKINS. Mr. Speaker, I am pleased to rise in support of the rule on H.R. 5447, a bill to amend the Commodity Exchange Act and to reauthorize the Commodity Futures Trading Commission for 4 years. The bill represents the product of the Agriculture Committee's substantial and continuous oversight over the CFTC. During the past 4 years the committee has conducted hearings and investigations on many aspects and events relating to the commodity futures markets. A significant portion of H.R. 5447 provides administrative improvements and efficiencies recommended by the committee. The committee made these recommendations to insure that the Commission and self-regulatory bodies that provide first-hand oversight of the futures markets are able to do their jobs with greater dispatch, uniformity, and thoroughness.

The bill amends the statement of congressional purposes for the Commodity Exchange Act to make explicit that regulation is required because excessive speculation may occur on the futures markets and related options markets which are manipulated, controlled, cornered, or squeezed. To accomplish the regulatory goal of preventing such activity, the committee bill authorizes a broad spectrum of Commission and self-regulatory actions.

The committee bill authorizes the Commission to conduct rulemaking proceedings to set speculative limits for futures and options transactions. The bill also provides that if the Commission has established speculative limits with respect to a particular future or option, then exchange established speculative limits may not be higher than those set by the Commission unless a higher exchange set limit is approved by the Commission. In addition, the committee bill provides that it will be a criminal violation to exceed knowingly the exchange set speculative limits.

The committee bill contains significant amendments in the area of contract market and futures association rules and rule changes. First, the committee bill provides that contract markets must enforce all rules that the Commission has by regulation required contract markets to enforce. This provision clarifies that contract markets are to be required to enforce rules that have never been formally approved by the CFTC but which the CFTC, in regulation 1.53, has attempted to require contract markets to enforce. Thus, the committee bill eliminates any future ambiguity concerning the contract market rule enforcement function.

The committee bill also creates a new procedure for expediting Commission approval of contract market and futures association rules. Under the committee bill, contract markets will be required to submit only those contract market rules that relate to contract terms and conditions to the CFTC for prior Commission approval. All other proposed contract market rules will be submitted to the CFTC but may be placed into effect and implemented 10 days after submission unless the Commission determines that the rule merits review or the contract market requests review. Furthermore, under the committee bill, margin rules of contract markets, as under existing law, are not required to be submitted to the Commission for review or approval. In addition, the Commission may specify additional contract market rules which are not to be subject to the 10-day waiting period before they are placed into effect. The committee bill also specifies that the Commission is authorized to disapprove, following notice and opportunity for hearing before the Commission, any rule that violates a specific section of the act or regulation of the Commission.

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Finally, this aspect of the committee bill makes certain that the Commission will act expeditiously on those rules it reviews. The bill specifies that a contract market may place into effect any rule that the Commission determines to review or for which the Commission institutes disapproval proceedings with the following requirements. The Commission must not have approved a proposed rule or instituted disapproval proceedings within 180 days following the filing of the proposed rule, or in the event disapproval proceedings are instituted, if those proceedings have not been completed within 1 year of the submission of the rule.

The committee bill contains parallel provisions for registered futures associations rules or rule changes to the extent that the bill permits these rules to be placed into effect 10 days after receipt by the Commission unless the Commission decides to review the rule or a futures association requests specific review and approval by the Commission of the rule. The latter provision is intended to permit the Commission and registered futures associations to cooperate fully in implementing self-regulatory rules submitted and approved by registered futures associations.

The committee bill also contains a significant provision to insure judicial review of Commission emergency actions. In the past, the Commission has declared market emergencies and taken emergency actions to close down markets and has argued subsequently that its actions are not subject to any form of judicial review. Some courts have adopted the Commission's construction of the law. The committee bill would amend section 8a(9) of the Commodity Exchange Act to make clear that U.S. courts of appeals may review the substance and merit of Commission emergency determinations and actions. This review would involve a determination by the courts on the issue whether the Commission's action was arbitrary, capricious, and an abuse of discretion or otherwise not in accordance with law. If a court concludes that this standard is satisfied, based upon the court's review of all of the information available to the Commission at the time the emergency determination was made, the court may enter an order to stay or otherwise set aside the Commission's emergency action.

In addition, the committee bill amends section 8a(9) to make clear that the Commission's emergency powers include the setting of temporary emergency levels of margin on any futures contract and the establishment of position limits that may apply to a position already acquired in good faith prior to the effective date of the Commission's action.

I believe the committee bill, as evidenced by these amendments, strikes a responsible balance between meaningful Government regulation and oversight and direct self-regulation of the futures markets. Self-regulation is, after all, the heart of the regulatory scheme embodied in the Commodity Exchange Act. The Commission does not have the resources and cannot be expected to have the capability of surveilling every nook and cranny of the futures market. This ever broadening sphere of economic activity has relied heavily and must continue to rely, on responsible and effective self-regulation. It is my view, that the committee amendments I have described will enhance that goal and will afford the Commission an opportunity to exercise appropriate review of the self-regulatory bodies that will directly monitor activities in the futures markets. The amendment providing for judicial review of emergency actions, in particular, will insure that the Commission is not tempted to overreach its authority and superimpose its judgment as to the integrity of a market over the judgments, based upon supply and demand factors, rendered by participants in the market. In the final analysis, the market provides the only standard that can safely and accurately be applied. Thank you.

□ 1110

Mr. BONIOR of Michigan. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

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

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

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

[Roll No. 363]

The vote was taken by electronic device, and there were—yeas 387, nays 0, not voting 45, as follows:

YEAS—387

Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Bedell
Beilenson
Benedict
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boggs
Boland
Bonior
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Butler
Byron
Campbell
Carman
Carney
Chappie
Cheney
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Dellums
DeNardis
Derrick
Derwinski
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Dougherty
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erdahl
Erlenborn
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Flippo
Florio
Foglietta
Foley
Ford (TN)
Fountain
Frank
Frenzel
Frost
Fuqua
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gradison
Gramm
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jeffords
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
LeBoutillier
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rosenthal
Rostenkowski
Roth
Roukema
Roybal
Rudd
Russo
Sabo
Santini
Sawyer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stark
Staton

Stenholm	Walgren	Williams (OH)
Stokes	Walker	Wilson
Studds	Wampler	Winn
Stump	Washington	Wirth
Swift	Watkins	Wolf
Synar	Waxman	Wolpe
Tauke	Weaver	Wright
Tauzin	Weber (MN)	Wyden
Taylor	Weber (OH)	Wylie
Thomas	White	Yates
Traxler	Whitehurst	Yatron
Udall	Whitley	Young (AK)
Vander Jagt	Whittaker	Young (FL)
Vento	Whitten	Young (MO)
Volkmer	Williams (MT)	Zablocki

NOT VOTING—45

Addabbo	Dickinson	Marks
Badham	Edgar	Mattox
Bafalis	Ertel	Mitchell (MD)
Beard	Evans (GA)	Moffett
Bolling	Fascell	Rhodes
Boner	Fithian	Rose
Breaux	Ford (MI)	Rousselot
Brown (OH)	Forsythe	Savage
Burton, John	Fowler	Scheuer
Burton, Phillip	Garcia	Stanton
Chappell	Gingrich	Stratton
Chisholm	Goldwater	Trible
Collins (TX)	Gore	Weiss
Conyers	Ireland	Wortley
Deckard	Lee	Zeferetti

□ 1120

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 6156, CLARIFYING JURISDICTION OF SECURITIES AND EXCHANGE COMMISSION AND DEFINITION OF SECURITY

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 565 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 565

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6156) to clarify the jurisdiction of the Securities and Exchange Commission and the definition of security, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instuctions.

□ 1130

The SPEAKER pro tempore. The gentleman from Ohio (Mr. HALL) is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN) for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 565 is an open rule providing for the consideration of H.R. 6156, a bill to clarify the jurisdiction of the Securities and Exchange Commission.

The rule provides for 1 hour of general debate, with 30 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, and 30 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture.

It should be noted that the rule makes in order the Energy and Commerce Committee amendment in the nature of a substitute as an original bill for purposes of amendment.

The rule further provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 6156 serves to implement part of a jurisdictional accord between the Securities and Exchange Commission and the Commodity Futures Trading Commission with respect to regulation of the securities options markets and other matters. Additional parts of the accord are contained in H.R. 5447, the Futures Trading Act of 1982.

Mr. Speaker, this rule permits the full and open discussion of the issues contained in H.R. 6156. I am not aware of any opposition to this open rule, and I would urge my colleagues to adopt it.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is no objection to the rule, as far as I know. It merely clarifies the jurisdiction of the SEC and the definition of the term "security."

The rule should be adopted. We should get down to debate on the measure. It is a necessary piece of legislation.

Mr. Speaker, I have no request for time, and I yield back the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

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

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

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 387, nays 0, not voting 45, as follows:

[Roll No. 364]

YEAS—387

Akaka	Daniel, Dan	Gramm
Albosta	Daniel, R. W.	Gray
Alexander	Dannemeyer	Green
Anderson	Daschle	Gregg
Andrews	Daub	Grisham
Annunzio	Davis	Guarini
Anthony	de la Garza	Gunderson
Applegate	Dellums	Hagedorn
Archer	Derrick	Hall (OH)
Ashbrook	Derwinski	Hall, Ralph
Aspin	Dickinson	Hall, Sam
Atkinson	Dicks	Hamilton
AuCoin	Dingell	Hammerschmidt
Bailey (MO)	Dixon	Hance
Bailey (PA)	Donnelly	Hansen (ID)
Barnard	Dorgan	Hansen (UT)
Barnes	Dornan	Harkin
Bedell	Dougherty	Hartnett
Beilenson	Dowdy	Hatcher
Benedict	Downey	Hawkins
Bennett	Dreier	Heckler
Bereuter	Duncan	Hefner
Bethune	Dunn	Heftel
Bevill	Dwyer	Hendon
Biaggi	Dymally	Hertel
Bingham	Dyson	Hightower
Blanchard	Early	Hiler
Bliley	Eckart	Hillis
Boggs	Edgar	Holland
Boland	Edwards (CA)	Hollenbeck
Bolling	Edwards (OK)	Holt
Bonior	Emerson	Hopkins
Bonker	English	Horton
Bouquard	Erdahl	Howard
Bowen	Erlenborn	Hoyer
Breaux	Evans (DE)	Hubbard
Brinkley	Evans (IA)	Huckaby
Brodhead	Evans (IN)	Hughes
Brooks	Fary	Hunter
Broomfield	Fazio	Hutto
Brown (CA)	Fenwick	Hyde
Brown (CO)	Ferraro	Jacobs
Broyhill	Fiedler	Jeffords
Burgener	Fields	Jeffries
Butler	Findley	Jenkins
Byron	Fish	Johnston
Campbell	Flippo	Jones (NC)
Carman	Florio	Jones (OK)
Carney	Foglietta	Jones (TN)
Chappie	Foley	Kastenmeier
Clausen	Ford (MI)	Kazen
Clay	Ford (TN)	Kemp
Clinger	Fountain	Kennelly
Coats	Frank	Kildee
Coelho	Frenzel	Kindness
Coleman	Frost	Kogovsek
Collins (IL)	Fuqua	Kramer
Conable	Gaydos	LaFalce
Conte	Gejdenson	Lagomarsino
Corcoran	Gephardt	Lantos
Coughlin	Gibbons	Latta
Courter	Gilman	Leach
Coyne, James	Ginn	Leath
Coyne, William	Glickman	LeBoutillier
Craig	Goldwater	Lehman
Crane, Daniel	Gonzalez	Leland
Crane, Philip	Goodling	Lent
Crockett	Gore	Levitas
D'Amours	Gradison	Lewis

Livingston	Oakar	Skelton
Loeffler	Oberstar	Smith (AL)
Long (LA)	Obey	Smith (IA)
Long (MD)	Ottinger	Smith (NE)
Lott	Oxley	Smith (NJ)
Lowery (CA)	Panetta	Smith (OR)
Lowry (WA)	Pashayan	Smith (PA)
Lujan	Patman	Snowe
Luken	Patterson	Snyder
Lundine	Paul	Solarz
Lungren	Pease	Solomon
Madigan	Pepper	Spence
Markey	Perkins	St Germain
Marlenee	Petri	Stangeland
Marriott	Peyser	Stark
Martin (IL)	Pickle	Staton
Martin (NC)	Porter	Stenholm
Martin (NY)	Price	Stokes
Martinez	Pritchard	Studds
Matsui	Quillen	Stump
Mavroules	Rahall	Swift
Mazzoli	Railsback	Synar
McClory	Rangel	Tauke
McCloskey	Ratchford	Tauzin
McCollum	Regula	Taylor
McCurdy	Reuss	Thomas
McDade	Rinaldo	Traxler
McDonald	Ritter	Udall
McEwen	Roberts (KS)	Vander Jagt
McGrath	Roberts (SD)	Vento
McHugh	Robinson	Volkmer
McKinney	Rodino	Walgren
Mica	Roe	Walker
Michel	Roemer	Wampler
Mikulski	Rogers	Washington
Miller (CA)	Rosenthal	Watkins
Miller (OH)	Rostenkowski	Waxman
Mineta	Roth	Weaver
Minish	Roukema	Weber (MN)
Mitchell (MD)	Roybal	Weber (OH)
Mitchell (NY)	Rudd	White
Moakley	Russo	Whitehurst
Molinari	Sabo	Whitley
Mollohan	Sawyer	Whittaker
Montgomery	Schneider	Whitten
Moore	Schroeder	Williams (MT)
Moorhead	Schulze	Williams (OH)
Morrison	Schumer	Wilson
Mottl	Seiberling	Winn
Murphy	Sensenbrenner	Wirth
Murtha	Shamansky	Wolf
Myers	Shannon	Wolpe
Napier	Sharp	Wyden
Natcher	Shaw	Wylie
Neal	Shelby	Yates
Nelligan	Shumway	Yatron
Nelson	Shuster	Young (AK)
Nichols	Siljander	Young (FL)
Nowak	Simon	Young (MO)
O'Brien	Skeen	Zablocki

NOT VOTING—45

Addabbo	Edwards (AL)	Parris
Badham	Emery	Pursell
Bafalis	Ertel	Rhodes
Beard	Evans (GA)	Rose
Boner	Fascell	Rousselot
Brown (OH)	Fithian	Santini
Burton, John	Forsythe	Savage
Burton, Phillip	Fowler	Scheuer
Chappell	Garcia	Stanton
Cheney	Gingrich	Stratton
Chisholm	Ireland	Trible
Collins (TX)	Lee	Weiss
Conyers	Marks	Wortley
Deckard	Mattox	Wright
DeNardis	Moffett	Zeferetti

□ 1140

Mr. FORD of Tennessee changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1150

APPOINTMENT OF CONFEREES ON S. 2457, INCREASING AUTHORIZATION FOR FEDERAL PAYMENT TO DISTRICT OF COLUMBIA

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2457) to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia, with a House amendment thereto, insist on the House amendment, 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. DELLUMS, FAUNTROY, STARK, LELAND, GRAY, MCKINNEY, BLILEY, and PARRIS.

There was no objection.

APPOINTMENT AS MEMBER OF JOINT ECONOMIC COMMITTEE

The SPEAKER. Pursuant to the provisions of title 15, United States Code, section 1024(a), the Chair appoints as a member of the Joint Economic Committee the gentleman from California (Mr. HAWKINS) to fill the existing vacancy thereon.

APPOINTMENT AS MEMBER OF ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

The SPEAKER. Pursuant to the provisions of section 3(a), Public Law 86-380, the Chair appoints the gentleman from Massachusetts (Mr. FRANK) as a member of the Advisory Commission on Intergovernmental Relations to fill the existing vacancy thereon.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO HAVE UNTIL MIDNIGHT TOMORROW TO FILE REPORTS ON H.R. 5949 AND S. 2355

Mr. WIRTH. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce may have until midnight tomorrow to file reports on the bills, H.R. 5949, Cable Copyright and Signal Carriage Act of 1982, and S. 2355, telephone service to persons with impaired hearing.

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

There was no objection.

CLARIFYING JURISDICTION OF SECURITIES AND EXCHANGE COMMISSION AND DEFINITION OF SECURITY

Mr. WIRTH. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6156) to clarify the jurisdiction of the Securities and Exchange Commission and the definition of security, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Colorado (Mr. WIRTH).

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 consideration of the bill, H.R. 6156, with Mrs. BOGGS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Colorado (Mr. WIRTH) will be recognized for 15 minutes; the gentleman from New Jersey (Mr. RINALDO) will be recognized for 15 minutes; the gentleman from Texas (Mr. DE LA GARZA) will be recognized for 15 minutes; and the gentleman from Vermont (Mr. JEFFORDS) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Colorado (Mr. WIRTH).

GENERAL LEAVE

Mr. WIRTH. Madam Chairman, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation under consideration.

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

There was no objection.

Mr. WIRTH. Madam Chairman, I rise in support of the legislation and yield such time as he may consume to the distinguished chairman of the full Committee on Energy and Commerce, the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Madam Chairman, today the House is considering legislation with important effects on the continued viability of this Nation's securities markets. I enthusiastically support the bill, H.R. 6156.

The Securities and Exchange Commission was created in 1934, during the Great Depression. National unemployment was 24.9 percent and the Dow Jones Industrial Average, the volume of sales on the New York Stock Exchange and the dollar value of new corporate securities issues fell through the floor.

Confronted in 1934 with a moribund securities market and a disillusioned and demoralized investment community, the SEC's architects—Joseph P. Kennedy, James M. Landis, and William O. Douglas—set out to restore confidence in our markets.

Under the watchful eye, and strong enforcement arm, of the SEC, those markets have become the best in the world, with a strong reputation for fairness and efficiency.

Following enactment of the Securities Exchange Act in 1934, Congress has assigned to the SEC regulatory authority over securities and options on securities and has held the SEC accountable for the proper exercise of that jurisdiction. Options on individual stocks have been trading since 1973 and options trading has grown so enormously that it now takes place on four national securities exchanges in the underlying securities of over 300 issuers.

The securities and commodity exchanges have recently unleashed a number of proposals for new financial products. The consensus is that these products will eventually develop into tremendously successful—and lucrative—markets. In the fiscal year ending September 30, 1981, 11.9 million U.S. Treasury bond contracts alone were traded on the Chicago Board of Trade, each with a face value of $100,000.

The scramble to put new hedging products on the market has blurred distinctions that previously existed between the futures industry and the securities industry. It has also, unfortunately, brought out the worst in some of the competing interests. One of them, the Chicago Board of Trade, a futures exchange under the jurisdiction of the CFTC, filed a lawsuit to block competition from the Chicago Board Options Exchange in the developing GNMA options market.

On March 24, 1982, the U.S. Court of Appeals for the Seventh Circuit announced a 2 to 1 decision in Board of Trade of the City of Chicago against SEC and CBOE characterized as "bizarre" and "extreme" by the 42-page dissent. Its immediate effect was to halt the development of the markets in options on GNMA securities and Treasury securities to the detriment of institutions involved in homebuilding and mortgage banking who needed a regulated reliable hedging vehicle that would permit persons involved in housing construction and finance to hedge against changes in increasingly volatile interest rates.

Without H.R. 6156, the SEC and the Federal Reserve Board would lose jurisdiction over large areas for which they now exercise regulatory authority. If options are not securities, then the SEC would have no role with regard to public customer protection in those markets. Further, because the Federal Reserve Board has authority to impose margins only upon securities, under this decision, options would not be subject to Federal margin requirements. You will recall that it was the lack of margin requirements that facilitated the wild speculation which led to the 1929 crash.

State securities commissions also would lose their jurisdiction. Under the Securities Exchange Act of 1934, the States play a significant role in all aspects of securities regulation and play a vital role in protecting my constituents and yours from fraud and abuse. Under the Commodity Exchange Act, however, the grant of exclusive jurisdiction of the CFTC results in preemption of the basic police power of States to protect their citizens from fraudulent activity.

In like manner, investors would be deprived of the protections afforded by the Securities Investor Protection Corporation.

A decision so disruptive and so detrimental to the sound regulation of the Nation's capital markets, must receive prompt congressional attention. The court incorrectly resolved the questions before it. Options on securities are and always have been themselves separate securities. Furthermore, nothing in the commodities laws can be read to divest the SEC of its authority over options on securities. H.R. 6156 contains the necessary securities law amendments to reassert the balanced jurisdictional scheme originally mandated by Congress and carried out by the SEC in the public interest since 1934. H.R. 6156 will amend the definition of security in the statutes administered by the SEC (Securities Act of 1933, Securities Exchange Act of 1934, Investment Company Act of 1940 and Investment Advisers Act of 1940) to assure that options on securities, on certificates of deposit, and on foreign currencies come under SEC jurisdiction. An identical amendment is also being made to the Securities Investor Protection Act to assure the continuity of SIPC protections against financial loss to customers of broker dealers. Section 9 of the Securities Exchange Act of 1934 will also be amended to provide that notwithstanding any other provisions of law (including the Commodities Exchange Act) the SEC will have authority over options on securities and on certificates of deposit.

The stability, depth, liquidity, and continuity of the securities markets are protected by the SEC through stringent disclosure requirements and safeguards against manipulation. The current legal thicket inherently poses dangers to the competitive integrity of these vital markets and necessarily involves unfair competition. The situation also poses potential disadvantages to customers and disincentives to brokerage firms and money managers who have indicated a preference for the new options products once those markets are up and running.

The options markets are an important supplement to the capital formation process played out in our primary and secondary markets for securities. Options enable those holding stock positions to manage and offset the risk of investment. As such, Madam Chairman, the passage of H.R. 6156 would be entirely consistent with current efforts to strengthen and insure the future of our Nation's business community. I strongly urge my colleagues to approved H.R. 6156.

Mr. WIRTH. Madam Chairman, I yield myself such time as I may consume.

This bill amends the Federal securities laws to clarify the jurisdiction of the Securities and Exchange Commission over options.

The bill is similar to draft legislation proposed by the SEC and CFTC as part of their agreement on their respective jurisdictions over new and existing trading instruments. The bill also addresses a problem created by a decision of the Seventh Circuit Court of Appeals which cast uncertainty over the SEC's jurisdiction to regulate options. In the absence of legislation, there may be significant gaps in options regulation.

The bill was introduced with bipartisan sponsorship. It was passed unanimously by the Subcommittee on Telecommunications, Consumer Protection and Finance and by the Energy and Commerce Committee. It has the support of both the SEC and CFTC.

Since the enactment of the Securities Exchange Act of 1934, which created the SEC, the SEC has had regulatory authority over trading in securities and over broker dealers. Although options are not explicitly included in the definition of "security" under the various Federal securities statutes, the SEC generally exercises jurisdiction over options on securities through jurisdiction over securities in general. The court decision I referred to has placed that historical jurisdiction in question.

This bill clarifies the SEC's jurisdiction by doing two things. First, it amends four of the Federal securities statutes to include in the definition of "Security," the following language: "Any put, call, straddle, option, or privilege on any security, certificate of deposit or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency." Thus, the law will expressly provide that any option on a security is itself a "security" for purposes of the Federal securities laws.

Second, the bill provides that the SEC has jurisdiction over these instruments, "Notwithstanding any other provision of law."

The bill also contains a limited preemption of State gambling laws that might be construed to apply to options contracts, even though they are approved by the SEC. Those State laws were designed to prevent unregulated gambling activities and just are not appropriate in the context of exchange-traded options. We worked out the language of this provision carefully with the SEC and with State securities administrators. I understand a further clarifying amendment will be made here today.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. RINALDO) for 15 minutes.

Mr. RINALDO. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in support of H.R. 6156, a bill to clarify the jurisdiction of the Securities and Exchange Commission and the definition of security. This bill contains that part of the jurisdictional accord between the SEC and the Commodity Futures Trading Commission which amends the securities laws. I am a sponsor of this bill, along with a number of other members of the Energy and Commerce Committee.

This legislation gives the SEC specific statutory authority to regulate trading in options on securities, including exempt securities and indexes of securities. The need for speedy passage of this bill is heightened by the decision in March of this year by the U.S. Court of Appeals for the Seventh Circuit, Chicago Board of Trade against SEC. The court held that the SEC lacks authority under present securities laws to regulate trading in options on Government National Mortgage Association (GNMA) debt certificates. The effect of the court's decision is to cast doubt upon the SEC's authority over all nonstock options and essentially to nullify that part of the accord which gives the SEC jurisdiction to regulate options on exempt securities and stock indexes.

Passage of this bill would remedy the detrimental effect of the court decision on the jurisdiction of the SEC and would restore longstanding congressional intent that the SEC should regulate options on all securities.

I urge the House to pass H.R. 6156.

□ 1200

The CHAIRMAN. The gentleman from Texas (Mr. DE LA GARZA) is recognized for 15 minutes.

Mr. DE LA GARZA. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, first let me say that we have come to this point after long and careful and arduous deliberations and some degree of compromise both by the chairmen of the CFTC and the SEC and by the Committee on Energy and Commerce and the Committee on Agriculture and their respective staffs.

Madam Chairman, I rise in support of H.R. 6156, as amended by the Committee on Agriculture.

H.R. 6156 amends the Federal securities laws to provide for jurisdiction of the Securities and Exchange Commission to cover options on exempt securities, stock indexes, certificates of deposit and when traded on national securities exchanges, foreign currencies.

H.R. 6156 is a response to the joint recommendations of SEC and CFTC to resolve disputes that had arisen regarding the jurisdiction of the two agencies. Other proposals recommended by these agencies related to amendments to the Commodity Exchange Act regarding the jurisdiction of the CFTC which are contained in another bill; namely H.R. 5447. Under their joint proposal, the CFTC would regulate futures contracts on exempt securities (other than municipal securities), futures contracts on broad based groups or indices of any securities as well as options on any such futures contracts. No trading would be permitted, however, in futures (or options on futures) involving individual, corporate and municipal securities. Finally, the CFTC would also have jurisdiction to regulate trading of options in foreign currencies in the commodities market. These recommendations were adopted by the Committee on Agriculture in title I of H.R. 5447 which is being considered separately by the House.

Controversy regarding jurisdiction of the two regulatory agencies recently gave rise to litigation, and on March 24, 1982, the U.S. Court of Appeals for the Seventh Circuit in the case of Board of Trade of the City of Chicago against Securities and Exchange Commission and the Chicago Board Options Exchange held that the SEC had no jurisdiction of its own to permit trading in options in Government National Mortgage Association (GNMA) certificates. The court held that options on exempt securities such as GNMA certificates were commodities within the purview of the Commodity Exchange Act and under the jurisdiction of the Commodity Futures Trading Commission and that the securities laws did not extend to such instruments.

This conclusion is consistent with the policy expressed by Congress in the past in providing CFTC with regulatory authority over hedging and price discovery instruments and the SEC with the burden of protecting the efficiency and fairness of the capital formation market.

The options contracts covered by the jurisdictional accord are essentially new instruments which have not been traded yet on any markets. These instruments would provide market participants with a mechanism for risk reduction which is similar to that received by the grain industry for over a century and by the financial community since 1975. In the 1978 amendments to the Commodity Exchange Act, Congress recognized the importance of providing special protections to the public on options contracts and incorporated in the Commodity Exchange Act detailed requirements addressed to this end.

While the committee continues to believe that this functional breakdown serves important purposes, it recognizes the pragmatic consideration that the public will be best served by ending the jurisdictional dispute between the two agencies and supporting the enactment of law of the jurisdictional accord reached voluntarily by the CFTC and the SEC.

Madam Chairman, I yield 5 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Madam Chairman, this bill clarifies jurisdictions between the securities and commodities laws regarding the nature of certain instruments that are being offered in this country, investment related instruments, and it arises directly as a result of a circuit court decision indicating whether certain items are securities or are not.

To make the matter clear, this accord between the two agencies, the Commodity Futures Trading Commission and the Securities and Exchange Commission, is divided between two bills. The Securities and Exchange Commission part of the accord is in the bill that the gentleman from Colorado (Mr. WIRTH) has brought up. The Commodity Futures Trading Commission part of the accord is in the bill that the gentleman from Texas (Mr. DE LA GARZA) will bring up and which authorizes the complete agency. As I said before, I think this is a proper way to handle the measure. The part that relates to the securities industry is handled in their bill, and the part that relates to the commodities industry is handled in the CFTC bill.

But I would like to ask the gentleman from Colorado (Mr. WIRTH) the chairman of the subcommittee, this question: If the Senate should amend his bill, H.R. 6156, to add to that bill the provisions of the jurisdictional accord that relates to the Commodity Futures Trading Corporation, which is title I of H.R. 5447, the bill that we will take up after this bill, would it be the gentleman's intention to oppose that move in the conference committee?

Mr. WIRTH. Madam Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Colorado.

Mr. WIRTH. Madam Chairman, let me say, first of all, that I want to recognize the cooperation of the Committee on Agriculture, the gentleman from Texas (Mr. DE LA GARZA) and the gentleman from Kansas (Mr. GLICKMAN), and others in working out this ticklish jurisdictional issue, and I think I can speak for the minority of the Committee on Energy and Commerce in suggesting that as well.

We believe, first, that the reauthorization bills should be passed, and, second, that the jurisdictional accords should be established by the legislation. We will see what happens this afternoon as the CFTC bill comes up.

As the gentleman knows, the major issue there appears to be the question of user fees. How that issue is resolved will have a significant bearing on what might happen in the Senate. If we get into the situation that the gentleman from Kansas suggests—that one piece of legislation might be pushed and the other one would not—the gentleman from Kansas has my assurance that I will do everything I can to work with the gentleman from Texas and the gentleman from Kansas in the cooperative way that we have worked together in the past.

Mr. DINGELL. Madam Chairman, will the gentleman yield?

Mr. GLICKMAN. I am glad to yield to the chairman of the committee.

Mr. DINGELL. Madam Chairman, I want to observe that the gentleman from Kansas (Mr. GLICKMAN) and his colleague and my friend on the Agriculture Committee, the distinguished chairman, the gentleman from Texas (Mr. DE LA GARZA), have been most helpful and cooperative and have shown great kindness to the Energy and Commerce Committee in working out the problems that existed with the legislation as introduced and with the subsequent legislation.

Madam Chairman, I would observe that we on the Committee on Energy and Commerce will try to work closely with our friends and colleagues on the Agriculture Committee on problems which arise in conference on those matters which Mr. GLICKMAN raises so that no mischief is done to our friends and colleagues on the Agriculture Committee or their legislation.

Mr. GLICKMAN. Madam Chairman, I appreciate that, and I would echo the compliments that were issued. The gentleman from Colorado and the chairman of the full committee have done a good job in working with us in trying to resolve difficult issues.

The key problem here is that the authorization of the base agency which has jurisdiction over the entire futures industry is jeopardized by the fact that it expires on October 1. This is one of the few agencies of the Government that is due to sunset. Maybe that is a good thing, maybe that is a bad thing. I happen to think that it is a good thing. But if in fact we remove a key portion of the CFTC bill which relates to its jurisdiction over the futures securities area and put it onto an SEC bill that is not in jeopardy, we may lose the basic CFTC bill, in which case we may have complete chaos in the industry and chaos in the country given the nature of the futures industry and agricultural commodities and the like.

Madam Chairman, I thank the gentlemen for answering my question as clearly as they can, although not as specifically as I would have liked, and I would repeat my hope that we can work this out so that if the Senate does amend H.R. 6156 to add title I of H.R. 5447 to their bill, the gentlemen would do their best to oppose that in conference.

Mr. DE LA GARZA. Madam Chairman, I thank the gentleman from Kansas (Mr. GLICKMAN) for his contribution, and I yield myself 2 minutes.

Madam Chairman, in accepting this joint proposal the committee hopes to put to rest the tension previously existing between the two agencies which hampered both the futures and the securities industries. It is the hope that the jurisdictional accord will turn the focus of debate from the issue of which agency has or should have jurisdiction to the merits of the proposals made to the agencies.

The committee amended H.R. 6156, as reported by the Committee on Energy and Commerce, to state explicitly that the SEC would have no jurisdiction over options on any contracts for future delivery. This reflects the recommendations of the CFTC and SEC, and has the support of all interested parties. It will assure that there can be no misunderstanding of this issue.

I urge the Members to join me in support of the bill with the amendment of the Committee on Agriculture.

□ 1210

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

The CHAIRMAN. The gentleman from Vermont (Mr. JEFFORDS) is recognized for 15 minutes.

Mr. JEFFORDS. Madam Chairman, I rise in support of H.R. 6156, a bill to clarify the jurisdiction of the Securities and Exchange Commission and the definition of security, and urge its swift passage. This bill is a response to the joint recommendations of the Commodity Futures Trading Commission and the Securities and Exchange Commission. Its enactment, along with enactment of its companion legislation contained in title I of H.R. 5447, should serve the public interest in general and business, commerce, and investment interests in particular.

As we all know, Madam Chairman, strained relationships and disputed jurisdictions between the Commodity Futures Trading Commission and the Securities and Exchange Commission have in the past diverted resources from both agencies and slowed consideration of new investment proposals. However, this combative and confusing agency relationship appears to have been resolved by the negotiation of a widely supported jurisdictional agreement between the two agencies which apparently has brought an end to over 8 years of tension and conflict. As a result of this agreement, both agencies may now turn their resources from the question of who regulates what to the review of new investment proposals and the regulation of their respective industries.

H.R. 6156 is one part of the legislative package designed to codify this joint agency agreement on regulatory jurisdiction over various types of options, futures, and other trading instruments. The other half of the agreement is contained in title I of H.R. 5447, the CFTC reauthorization bill. That legislation has been acted on by both the full Agriculture Committee and the Energy and Commerce Committee, who received sequential referral on parts of H.R. 5447 after our initial consideration of that bill. In order for both House Committees to have the opportunity to consider the entire scope of the joint agency accord, the Agriculture Committee was granted referral of H.R. 6156 for a 30-day period, and acted favorably on this legislation without making major modifications.

As initially presented to Congress by the two agencies in H.R. 6156 and H.R. 5447, the joint agency agreement represents a negotiated compromise which establishes a clearly delineated regulatory scheme for the securities and futures markets. It was then and is now strongly supported by the affected industries and the administration. In light of these factors, I would urge my colleagues to support passage of the legislation now before us.

Madam Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Madam Chairman, I rise in support of H.R. 6156, a bill to clarify the jurisdiction of the Securities and Exchange Commission and the definition of security. This bill contains needed amendments to Federal securities laws which should help clarify the respective regulatory jurisdictions of the Commodities Futures Trading Commission and the Securities and Exchange Commission. I urge my colleagues to support passage of this legislation.

Madam Chairman, H.R. 6156 is the SEC portion of a SEC-CFTC agreement on each agency's regulatory jurisdiction. Those provisions amending the Commodity Exchange Act which make up the CFTC portion of the pact are contained in title I of H.R. 5447, a bill considered by both the House Agriculture and Energy and Commerce Committees earlier this year. In this regard, I am pleased that H.R. 6156 was sequentially referred to the Committee on Agriculture so that both House Committees could have an equal opportunity to review the complete joint agency jurisdictional accord contained in this bill and in title I of H.R. 5447.

Without reviewing the specifics of the joint agency accord, let me just say that both the CFTC and SEC worked long and hard to establish a clearly defined regulatory scheme designed to protect the public while not disrupting any trading currently taking place on the national securities exchanges or boards of trade. In resolving questions of jurisdiction over such instruments generally defined as "financial futures" or "financial options," the agreement ratifies the inherent differences between the futures industry and securities industry and endorses the concept of separate regulation. Basically, the CFTC will retain its traditional role of regulating markets and instruments that serve a hedging and price discovery function while the SEC will regulate markets and instruments with an underlying investment purpose.

Let me also point out, Madam Chairman, that the need for such a joint agency jurisdictional agreement was made plainly evident by the March 24 decision of the Seventh Circuit U.S. Court of Appeals, which ruled that the CFTC has exclusive jurisdiction over options directly on GNMA certificates. This decision contradicted the terms of the original CFTC-SEC accord, which removed from the CFTC the authority to approve and to regulate options directly on securities. In spite of this court ruling, both agencies remain committed to their joint agreement and its enacting legislation as the best solution to their past regulatory differences.

As originally contained in title I of H.R. 5447 and H.R. 6156, the jurisdictional accord has been unanimously approved by the House Committee on Agriculture and the appropriate committees of the other body. It has the support of the CFTC, the SEC, and the Department of the Treasury. I believe it also is supported by both the futures industry and the securities industry.

In view of this widespread support for the joint agency agreement as originally presented to Congress, I hope that we can act judiciously on this issue, and would urge my colleagues to support passage of H.R. 6156.

Mr. JEFFORDS. Madam Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. MADIGAN).

Mr. MADIGAN. Madam Chairman, I rise in support of H.R. 6156, a bill to clarify the jurisdiction of the Securities and Exchange Commission and the definition of "security." I want to commend both the Agriculture Committee and the Energy and Commerce Committee for their judicious work on this legislation, and urge my colleagues to vote for its passage.

Madam Chairman, the bill before us represents one of two bills which together comprise a negotiated jurisdictional agreement between the Commodity Futures Trading Commission and the Securities and Exchange Commission. As you know, the other part of the accord is contained in title I of H.R. 5447, a bill which amends the Commodity Exchange Act in regard to CFTC regulatory authority.

What H.R. 6156 basically does is expand the definition of "security" under four of the Federal securities statutes—the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act, and the Investment Advisors Act of 1940. These four laws are amended to include options on securities, options on certificates of deposit, options on securities indices or groups, and options on foreign currency when they are traded on a national securities exchange, in the definition of "security" under these statutes. In essence, H.R. 6156 codifies the jurisdictional accord in regard to SEC authority, whereas title I of H.R. 5447 amends the Commodity Exchange Act to codify the agreement under CFTC authority.

The need for establishing a jurisdictional agreement between the CFTC and the SEC was demonstrated by the March 24, 1982 decision of the Seventh Circuit of the U.S. Court of Appeals, which ruled that the CFTC has exclusive jurisdiction over options directly on Ginny Mae certificates, and that the Securities and Exchange Commission acted without statutory authority when it approved GNMA options trading at the Chicago Board Option Exchange last year. This decision was in direct contradiction to the terms of the original CFTC-SEC accord, which removed from the CFTC the authority to approve and to regulate options directly on securities. Other amendments to the Federal securities laws contained in H.R. 6156 designed to implement the SEC portion of the accord would make clear the authority of the SEC to approve and to regulate options on securities, but not options on futures.

Thus, if enacted, the legislation proposed by the two agencies would effectively overturn the court decision and effectuate the jurisdictional assignments negotiated between the two agencies.

Despite the ruling of the court of appeals, both the CETC and the SEC remain fully committed to their joint agreement and to the legislation which would enact it as the best possible resolution of their past jurisdictional conflicts.

Madam Chairman, both the CFTC and the SEC worked long and hard to forge a workable compromise which would establish a clearly delineated regulatory scheme that would not adversely affect the securities and futures markets. The resulting accord, as contained in this bill and in title I of H.R. 5447, put an end to over 8 years of tension and disagreement between the two agencies over regulatory responsibility. It has the support of both the futures industry and the securities industry. Furthermore, Phil Johnson, chairman of the CFTC, John Shad, chairman of the SEC, and Roger Mehle, Assistant Secretary of the Treasury, all have stated in correspondence to me that their respective agencies support the terms of the original accord and its enacting legislation.

In light of these circumstances, I urge my colleagues to support the passage of H.R. 6156.

Mr. JEFFORDS. Madam Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Madam Chairman, I commend the committee for their work on this legislation.

Enormous strides have been made and these strides have helped to reassure the American people of the importance and integrity of public markets.

I congratulate those who have brought this work forward.

Mr. JEFFORDS. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. RINALDO. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. WIRTH. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 6156

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

SECTION 1. Section 2(1) of the Securities Act of 1933 (15 U.S.C. 77b(1)) is amended by inserting after "mineral rights," the following: "any put, call, straddle, option, or privi-

lege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency,".

SEC. 2. Section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)) is amended by inserting after "for a security," the following: "any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency,".

SEC. 3. Section 9 of the Securites Exchange Act of 1934 (15 U.S.C. 78i) is amended—

(1) by striking out "this section" in subsection (f) and inserting in lieu thereof "subsection (a)"; and

(2) by inserting after subsection (f) the following new subsection:

"(g) Notwithstanding any other provision of law, the Commission shall have the authority to regulate the trading of any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency (but not, with respect to any of the foregoing, an option on a contract for future delivery).".

SEC. 4. Section 28(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(a)) is amended by adding at the end thereof the following new sentence: "No State law which prohibits or regulates the making or promoting of wagering or gaming contracts, or the operation of 'bucket shops' or other similar or related activities, shall invalidate any put, call, straddle, option, privilege, or other security, or apply (except for purposes of chapter 96 of title 18, United States Code) to any activity which is incidental or related to the offer, purchase, sale, exercise, settlement, or closeout of any such instrument, if such instrument is traded pursuant to rules and regulations of a self-regulatory organization that are filed with the Commission pursuant to section 19(b) of this Act.".

SEC. 5. Section 2(a)(36) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(36)) is amended by inserting after "mineral rights," the following: "any put, call, straddle, option, or privilege on any security (including a certificate of deposit) or on any group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency,".

SEC. 6. Section 202(a)(18) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(18)) is amended by inserting after "mineral rights," the following: "any put, call, straddle, option, or privilege on any security (including a certificate of deposit) or on any group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency,".

Mr. WIRTH (during the reading). Madam Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

AGRICULTURE COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the Agriculture Committee amendment.

The Clerk read as follows:

Committee amendment: on page 4, line 21, after the word "currency" insert the following: "(but not, with respect to any of the foregoing, an option on a contract for future delivery)".

Mr. WIRTH. Madam Chairman, I think this amendment should be accepted. We did not include the phrase that is included in the Agriculture Committee amendment in our bill when it was introduced because it was our view that it was not necessary.

However, members of the Agriculture Committee have been persuasive in communicating their feelings that it is necessary, and I would hope that the amendment would be accepted.

We have no objection to the inclusion of the amendment.

The CHAIRMAN. The question is on the Agriculture Committee amendment.

The Agriculture Committee amendment was agreed to.

AMENDMENT OFFERED BY MR. WIRTH

Mr. WIRTH. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIRTH: Add at the end of the bill the following new section:

SEC. 7. Section 16(14) of the Securities Investor Protection Act (15 U.S.C. 78111(14)) is amended—

(1) by inserting after "Securities Act of 1933)," the following: "any put, call, straddle, option, or privilege on any security, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency,"; and

(2) by striking out "The" in the last sentence and inserting in lieu thereof "Except as specifically provided above, the".

Mr. WIRTH (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 Colorado?

There was no objection.

Mr. WIRTH. Madam Chairman, this amendment creates a new section 7 to the bill to amend the Securities Investor Protection Act to include additions to the definition of "security." H.R. 6156 amends the definition of "security" under four of the Federal securities laws but not under the Securities Investor Protection Act. SIPIC which insures the accounts of customers of securities broker dealers, recently made me aware of their concern that if the Securities Investor Protection Act is not amended with a similar definition, it might be construed to limit the insurance protection offered to options customers of broker dealers. This is a very real problem in light of the Seventh Circuit Court of Appeals decision that options may not be considered separate securities.

My amendment addresses that problem by including options in the definition of "security" under the SIPIC statute. I might add that this amendment was recommended by the SEC. We have also run it by the CFTC, which finds it in keeping with the jurisdictional accord.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. WIRTH).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RINALDO

Mr. RINALDO. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RINALDO: Page 5, beginning on line 5, strike out "(except for purposes of chapter 96 of title 18, United States Code)".

Mr. RINALDO. Madam Chairman, I rise in support of my amendment to H.R. 6156,

This amendment is intended to carry out the original purpose of the provision which it amends.

Section 4 of H.R. 6156 is an addition to the original jurisdictional accord which was adopted unanimously by the Energy and Commerce Committee. It provides that State gambling and bucket shop laws will not apply to options which are settled in cash.

This provision is necessary because approximately 25 States have gambling and bucket shop laws which could potentially be used to prevent trading of options settled in cash, such as options on stock indexes, even though such options contracts have been approved by the Securities and Exchange Commission. Most such State laws predate Federal securities regulations and were enacted for other purposes.

As adopted by the committee, section 4 contains a parenthetical phrase which excepts it from applying to the racketeer-influenced and corrupt organizations (RICO) statute. Under the RICO statute, Federal action must be based on State laws. This provision thus creates a situation in which States would be preempted from enforcing their gambling and bucket-shop laws, but U.S. attorneys could bring actions through RICO based on State laws. The result is to undo the preemption of State gambling laws which is the purpose of section 4.

If this parenthetical phrase remains in the bill, it will result in uncertainty and confusion. The options-clearing corporation has indicated that, under the present language, it would not issue options contracts in those States in which gambling laws would apply to cash settlement contracts.

My amendment will strike this parenthetical phrase and restore the original purpose of section 4, which is to provide a Federal policy for instruments trading in interstate commerce. Options contracts approved by the SEC should not be prevented from trading by State laws which were historically designed to prevent unregulated gambling activities.

I want to stress that this section applies only to options traded on securities exchanges, and it does not preempt State securities (Blue Sky) laws. Without this section and without my amendment, it is doubtful that stock index options and other options settled in cash will ever be traded, and investors will be deprived of the opportunity to invest in these useful financial instruments.

I urge the adoption of my amendment.

□ 1220

Mr. WIRTH. Madam Chairman, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from Colorado.

Mr. WIRTH. Madam Chairman, we have no objection to the amendment. I think it is a constructive amendment, and I hope our colleagues would agree to the amendment offered by the gentleman from New Jersey.

Mr. RINALDO. I thank the chairman of the subcommittee.

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

The amendment was agreed to.

The CHAIRMAN. Are there further amendments? If not, 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, Mrs. BOGGS, 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. 6156) to clarify the jurisdiction of the Securities and Exchange Commission and the definition of security, and for other purposes, pursuant to House Resolution 565, she 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 bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FUTURES TRADING ACT OF 1982

Mr. DE LA GARZA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5447) to extend the Commodity Exchange Act, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA).

The motion was agreed to.

The SPEAKER. The Chair designates the gentleman from Ohio (Mr. STOKES) as Chairman of the Committee of the Whole and requests the gentleman from Pennsylvania (Mr. MURTHA) to assume the chair temporarily.

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 consideration of the bill, H.R. 5447, with Mr. MURTHA, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN (Mr. STOKES). Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Texas (Mr. DE LA GARZA) will be recognized for 30 minutes; the gentleman from Vermont (Mr. JEFFORDS) will be recognized for 30 minutes; the gentleman from Colorado (Mr. WIRTH) will be recognized for 15 minutes; and the gentleman from New Jersey (Mr. RINALDO) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume. I rise in support of H.R. 5447, the Futures Trading Act of 1982.

Mr. Chairman, let me remind the Members that what we do now is in sequence with the legislation that was just adopted by the House relating to the Securities and Exchange Commission.

H.R. 5447, the Futures Trading Act of 1982, extends the funding authorization for the Commodity Futures Trading Commission through September 30, 1986. It resolves jurisdictional disputes that have arisen since Congress made the last major amendments to the act in 1978 and updates the Commodity Exchange Act.

Just a brief history. The Commodity Futures Trading Commission was established in 1974 as an independent regulatory agency to oversee the trading of commodity futures contracts. At that time the trading of futures contracts on agricultural commodities was regulated by the Department of Agriculture's commodity exchange authority. Several nonagricultural commodity futures contracts were being traded but not regulated. Congress then realized a need for uniform regulation of all futures trading and that futures trading was a distinct and separate economic function. It acted to establish an independent agency with the resources and regulatory tools required to protect the public interest in view of the unique and the expanding role of futures trading in the national and international economy.

Futures trading has two primary economic functions:

Price discovery and risk shifting. I know that this is sometimes complicated to the Members. Let me just say briefly that price discovery is the process through which traders buying and selling futures contracts on the exchanges discover the competitive prices that best represent the consensus of what traders think commodity prices ought to be in the future based on information available today. Exchange generated prices assist in establishing cash prices for commodities in localized markets as well as in related services such as storage, transportation, and processing.

Let me interject that that is one of the reasons why this legislation is so vital and so important to American agriculture.

Risk shifting provides an opportunity for shifting the risks associated with commodity ownership from individuals and entities who are unwilling to bear such risks to those who are willing to carry these risks in return for a possible profit. This risk-shifting process is known as hedging. You probably have heard about hedging. So all that it does is that the holders of ownership, either individuals or entities, will hedge their investment by buying into the futures contracts and therefore shifting the responsibility or shifting the risks on that commodity.

The correctness of this 1974 congressional initiative has been borne out in phenomenol rate of growth in futures trading, coupled with the growth of public and commercial confidence in the integrity of the industry and the regulatory framework. In the past 5 years, futures trading volume has nearly tripled, from 37 million contracts to more than 100 million contracts annually. The term "commodity" has come to embrace a variety of financial instruments, precious metals, and natural resource items, such as petroleum, as well as domestic and international agricultural products. And here let me state that we in the Congress, as well as the Commission, have

tried to stay abreast, if I might state it in modern technology, in the modern art of financial investment in the United States. We have not stayed with the status quo but, rather, working through and with the industry, have tried to provide contracts and possibilities of investment commensurate with the modern world of 1982.

□ 1230

While many new commodity futures contracts are now actively traded, agricultural commodity futures still accounted for over half the total number of contracts in 1981. According to the GAO in a recent report, several factors underlie the increased volume and importance of futures trading. A prominent factor has been the economic uncertainty of recent years coupled with high inflation and high risk rates.

During several days of public hearings in February of this year, the consensus of the public testimony was that the Commission should be reauthorized and that the Commission's authority and structure should not be substantially altered. There are other provisos of the bill that will be discussed by the chairman of the subcommittee, the gentleman from Tennessee (Mr. JONES), who I might state has done a wonderful job, not only the gentleman and the ranking minority member, the gentleman from Vermont (Mr. JEFFORDS), but all the members of the subcommittee have worked hard and diligently in trying to arrive at a consensus commensurate with the needs of the industry, the protection of the public, and the authority needed by the CFTC to exercise its jurisdiction and its mandate from the Congress.

The CFTC is a creature of the Congress and of the Committee on Agriculture. Let me just state very briefly—much more discussion probably will be held on this issue later—but H.R. 5447 authorizes the CFTC to delegate certain regulatory functions to the industry-financed self-regulatory agency, the National Futures Association.

In addition, it imposes requirements regarding the conduct of this activity and requires the association to develop within 2 years a comprehensive program that fully implements the rules approved by the CFTC.

H.R. 5447 directs the CFTC further to conduct a 2-year study of the operations of the National Futures Association and to report to the Congress on whether, in fact, there are cost savings to the Federal Government resulting from the operations on the NFA.

I would further emphasize the fact that the NFA is, in fact, a creature of the Congress. We authorized the CFTC to delegate to this self-policing body within the industry authority to help the CFTC in imposing its regulations and in keeping the industry abreast of the needs of the public and protecting the interests at all times of the public for whose benefit the law was written. The NFA will assist the CFTC in guaranteeing to the public that they would have within their needs and desires available investment areas in futures as has been done for really more than 100 years in this country but regulated to this extent only since 1974.

Also, I might add that we have expanded the role of the States, recognizing the need for closer cooperation and coordination between the CFTC and State governments and provide new authorities which will be useful in preventing fraudulent activities.

With that, Mr. Chairman, I feel possibly I have covered sufficiently that which we will be working with and the chairman of the subcommittee will handle further the areas of responsibility for the subcommittee.

I would just like to reemphasize again that we on the Agriculture Committee, having in fact been the fathers of the legislation that began this institution, take our task very seriously, and the subcommittee and the committee have worked very diligently. We have visited the exchanges, we visited with the individuals that conduct transactions on the exchanges; we have visited with the CFTC; we have worked with the reorganization of the CFTC. We have intervened to the extent that it is within our jurisdiction to assist in implementing an agreement reached between the CFTC and the SEC; and I would like to give credit to both Chairman Johnson and Chairman Shad for their interest and diligence in trying to arrive at a compromise.

I would like to state to the Members very respectfully and I submit to you that the legislation we bring has a purpose for every item that is included within the legislation. I know there will be efforts to amend the legislation, and discussion of what should or should not be done. For example, in user fees, we have a definite reason commensurate with the history of this legislation since the beginning of the CFTC.

We have carefully conducted the necessary hearings. We have consulted with everyone involved; and if we oppose the imposition of user fees, it is not a whim or fancy or personal desire of any member of this committee. I personally was one of the most vocal to emphasize to the industry that they have to do something to see that there was diligence in their operations and that the public would be protected.

Unfortunately, because of fiscal matters—not having sufficient funding for the CFTC because of problems with the budget, especially in these hard and difficult days—we imposed upon the industry the responsibility of self-regulation. What we say in the legislation has been thought out very carefully, and we would like to give them the 2 years to see if what they and we invented will work. That is one of the reasons why we would oppose user fees, not that I personally or other members of the committee are opposed to the idea or the theory. Rather that it came too late, because we had already started the process of self-regulation within the industry.

We will have more to say later on that amendment.

Mr. Chairman, at this time, I would like to summarize some of the other major provisions of H.R. 5447 for the Members.

CFTC/SEC JURISDICTIONAL ACCORD

This bill, along with its counterpart, H.R. 6156, would clarify the respective regulatory responsibilities of the Commodity Futures Trading Commission and the Securities and Exchange Commission.

I want to congratulate Chairman Johnson and Chairman Shad for developing this accord.

The agreement will not affect any trading that is now taking place on the national securities exchanges or boards of trade. It basically resolves questions of jurisdiction over a host of instruments generally described as stock indexes and options on financial instruments. I know my colleagues share my hope that the agreement puts to rest the tension which has existed between the two agencies in recent years.

The existing provisions in section 2a(1) of the Commodity Exchange Act have been interpreted by the courts to grant the CFTC exclusive jurisdiction over the regulation of commodity futures contracts, options on commodity futures and options on physical commodities, regardless of whether these commodities may also be securities. The amendments in title I of H.R. 5447, which implement the CFTC-SEC accord, would alter this exclusive jurisdiction by removing from the CFTC's jurisdiction options on securities, options on foreign currency if graded on a national securities exchange, and futures contracts—as well as options on futures—on individual securities that are not exempted securities.

The legislation would continue the exclusive jurisdiction by CFTC over futures contracts, options on futures contracts and options on commodities. CFTC jurisdiction over options involving physical commodities that are not securities will not be affected in any way by the provisions of this bill.

While the CFTC would have exclusive jurisidiction over futures contracts and options on futures contracts on a group or index of securities, H.R. 5447 as reported by the Committee on Agriculture sets forth specific stand-

ards which must be met before the CFTC may approve trading in such contracts by a board of trade. In recognition of the SEC's unique responsibilities over trading markets in equity securities, H.R. 5447 as reported by the Agriculture Committee also provides for public comment and SEC consultation on applications for trading in stock index futures contracts, and gives the SEC the right to seek judicial review of decisions of the CFTC approving new contracts.

The Energy and Commerce Committee has reported an amendment which would give the SEC veto power over any action by the CFTC in approving new stock index futures contracts. This is a matter, which I will address later on the floor during discussion of this amendment under the 5 minute rule.

NATIONAL FUTURES ASSOCIATION FEES

H.R. 5447 authorizes the CFTC to delegate certain regulatory functions to the industry-financed self-regulatory agency—the National Futures Association. In addition, it imposes requirements regarding the conduct of these activities and requires the association to develop within 2 years a comprehensive program that fully implements the rules approved by the CFTC. H.R. 5447 directs the CFTC to conduct a 2-year study of the operations of the National Futures Association and to report to Congress on whether, in fact, there are cost savings to the Federal Government resulting from the operations of the NFA.

H.R. 5447 would prohibit any user fee or transaction fee involving futures contracts, options contracts, or leverage contracts to be implemented until after receipt of the NFA study from the Commission.

As originally proposed by the Commission and the administration, H.R. 5447 would have imposed a user fee on all exchange commodity transactions, dealer options, and leverage contracts. This user fee, in the opinion of the committee, would have greatly diminished the possibility of establishing a successful National Futures Association which is funded by the industry and is now being groomed to assume a great many self-regulatory functions.

The committee is convinced that the imposition of the proposed user fee would unfairly deprive the NFA of its funding base during its infancy.

Consequently, a compromise has been developed and included in H.R. 5447. It would delay the imposition of a user fee pending implementation during a 2-year period by the NFA of an industry self-regulatory program and the receipt by Congress of a CFTC study to determine the success of the NFA in achieving its goals, and the cost savings to the Government, if any, that results therefrom. The committee pledges a thorough review of the situation following the CFTC study.

This is a reasonable and equitable compromise for an interim period and the committee hopes the administration will accept this view.

EXPANDED ROLE FOR THE STATES

H.R. 5447 recognizes the need for closer cooperation and coordination between the CFTC and State governments and provides new authorities which will be useful in preventing fraudulent activities.

First, in the area of information sharing, H.R. 5447 expressly permits the Commission to share otherwise confidential information with the States. In addition, the bill authorizes the Commission to provide information on any registrant either voluntarily or at the request of any State. The availability of this information will aid States in preparing their own cases. It will also enable them to assess whether to join litigation being prepared by the Commission. And, by making information sharing a two-way street, the committee hopes for improved cooperation between the Commission and the States.

Second, H.R. 5447 would explicitly permit the application of any Federal or State law to be applied to activities of persons who are required to, but who do not obtain, registration or designation by the CFTC or who otherwise unlawfully engage in commodity transactions outside the act's regulatory structure such as off-exchange futures or other commodity investments.

These initiatives in effect declare the committee's intention that the resources of the CFTC and State officials should be used together to clean up the continuing problem of off-exchange commodity frauds. Chairman Philip Johnson of the CFTC characterized the provision as an open season on such activities, and the committee concurs.

REMEDIES FOR VIOLATIONS OF THE ACT

Another area to which the committee addressed itself related to improving the machinery by which a commodity customer can obtain relief for violations of the act by industry professionals.

The bill would simplify the reparations procedure, make arbitration more attractive and effective as an alternative to reparations and provide specific authority for private rights of action for recovery of actual damages against violators of the act. The committee believes these changes will discourage fraudulent behavior and improve confidence in the marketplace.

Subsequent to the committee's action, the Supreme Court ruled that there is an implied right of action for damages under several sections of the act, but did not rule on the host of other issues the committee addressed. It indicated that the lower courts would have to answer these difficult questions "unless and until Congress acts".

The committee is of the view that the specific private right of action authorized in section 236 of H.R. 5447 should be adopted even though the court has answered one, but only one, of the several questions that have plagued the courts, plaintiffs, and defendants.

COMMISSION EMERGENCY POWERS

H.R. 5447 makes adjustments in the Commission's emergency powers designed to facilitate prompt action in emergency situations to protect the public interest and at the same time establish a mechanism that will assure that the Commission does not act in an arbitary and capricious manner.

It would make explicit that in emergency situations the CFTC could set temporary emergency margin levels on any futures contracts and fix position limits that may apply to a position acquired in good faith prior to the Commission's action.

Additionally the bill clarifies a limited judicial review of Commission actions. Such review would be by the appropriate U.S. court of appeals and would be based upon examination of information before the Commission at the time the determination is made.

The committee is of the view that this limited judicial review provision adequately protects the interest of all involved.

AGRICULTURAL OPTIONS

H.R. 5447 repeals the 1936 ban on the trading of options on agricultural commodities and gives the CFTC authority to approve trading of such options under a pilot program for a period of up to 3 years.

Options contracts differ from futures contracts in that the purchaser of an option secures the right to buy or sell a specified quantity of a commodity at a set price and date. On the other hand, the purchaser of a futures contract secures the right and obligation to deliver or take delivery of a specified quantity of a commodity at a set price and date.

The committee, following testimony from some farm groups, decided in favor of testing the utility of agricultural options as a more flexible, less complicated method of price protection for farmers than hedging with futures contracts. Options offer a way to simply purchase a degree of price protection from a falling market without giving up potential benefits from a favorable price movement.

H.R. 5447 authorizes a special pilot program of exchange traded agricultural options and provides the CFTC adequate time to assess in an orderly way farmer acceptance of these options contracts.

The final test in this pilot program should be the level of participation by

the agricultural industry in using options for commercial purposes.

REGULATORY POWERS AND ENFORCEMENT

The committee recognizes that in such a rapidly growing and changing industry, the regulatory and enforcement powers of the Commission must be systematically examined and updated. As a general rule the committee has found that the Commission has adequate regulatory and enforcement tools to carry out its assigned responsibilities under the act. To insure the continuing viability of the markets and the protection of the public, H.R. 5447 contains a number of amendments that should provide the Commission with the additional tools it needs to respond effectively to the changing environment.

H.R. 5447 would revamp the existing regulatory provisions to assure the responsibility of those commodity professionals who deal with the public, to expand the responsibilities of registrants for the conduct of principals and key employees, and to lay the foundation for a self-regulatory program with the Commission acting in an oversight role.

Specifically, the amendments in the bill would extend registration requirements to additional categories of commodity professionals, streamline the registration process, provide a framework for delegation of the registration process, provide a framework for delegation of the registration functions to a registered futures association—the industry self-regulatory agency—and revise enforcement and penalty provisions. These provisions should give the investing public greater confidence in the integrity of persons with whom they deal who represent different segments of the commodity industry.

SPECIAL STUDIES

H.R. 5447 calls for two studies to help understand and monitor the rapidly changing futures industry in a volatile and unpredictable economy.

First, the bill calls for the CFTC to organize and lead, with the assistance of the SEC, the Federal Reserve and the Treasury, a major study and investigation of the structure, participation, uses and effects of trading futures and options on the economy. A report would be required not later than September 30, 1984. This is a very important study.

It is contemplated that this study would seek out and utilize the best minds available, both theoretical and practical. A similar study was conducted in the 1960's regarding the security industry. That study provided the foundation for more knowledgeable public policy decisions. Such a solid foundation is now needed for policymakers in the area of futures trading.

The Energy and Commerce Committee has proposed an amendment that would transfer prime responsibility for the study from the CFTC to the Federal Reserve. The committee has no major objection to this amendment, except that if the Federal Reserve is to lead the study it should be expanded to include as well the new options contracts over which the SEC would have jurisdiction under the proposed legislation. These have basically the same economic purpose as the transactions which would be the subject of the study under the committee bill.

H.R. 5447 also provides for a separate CFTC study assessing the impact, if any, of stock index futures contracts on the markets in underlying securities and the effect, if any, on the contracts on the capital formation process.

This study would monitor a 2-year pilot program of stock index futures trading. A report to Congress is required within 4 months after the expiration of the pilot program. If the report concludes that the adverse effects resulting from stock index futures trading outweigh any benefits, the Commissions must include in the report plans for the orderly withdrawal of approval for all stock index futures contracts.

Stock index futures trading is a controversial development and one which merits close study and oversight which is provided for by H.R. 5447.

I have summarized the more important aspects of the bill. H.R. 5447 is a complex piece of legislation that is the result of many days of hearings and markup by the committee. The committee had the benefit of testimony from the CFTC, GAO, other Government agencies, leaders of the commodity industry, representatives of State securities commissions and members of the public at large. H.R. 5447 is a balanced bill that enhances the public interest. I urge the Members to join me in support of H.R. 5447.

Mr. Chairman, I am very happy now to yield 5 minutes to the distinguished gentleman from Tennessee (Mr. JONES), the chairman of the subcommittee.

Mr. JONES of Tennessee. Mr. Chairman, I rise today in support of H.R. 5447, the Futures Trading Act of 1982.

This bill extends the funding authorization for the Commodity Futures Trading Commission through September 30, 1986, and updates the Commodity Exchange Act to provide needed changes in the regulatory and enforcement authority of the Commission and resolve jurisdictional disputes that have arisen since Congress made the last major amendments to the act in 1978.

The Commodity Futures Trading Commission was established in 1974 as an independent regulatory agency to oversee the trading of commodity futures contracts and for other purposes. At that time the trading of futures contracts on agricultural commodities was regulated by the Department of Agriculture's Commodity Exchange Authority. Several nonagricultural commodity futures contracts were being traded but not regulated. Congress then realized the need for uniform regulation of all futures trading and that futures trading was a distinct and separate economic function. Due to the unique and expanding role of futures trading in the national and international economy, an independent agency with adequate resources and regulatory tools was deemed appropriate.

The correctness of this 1974 congressional initiative has been borne out in the phenomenal rate of growth in futures trading coupled with the growth of public and commercial confidence in the integrity of the industry and the regulatory framework. In the past 5 years futures trading volume has nearly tripled, from 37 million contracts to about 100 million contracts annually. The term "commodity" has come to embrace a variety of financial instruments, precious metals, and "natural resource" items, such as petroleum as well as domestic and international agricultural products. While many new commodity futures contracts are now actively traded, agricultural commodity futures still accounted for over half the total number of contracts traded in 1981.

Since 1978, the Agriculture Committee has conducted stringent oversight of the CFTC, examining both operational features and its handling the 1979-80 silver market and the 1979 March wheat episode. The committee has found no serious structural or organizational problems which require legislative solution. Additionally the committee has found a Commission which is growing in maturity, competence, and professionalism as befits the regulation of an industry which each year plays a more important role in the Nation's economy.

H.R. 5447 contains a 4-year reauthorization. Rapid developments in the industry argue for a reauthorization not exceeding a 4-year period. It provides the Congress an opportunity to conduct effective oversight of the Commission and review its charter in the light of the many changes that are occurring in the industry. A 4-year reauthorization strikes a proper balance between those who wish more frequent reviews and those who wish a longer term extension because of the time and expense that are incurred by the Commission and the industry.

I would now like to take just a few minutes to review some of the more important provisions contained in this bill.

CFTC/SEC JURISDICTIONAL ACCORD

H.R. 5447 contains amendments designed to enact a joint-agency jurisdictional accord and to clarify the respective regulatory responsibilities of the

Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC) so both may concentrate on their respective responsibilities.

NATIONAL FUTURES ASSOCIATION/USER FEES

One of the major topics debated during the public hearings and markup sessions associated with H.R. 5447 was whether to impose user fees on the futures trading industry and what impact such fees would have on the industry's ability to successfully establish a new self-regulatory body called the National Futures Association (NFA).

The National Futures Association was designated by the Commission on September 22, 1981, as a "registered futures association" authorized under section 17 of the Commodity Exchange Act. NFA is intended to be a commodity industry self-regulatory organization patterned somewhat after the National Association of Securities Dealers. Some of the duties and functions it is expected to perform will be supplementary to those currently assigned to the Commission. With a successful and competent NFA it is possible that some Commission duties could be delegated to the NFA, subject to CFTC oversight.

The committee has encouraged and promoted the idea of such a self-regulatory organization since adoption of the 1974 CFTC Act. Important segments of the industry have been reluctant to support the idea due to the cost involved and for other reasons. Some progress has been made during the last 2 years which resulted in CFTC designation of NFA in 1981.

The issue of the committee's longstanding desire for the industry to form a self-regulatory organization became complicated further in 1982 when the Commission proposed statutory implementation of an industry user fee in its recommended legislation as contained in the original version of H.R. 5447. The Commission's proposal was determined to be not so much a user fee but a transaction tax, with all fees going directly to the U.S. Treasury.

During debate on these matters, the committee was convinced that the imposition of the proposed fee would unfairly deprive the NFA of its funding base during its infancy. Special consideration was given to this argument since both the committee and the Commission had been actively encouraging establishment of the NFA for several years. To impose an additional fee on the same individuals and corporations at this critical time would constitute action in bad faith, on the part of this Congress.

However, the Agriculture Committee was not unmindful of the need to reduce the Federal deficit either by reduction in spending or by adopting revenue-enhancing measures. Consequently, it adopted a compromise provision which would result in more efficient expenditures and perhaps outright cost savings.

H.R. 5447 would delay imposition of a user fee pending the successful implementation of the NFA and the receipt by Congress of a CFTC study to determine the success of the NFA in achieving its goals.

During the period of implementation of NFA and the CFTC study, H.R. 5447 would prohibit any user fee or transaction fee.

The CFTC may continue to charge fees for services currently rendered by the Commission in conjunction with registration, reparations, adjudication, or informational services and activities.

The committee believes this to be a reasonable and equitable compromise for an interim period. Additionally it pledges a thorough review of the situation following the CFTC study.

EXPANDED ROLE FOR THE STATES

The 1974 act which established the Commodity Futures Trading Commission bestowed on the CFTC exclusion jurisdiction to regulate futures trading and enforce the provisions of the act, thereby preempting any State regulatory laws. This was done in the desire to have knowledgeable and uniform enforcement of the act. The exclusive jurisdiction has been largely successful in regard to transactions conducted on duly constituted commodity exchanges.

By the 1978 reauthorization process, it became apparent that the CFTC's budget and resources were inadequate to control a variety of off-exchange commodities activities, some of which are fraudulent in nature. At that time Congress amend the act to provide that States may seek injunctions or civil damages in Federal court under the provisions of the Commodity Exchange Act. It also recognized that State officials could sue in local courts under their general civil or criminal antifraud laws.

In a further effort to encourage an expanded role of States, H.R. 5447 provides new authorities which will be useful in preventing fraudulent activities.

First, in the area of information sharing, H.R. 5447 expressly permits the Commission to share otherwise confidential information with the States. In addition, the bill authorizes the Commission to provide information on any registrant either voluntarily or at the request of any State.

Second, H.R. 5447 would explicitly permit the application of any Federal or State law to be applied to activities of persons who are required to, but who do not obtain, registration or designation by the CFTC or who otherwise unlawfully engage in commodity transactions outside the act's regulatory structure such as off-exchange futures or other commodity investments.

These initiatives in effect declare the committee's intention that the resources of the CFTC and State officials should be used together to clean up the continuing problem of off-exchange commodity frauds.

The committee, however, continues to support the idea of a single unified program of regulation and exclusive CFTC jurisdiction over exchange-traded futures, authorized commodity options programs and regulated leverage contracts.

REGULATORY POWERS AND ENFORCEMENT

As a general rule the committee has found that the Commission has adequate regulatory and enforcement tools to carry out its assigned responsibilities under the act. To insure the continuing viability of the markets and the protection of the public, H.R. 5447 contains a number of amendments that should provide the Commission with the few additional tools it needs to respond effectively to the changing environment.

REMEDIES FOR VIOLATIONS OF THE ACT

Another area to which the committee addressed itself related to improving the machinery by which a commodity customer can obtain relief for violations of the act by industry professionals.

At the time the committee considered H.R. 5447, the Supreme Court had not yet resolved the issue of whether a private right of action could be implied under the act. The committee is of the view that the right of an aggrieved person to sue a violator of the act is critical to protecting the public and fundamental to maintaining the credibility of the futures market.

To that end the committee added a new section to the bill to provide specific authority for private rights of action for recovery of actual damages against violators of the act. In order to recover damages the violation must have arisen from a transaction on the futures market, a regulated option or leverage contract, or participation in a commodity pool.

COMMISSION EMERGENCY POWERS

The committee included in its amendments to the Commodity Exchange Act new provisions to assure that the Commission would have the tools it needs to act promptly in emergency situations to protect the public interest and at the same time establish a mechanism that will assure that the Commission does not act in an arbitrary or capricious manner.

H.R. 5447 would amend the act to make explicit that the emergency powers of the commission extend to the setting of temporary emergency margin levels on any futures contracts and the fixing of position limits that may apply to a position acquired in

good faith to the effective date of the Commission's action.

SPECIAL STUDIES

For six decades the Agriculture Committee has been responsibile for legislation involving futures trading. The major expansions in the industry over the last decade did not catch the committee by surprise.

The committee finds no evidence that the pace of change in the industry will abate in the near future. For this reason serious and thorough assessments of the impact of certain changes in the industry are called for in H.R. 5447.

H.R. 5447 calls for CFTC to organize and lead, with the assistance of the SEC, the Federal Reserve and the Treasury, a study and investigation of the structure, participation, uses and effects of trading futures and options on the economy.

A report on the study is to be submitted to Congress not later than September 30, 1984, including an assessment of the impact of these activities and recommendations for any legislative and regulatory changes.

H.R. 5447 also requires a separate CFTC study assessing the impact, if any, of stock index futures contracts on the markets in the underlying securities and the effect, if any, of the contracts on the capital formation process.

This study would monitor a 2-year pilot program of stock index futures trading and a report to Congress is required within 4 months after the expiration of the pilot program. If the report concludes that the adverse effects resulting from stock index futures trading outweigh any benefits, the Commission must include in the report plans for the orderly withdrawal of approval for all stock index futures contracts.

The committee recognizes the controversial nature of this untested market development. While not wanting at this time to deny CFTC's authority to approve trading in stock index futures, the committee mandates a cautious approach by requiring a pilot program review. Additionally, the committee will freely exercise its oversight responsibilities in the interim period if circumstances warrant.

Mr. Chairman, in closing let me say that I am proud of the way the Agriculture Committee has dealt with this very important and complex area. This is a good, solid bill which will result in a more competently regulated industry. I urge my colleagues to join me in approving H.R. 5447 today in order that we may move ahead in meeting the September 30 deadline for the reauthorization of the Commodity Futures Trading Commission.

□ 1240

Mr. JEFFORDS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 5447, a bill to amend and update the Commodity Exchange Act and reauthorize the Commodity Futures Trading Commission. I want to associate myself with the remarks of the distinguished chairman of the Subcommittee on Conservation, Credit, and Rural Development of the Committee on Agriculture, Mr. JONES of Tennessee, and the chairman of the full committee, Mr. DE LA GARZA of Texas, and urge that favorable consideration be given this legislation.

As you know, Mr. Chairman, futures trading plays an important role in the agricultural economy and in other industries. Futures markets provide forward pricing and hedging mechanisms that greatly facilitate the efficient marketing of farm products. The prices generated on futures markets are widely used as indicators of value and as guides for production and storage decisions by farmers and other businessmen. At the same time, the shifting of risk provided by active forward markets greatly aids the mobilization of capital in production and marketing.

Unfortunately, futures trading can be subject to various abuses. Experience has shown that effective regulation at the Federal level is needed to protect producers and other traders. The reauthorization of the CFTC is necessary to provide this protection. H.R. 5447 accomplishes that requirement.

The Subcommittee on Conservation, Credit, and Rural Development held extensive hearings on H.R. 5447 over a 3-day period last February. Members of the subcommittee had the benefit of hearing testimony from numerous witnesses from many different sectors on various issues regarding futures trading, CFTC regulatory operations and State concoms. The full Agriculture Committee also conducted an extensive review of the legislation during markup of the bill, and many of the recommendations from the earlier testimony were incorporated into H.R. 5447 during its consideration and passage by the full committee.

What H.R. 5447 basically would do is extend the life of the Commodity Futures Trading Commission for 4 years. In addition, the bill would make several changes to the Commodity Exchange Act which should improve the operations of the Commission while promoting the smooth and abuse-free operation of the futures markets. Major provisions include amendments which will expand effective industry self-regulation and broaden CFTC authority in setting speculative limits, and amendments establishing authority for a pilot program of trading in options on agricultural commodity futures, which has been banned by law for many years.

I am particularly pleased that H.R. 5447 gives States a substantially increased role in policing off-exchange activities in order to protect individual traders. In the past, State actions under the Commodity Exchange Act have been limited, even though the CFTC took the initiative to work with States in implementing these authorities. Under the provisions of H.R. 5447, the CFTC is permitted to share otherwise confidential information with the States. The bill also authorizes the CFTC to provide information on any registrant either voluntarily or at the request of any State. The availability of this information will aid States in preparing their own cases and should enable them to assess whether to join litigation being prepared by the Commission. H.R. 5447 also would explicitly permit the application of any Federal or State law to activities of persons who are required to, but who do not, obtain registration or designation by the CFTC or who otherwise unlawfully engage in commodity transactions outside the act's regulatory structure, such as off-exchange futures or other commodity investments. I believe that these initiatives in effect declare the committee's intention that the resources of the CFTC and State officials should be used together to clean up the continuing problem of off-exchange commodity frauds.

I also would like to note, Mr. Chairman, that H.R. 5447 does not contain a trading fee proposal as originally requested by the administration. The Agriculture Committee reviewed this issue extensively during hearings and markup of the legislation. There was a general consensus among the members of the committee that a transaction fee might adversely affect the industry's efforts at self-regulation, since the new National Futures Association is being funded by industry dues. Therefore, the committee opted to give the National Futures Association a 2-year trial period in order to determine if industry self-regulation can be effective, and transfer costs from the taxpayer to the users of the CFTC. At the end of 2 years, the CFTC shall compose and submit to Congress a report on the effectiveness of the National Futures Association and the possible impacts of a Federal trading fee on futures trading.

Finally, I would like to note that H.R. 5447 writes into law part of the widely supported CFTC-SEC agreement on agency jurisdiction, which apparently has brought an end to over 8 years of tension and conflict between the two agencies. As a result of the agreement, both agencies may now channel their resources into effective

market regulation and approval of new contracts.

Mr. Chairman, we must provide the CFTC with the necessary tools to regulate effectively futures trading without adversely affecting the beneficial operations of the futures markets. I believe H.R. 5447 goes a long way toward accomplishing that goal.

I urge support of H.R. 5447.

Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Chairman, I want to associate myself with the remarks of my colleagues from the Committee on Agriculture in support of the bill H.R. 5447, the Futures Trading Act of 1982. I believe this legislation is a fair, workable compromise which should help insure that we have freely functioning commodity markets with effective surveillance and protection against abuses.

Mr. Chairman, the Subcommittee on Conservation, Credit, and Rural Development and the full Committee on Agriculture extensively reviewed H.R. 5447 during hearings and markup sessions from February through April earlier this year. Testimony was heard from many interested parties on a wide range of issues concerning futures market operations and CFTC regulatory functions. As a result of this review, H.R. 5447, as unanimously passed by the Committee on Agriculture, takes account of the major proposals originally submitted by CFTC and also takes account of the interests of those parties who use the markets and the futures industry.

The major purpose of this legislation is to extend for 4 years the operating authority of the Commodity Futures Trading Commission. The bill also contains numerous amendments to the Commodity Exchange Act which should update and improve CFTC operations without hindering trading on the futures markets. These amendments include provisions to improve Federal, State, and private protection against fraud and market manipulation; establish a pilot program of trading in options on agricultural commodity futures; broaden CFTC authority in setting speculative limits; provide for limited judicial review of CFTC emergency powers; and provide for broadened power for individuals to request arbitration.

The bill also gives a new futures industry self-regulatory body, the National Futures Association, a chance to see whether it can operate effectively and handle some of the regulatory work now performed by the CFTC. H.R. 5447 also will require the National Futures Association to set standards for sales practices and industry employee training.

I also would like to note that title I of H.R. 5447 contains one part of a CFTC and Securities and Exchange Commission accord which is the result of an agreement reached between the two agencies during negotiations regarding their respective jurisdictions. I believe my colleagues have already explained the specifics of this joint agency accord in their statements, so I will not review it in detail at this time. However, let me just say that both the CFTC and SEC worked long and hard to establish a clearly defined regulatory agreement designed to protect the public while not disrupting any trading currently taking place on the national securities exchanges or boards of trade. In resolving questions of jurisdiction over such instruments generally defined as "financial futures" or "financial options," the agreement ratifies the inherent differences between the futures industry and securities industry and endorses the concept of separate regulations. Basically, the CETA will retain its traditional role of regulating markets and instruments that serve a hedging and price discovery function, while the SEC will regulate markets and instruments with an underlying investment purpose. As initially presented to Congress by the CETA and the SEC, the joint agency agreement represents a negotiated compromise which establishes a clearly delineated regulatory scheme for the securities and futures markets. It is strongly supported by the affected industries and the administration.

Mr. Chairman, I believe that H.R. 5447 will enable the rapidly growing futures industry to operate in a responsible and economically beneficial manner. I urge my colleagues to support passage of this legislation.

□ 1250

Mr. JEFFORDS. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri (Mr. COLEMAN).

Mr. COLEMAN. Mr. Chairman, the bill H.R. 5447, the Futures Trading Act of 1982, should be approved by the House today.

The Committee on Agriculture has considered and debated fully its ramifications on all parties. The Committee on Energy and Commerce has scrutinized it.

The few who voiced doubts as to the CFTC's ability to regulate and enforce the Commodity Exchange Act during the lengthy hearings before the Agriculture Committee did so not because they believe the Commission lacked the ability or resolve to regulate this complex industry but because, perhaps the Commission simply lacked personnel, in their view.

The fact is that the Commission is doing a good job. Its Chairman, Philip Johnson, knows the industry and what Government should demand from it. He knows when the regulations under which it operates should be broad and or narrowed, and when sanctions should be imposed for violations of adequate and just regulations.

To a few, especially among those who do not sit on the authorizing committee, there may be an issue or two left undone. I regret they think so, because I believe the legislation serves the public. It allows the industry to go about its business in a reasonable manner. It authorizes the Government to fulfill its responsibility to the public.

Let me go over briefly those areas of contention: First, user fees; second, SEC veto authority; and third, States' regulatory authority.

Why is it user fees are an issue here that must be dealt with while user fees in the other public sectors may be dispensed with? Is there a difference in the public good of a commodity futures market because the market is made by a trader who makes a profit? After all, it is the speculator's willingness to risk his capital that makes the market. Those who want user fees would simply be applying nothing less than a tax on commodity trading. The more one trades, the greater would be the user tax.

SEC veto authority means little now that Chairmen Phil Johnson and John Shad have their agreement. But, it could be significant in the future. Chairman Johnson regulates the futures markets and a futures contract on a stock index is traded on a regulated commodity exchange, and it seems therefore that allowing a contract to be traded should be under the purview of the CFTC. This is another one of those times when the Congress establishes over-regulation for no good reason beyond a jealousy of legislative jurisdiction. Even the economists are not having a turf battle on this issue. Futures on stock indices have not destroyed any other market, much less the securities markets.

Finally, we come to another jurisdictional dispute, this time between State and Federal entities. The States contend they are hindered from prosecuting commodity scams under State laws because the CFTC has exclusive jurisdiction. It is obvious that the CFTC cannot run down every criminal who operates a bucket shop. That is why the CFTC has told the State securities commissioners and State attorneys general it will assist them in every way possible. The CFTC has started an open season on commodity scams.

But to give States authority to regulate exchanges and commodity markets seems to be a situation to be avoided in light of the recent good record established by the CFTC.

This bill, H.R. 5447, is good, responsible legislation, and I would urge the House to adopt it.

Mr. JEFFORDS. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, I regret the necessity of appearing as an intruder on the arrangement that appears to have been make in this bill.

I do believe that sometimes the public interest requires temerity and intrusion, and I certainly apologize to my friends who see me as "rocking the boat."

There is more area of disagreement here than is apparent from the discussion that has transpired so far. In fact, the administration itself feels that an amendment is necessary to this bill to make it acceptable. I realize we are not bound by what the administration wishes, but I do believe that the amendment which I will offer does deserve at least the consideration of the House and I therefore ask the patience of my colleagues.

□ 1300

The Commodity Futures Trading Commission polices an industry that has tripled in size over the past 5 years, an industry that deals in everything from farm products to international credit. Futures contracts are traded covering such diverse products as pork bellies, wheat, Government debt instruments, bank paper, foreign currencies, energy products, and even stock indexes. This industry has enjoyed enormous prosperity, rising in large part from this diversity.

The role of the CFTC is to assure that the the futures markets are a safe place to do business for the professionals and those who trade on these markets.

In contrast to the growth of the futures industry, the CFTC has relatively been shrinking. Its budget has risen about 4 percent a year, trailing inflation and resulting in a net reduction in true purchasing power for the agency.

The staff level remains about the same as it was about 5 years ago. As the industry has expanded and the CFTC staffing has remained level, the workload has multiplied. The workload includes day-to-day surveillance of every market; protecting market users against fraud and sharp sales practices; licensing tens of thousands of professionals, and scrutinizing every new futures contract; running a customer complaint system, enforcing the Commodity Exchange Act, all on a budget of about $20 million a year.

The amendment that I am proposing, Mr. Chairman, to H.R. 5447, which will place a very modest assessment on these transactions, and, in some small way, will help to relieve the burden on the average taxpayer, who rarely, if ever, uses these markets, is one which I hope will have the consideration of the House. My proposal has ample precedent. It is found in the Securities and Exchange Commission, the Comptroller of the Currency, the Federal Reserve System, and the Federal Home Loan Bank Board, all of which regularly collect substantial portions of their budget from their regulated industries.

My proposal would assess to each futures exchange an amount equal to 6 cents—that is right, 6 cents—for each contract traded by a member of that exchange or of a self-regulatory organization such as the National Futures Association; and 12 cents for each trade made by a person who is not a member of an exchange or a self-regulatory organization. Six cents and twelve cents are amounts so small, less than a postage stamp—a third of a postage stamp—or a candy bar, and are virtually meaningless when measured against the vast amounts of money involved in the commodity futures industry. And yet, a fee of this nature would raise approximately $15 million to $16 million per year, 60 to 75 percent of the budget of the CFTC.

Of course, the primary model for this of transaction-based fee is the securities industry, which has paid such a fee since 1934, and in fact has at the same time supported through similar fees the National Association of Securities Dealers.

The objection that I hear today is that the National Futures Association is to be given a couple of years to come up with some vehicle for self-regulation. Meantime, the taxpayers will pick up the cost of this exchange, and that we should not impose a fee at this time because it might result in duplication if the National Futures Association in fact gets its act off the ground.

Now, this amendment is supported by the Farm Bureau, the Cattlemen's Association, and the Grange, primarily on the basis that the farmers and producers favor a strong CFTC to oversee the operations of the markets and to insure that they remain price neutral.

If I may also anticipate another argument, I would point out that this fee will not in any way inhibit a person from trading in the commodities industry.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. JEFFORDS. Mr. Chairman, I yield 2 additional minutes to the gentleman from New York.

Mr. CONABLE. In order to purchase a futures contract in corn, one must be prepared to deposit $600 margin with a broker. In order to purchase a contract for the future delivery of a 90-day Treasury bill, $2,000 margin is required, and in order to purchase a contract for future delivery of, let us say, 5,000 ounces of silver, a trader must be prepared to deposit margin in the amount of $4,500, unless that margin has been raised recently. Another cost involved would be the fees paid to the broker, which would amount to $25.

In a period of tremendous budget deficits, when we are looking to relieve the Government of financial burdens and taxpayers of financial burdens, it appears very appropriate to me that we should ask a booming, free-market organization to contribute to the public cost of maintaining its operations in a way that preserves public confidence and support. It is reasonable public policy that we should be willing to implement.

Mr. Chairman, I hope my amendment, when presented, will have the earnest consideration of the Members of this body. I acknowledge that the tremendous sums of money involved in the futures industry may be awesome to the Members, but I must say that when viewed in that context, 6 cents or 12 cents a transaction, does not seem like an undue burden for the industry to bear.

Mr. JEFFORDS. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. MADIGAN).

Mr. MADIGAN. Mr. Chairman, I rise in support of H.R. 5447, a bill to reauthorize the Commodity Futures Trading Commission and update and improve the Commodity Exchange Act. I want to commend the chairman of the Agriculture Committee, Mr. DE LA GARZA, and the chairman of the Subcommittee on Conservation, Credit, and Rural Development, Mr. JONES of Tennessee, for their leadership in bringing this bill to the floor. As a former member of the Agriculture Committee, I have worked with these gentlemen and other committee members in both 1974 and 1978 on CFTC reauthorization legislation, and I must commend them for their diligent work in formulating a new CFTC legislative package this year.

I also want to commend the distinguished chairman of the Energy and Commerce Committee (Mr. DINGELL), and the distinguished gentleman from Colorado (Mr. WIRTH) for their thorough review and expeditious action on H.R. 5447 after receiving sequential referral of title I and section 237 of the bill for review before the Energy and Commerce Committee.

As we all know, Mr. Chairman, the Commodity Futures Trading Commission has not been without its problems in the past. Since its inception in 1974, the CFTC has faced budget and manpower constraints. Squabbling with the SEC also has diverted resources from the young agency, and major market disturbances have rocked the CFTC's credibility nearly every year of its existence.

In the past, uncertainty within the CFTC has been a major problem for the agency, the futures industry, and the public in general. However, all that appears to have changed under the current CFTC leadership, with several notable accomplishments being

made during the last 12 months. To begin with, the Commission has acted upon 28 new futures contracts. This is more than the total of the previous 5 years combined.

In spite of this pace in contract approval, the Commission has not neglected its duties in protecting the public. Over the last year, the Commission has assessed approximately $2,000,000 in civil penalties against contract markets, professionals, and traders for infractions under the Commodity Exchange Act. This 1-year civil penalty total exceeds the fines levied by the Commission in all of the previous years combined (1975-81). Improvements have been made in other aspects of the Commission's operations as well.

It is apparent that what has been needed at the CFTC is a Commission strong enough to control effectively unsavory activities and confident enough about futures trading to not unduly hamstring its involvement in economic and business activities which will better serve American industry. Despite the initial problems characteristic of a new agency, I believe that these goals are being accomplished at the CFTC under current leadership. H.R. 5447 should help to insure that the CFTC has the regulatory tools to continue to regulate effectively futures trading without restricting the free functioning of the markets.

What H.R. 5447 does is extend for 4 years the operating authority of the Commodity Futures Trading Commission. The bill also contains several amendments to the Commodity Exchange Act which are designed to update and improve CFTC operations without hindering trading on the futures markets.

I believe my colleagues have already explained most of these amendments, so I will not review them in detail at this time. However, I would like to discuss an amendment which will be offered to this legislation later today.

As you know, Mr. Chairman, H.R. 5447 was sequentially referred to the Energy and Commerce Committee for consideration of title I and section 237 after its passage by the House Agriculture Committee. Title I of H.R. 5447 deals with the Commodity Futures Trading Commission and Securities and Exchange Commission agreement on agency jurisdiction as it relates to the Commodity Exchange Act. The SEC portion of the joint agency agreement is contained in H.R. 6156, a bill which amends the Securities Exchange Act, while section 237 of H.R. 5447 is a provision to provide for a special study of the futures industry.

During consideration of H.R. 5447 by the Energy and Commerce Committee, an amendment was adopted which would alter the terms of the CFTC/SEC jurisdictional agreement. As passed by the committee, this amendment would give the Securities and Exchange Commission concurrent review and veto authority over any stock index futures contract considered by the CFTC. This provision will be offered as an amendment to H.R. 5447 today.

This amendment has been a matter of great controversy. It was my intention to oppose the adoption of this amendment today.

However, so as to avoid further differences between the Agriculture Committee and the Commerce Committee I have elected to not oppose the amendment. For doing so I am afraid, might result in the reauthorization bill not becoming law before the end of this session.

I understand that an agreement has been reached on this amendment between Messrs. DE LA GARZA and DINGELL. I hope that the committee will support that agreement so that we can move ahead with this important bill.

Mr. DE LA GARZA. Mr. Chairman, I yield 4 minutes to the gentleman from Kansas (Mr. GLICKMAN).

□ 1310

Mr. GLICKMAN. Mr. Chairman, I rise in strong support of this bill.

This is a very important piece of economic legislation inasmuch as it regulates the area of futures. Historically, futures have related to agricultural commodities—wheat, corn, pork bellies, cattle—but since 1978, when this agency was last authorized, trading volume has increased dramatically to about 100 million contracts traded last year, and no longer do agricultural commodities dominate the futures market.

Now a person is more likely to trade a futures contract on Treasury bills, Ginnie Maes, or stock indices than on pork bellies, oats, or cotton.

In short, it is a new world in the futures business—a new world that has left many in the public confused about the meaning of these developments. They are not sure that all this makes sense.

Without improvements like those included in this bill, investors in the futures market will face potentially greater and greater uncertainty. Likewise, excessive and unreasonable speculative activity without adequate control will disrupt the orderly operation of the market, which will erode public confidence in the futures market.

Now, I am not going to address all the provisions of this bill, Mr. Chairman, but I would like to address a few that were adopted in the committee. To insure the continued viability of the markets and the agency responsible for regulating them, a number of amendments were offered to strenghten the CFTC's authorities.

No. 1, under present law the CFTC's speculative limit setting authority is limited to prospective action. Thus, if the Committee sees that an individual has a speculative limit which is over what they think it ought to be, it cannot reduce that retroactively. Under this bill, with the clarification of its emergency powers, the Commission could move in and remove unhealthy dominance in the market. That could have prevented the Hunts' silver bubble from ever forming before it burst.

No. 2, better consumer protection should be available to investors in the futures markets. With the advent of contracts like those on stock index futures, a different type of investor is likely to enter the market. Those who are used to playing the stock market, for example, might very well move into the futures market either to protect the value of their stocks or simply as a better way to play the market. As the participants diversify, the need for strong consumer protection grows. That is why the committee mandated the establishment of a National Futures Association and also mandated that it fulfill a broad assortment of tasks, far greater, I might add to my colleague, the gentleman from New York (Mr. CONABLE), than is required under the National Association of Securities Dealers, because this committee felt the responsibilities were necessary in order to properly regulate the market.

Another critical customer protection that should be available to commodities investors is the right to sue. Would you believe that under current law, as it was interpreted until the Supreme Court rendered its decision last year, there was really no right to sue anybody under the Commodity Exchange Act?

While the Supreme Court opened the door for private rights of action where the customer could sue his broker if he defrauded him, it made requirements so nonspecific and inarticulate that actually the courts will probably be in the midst of this for several years in deciding what are the limits or what are the rights on this whole issue of litigation under the act.

Therefore, the bill we have proposed will allow commodity investors who suffer actual damages the right to sue both brokers and the exchanges. An individual could sue the Chicago Board of Trade or the Chicago Mercantile Exchange if he suffered actual damages as a result of violations of the Commodity Exchange Act.

I will be offering an amendment to strengthen this provision, actually to clean it up and strengthen it. That amendment, I think, will be accepted.

Fourth, we desperately need to have a better base of information relating to the impact of this enormous new futures industry and the burgeoning nature of it on the economy in general. We do not really know what the

effect of the changing futures market is on capital formation. So we have authorized a special study of the futures industry modeled on the renowned study of the securities markets conducted by the SEC during the 1960's as a way to give us the basic information.

This is a good bill. It is a strong consumer protection bill that the Agriculture Committee provided in order to insure that farmers, ranchers, silver dealers, and anybody else in this country who has an interest in the price of commodities can have confidence in and know that their Government is in fact adequately regulating this industry.

Mr. Chairman, I urge my colleagues to support the bill.

● Mr. DINGELL. Mr. Chairman, on February 19, 1982, we wrote to the Speaker requesting sequential referral of those sections of H.R. 5447 which would amend the Commodity Exchange Act concerning the jurisdiction, rights, duties, and obligations of the Securities and Exchange Commission (SEC) as well as trading in securities (including options to buy and sell securities) on securities exchanges and in the over-the-counter market. That request was supported by the chairman of the Commerce, Consumer and Monetary Affairs Subcommittee of the Committee on Government Operations as a result of concerns highlighted in that subcommittee's oversight hearings on the operation of the CFTC and on the 1980 silver futures crisis.

Our committee's interest in H.R. 5447 was primarily limited to provisions relating to futures contracts on stock indexes and stock groups; that is, to futures on underlying instruments that clearly fall within the purview of this committee. Our committee's concerns regarding such futures contracts also relate to matters that have traditionally fallen within our legislative and oversight responsibilities. These concerns include: First the extent to which futures or stock indexes and stock groups may divert funds from the primary and secondary securities markets and the impact of any such diversion on the capital formation process; second the extent to which futures on stock indexes and stock groups may be utilized to manipulate the markets for the underlying securities; and third, the effect futures may have on the price volatility of equity securities and the costs of equity financing. Numerous other aspects of the SEC/CFTC jurisditional accord also are dealt with in H.R. 5447. This committee had no wish to review issues it felt were properly left the Agriculture Committee resolution.

Events of the past few years suggest that trading in financial futures is expanding far too rapidly. Since becoming an independent agency. The CFTC has approved over 50 new contracts, most of which are "interest rate" futures. Only a half dozen have been for agricultural products. In the past 12 months the CFTC has approved over 30 new futures contracts, more than the total of the previous 5 years combined. Now, the activity in nonagricultural futures is greater than that of the traditional agricultural contracts.

On July 13, 1982, the Senate Permanent Subcommittee on Investigations issued a report, entitled "Commodity Investment Fraud," which summarized an 8-month investigation of thousands of law enforcement and CFTC files, interviews of more than 200 commodity fraud victims, commodity sales operators, law enforcement officials at the Federal, State, and local levels and perpetrators of commodity fraud schemes. The conclusions of that report have been summarized:

SUMMARY

First. The subcommittee found, during the initial 8 months of its investigation, that thousands of persons nationwide have been victimized by fraudulent commodity sales operations.

Second. In the past 5 years these commodity schemes have defrauded the American public of over $1 billion. The operators of these scams are drawn to the business by large profits and the slight chance of criminal prosecution.

Third. Frequently the perpetrators are registered with the CFTC, acquiring a credibility with potential investors which they could not otherwise obtain. The registration unit of the CFTC is understaffed and is unable effectively to screen every person who is not suitable for trading. Similarly outgunned, the enforcement division has had considerable trouble just dealing with major crises.

Fourth. The CFTC has been unable to stem the recent tide of commodity frauds, yet it systematically authorizes new areas of trading which may be subject to ever-increasing fraud. Commodity options, banned in 1978 because of their susceptability to fraud, are being reintroduced into the markets. New and exotic contracts, such as stock index futures, have been approved for trade. Leverage contracts, still under the exclusive jurisdiction of the CFTC, remain free of regulation.

In its 352-page July 15, 1982, report, "Commodity Futures Regulation—Current Status and Unresolved Problems," the GAO noted a number of deficiencies in the CFTC's contract approval and review process, market surveillance, registration programs, rule enforcement review program and exchange self-regulation.

The CFTC recently approved several contracts under an option pilot program. A confidential memorandum from the director of the division of enforcement to the CFTC recommended that the options pilot program not go forward:

> Any lifting of the options ban will most likely increase the activity of persons selling illegal options and thus the burden on the Commission's enforcement program. The Division anticipates that the options pilot program will serve as both a guise and an advertising ploy for unscrupulous operators who are in fact selling illegal options. Particularly in those areas of the country where off-exchange instrument sales have been so troublesome, unscrupulous operators will misrepresent the nature of the commission's program and seek to foist their unlawful instruments upon the unsuspecting public as "exchange-traded options". . . . Where, as here, self-regulatory controls are deficient, it is not unreasonable to expect that public customers and the integrity of the marketplace will suffer from the resulting abuses and, consequently, a large, and perhaps overwhelming, enforcement burden will fall upon this Commission.

Against this backdrop, the Committee on Energy and Commerce considered the bill, H.R. 5447, and adopted two amendments. I urge support for both amendments. One relates to the approval process for stock index futures; the other amplifies the special study of the futures market developed by the Committee on Agriculture. The amendments are discussed in our report on H.R. 5447, and in the statement by Congressman WIRTH, whose subcommittee developed the amendments.

AMENDMENT TO TITLE I SECTION 101

One change made by the Commerce Committee relates to the approval process for stock index futures. We have not given the SEC a veto over the CFTC nor have we changed jurisdiction over stock index futures. That jurisdiction remains with the CFTC, as provided in the accord between the agencies.

Sections 5, 5a, and 6 of the Commodity Exchange Act list certain conditions and requirements that must be met for an exchange to be initially designated as a contract market by the CFTC. under the original language of section 101 of H.R. 5447, where the contract designation is for future delivery of a group or index of securities, the CFTC must also expressly find that the application meets three minimum requirements set out in the bill:

First. Settlement of the contract will be in cash or by means other than transfer of a security.

Second. Trading in the contract will not be readily susceptible to manipulation of either the contract price or the price of any underlying security.

Third. The group or index of securities—

Is predominantly composed of unaffiliated issuers: and

Is a widely published measure of and indeed reflects the market for all publicly traded equity or debt securities or a substantial segment of the same.

If the SEC has evidence that a minimum requirement is not met, it may object in hearing held after the public comment period. If the CFTC approves the contract designation anyway, the SEC may sue the CFTC in Federal court.

Many Members were unhappy with the original provisions in the bill relating to stock index futures. It is bad public policy to provide for one Federal agency to sue another. It is also a direct incursion into the historical jurisdiction of the SEC to provide for the CFTC to make findings regarding the securities markets and manipulation in those markets. It is no secret that, for many of the reasons I have already discussed, I wanted to ban stock index futures entirely. Others believed that the SEC was probably the agency best suited to regulate any derivative instruments based on securities. After considerable discussion, it was decided that the study in title II of the bill would give us an opportunity to act on the basis of more information. We must, however, insure that the regulatory scheme we develop will protect the integrity of the markets in the meantime.

Therefore, while we did not change the jurisdictional scheme agreed to by the agencies, or the standards for approving stock index futures, we did make a change in the procedures for determining whether a stock index futures contract met the standards in the accord. The most important standard was a finding that trading in the futures contract would not have a manipulative impact on the underlying securities markets. We believe the SEC, which has been regulating the securities markets for almost 50 years, should make this determination and should not be forced to sue the CFTC in Federal court in the event of disagreement.

The amendment has been inaccurately described by the CFTC and the Agriculture Committee as the SEC veto amendment. The SEC might find that a contract meets the threshold requirements, and the CFTC might disapprove the contract. In that situation, one might characterize the CFTC's actions as a veto. I should stress that we view this provision for concurrent decisionmaking as critical, given the uncertainty surrounding these new instruments and the potential for abuses. Congress in other cases has entrusted Federal agencies and departments with concurrent decisionmaking authority in specialized, complex situations. We believe this situation merits that kind of careful review.

AMENDMENT TO TITLE II, SECTION 237

The amendment would place the Federal Reserve Board in the lead of the special study. When a special study was done of the securities options market in the midseventies, the SEC was permitted to conduct the study. Some have suggested that the CFTC should therefore be the appropriate agency to lead the study of the futures market. There are several important distinctions.

The options special study was not mandated by the Congress, but was ordered by the SEC itself, which imposed a moratorium on the approval of all new options contracts during the time the study was being conducted.

Further, the options study did not review the complex capital formation issues which are critical to the futures study. The Federal Reserve Board is better suited to look at these macroeconomic issues. Moreover, the study will look at related instruments, such as options, which are regulated by the SEC. It is important that the impact of all of these derivative instruments on capital formation be carefully reviewed, and it is important that an independent entity perform this task.

Margin and credit allocations issues are a part of this study. Clearly the Federal Reserve Board is the agency with a history of studying and regulating in this area.

The study will also look at issues of regulatory disparities and how the differing regulatory schemes of the SEC and CFTC over similar instruments may affect competition and the flow of investment funds. The Federal Reserve Board has indicated that it has already begun thinking about these issues. It certainly makes sense to have an independent body look at this issue, instead of either of the two agencies involved, in order to preserve the integrity of the conclusions and recommendations.

We would expect that the CFTC would gather the data in the area of futures trading activities, with the SEC providing information in the areas most within its expertise. The committee strongly believes that if the study is to be highly credible and constitute a basis for additional work by the Congress, its independence must be insured. I believe Members will agree, and I hope they will support the Commerce Committee amendments to this important and constructive study.●

Mr. WIRTH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Energy and Commerce Committee's interests in this bill deal primarily with those portions dealing with securities and the jurisdiction of the SEC over the securities markets. I will discuss that in greater detail when we consider the Energy and Commerce Committee amendments to H.R. 5447, but I think it would be useful to explain the committee's interests generally at this point.

As you know, the Federal securities laws were passed in the wake of the stock market crash of 1929. It was generally believed that one of the reasons for the upheaval in the Nation's financial markets was highly leveraged speculation in the markets. The securities laws were aimed at protecting public investors, assuring market integrity and, most important, restoring investor confidence in order to attract needed funds back into the U.S. capital markets. These goals were, and remain, of paramount concern to the Commerce Committee and to the Congress. We created the Securities and Exchange Commission to oversee the securities markets and to carry out those goals. The SEC had been regulating the securities markets for almost 50 years.

When we reviewed the proposed jurisdictional amendments, we were very troubled by the proposal for futures contracts on securities to be traded on commodity exchanges under the jurisdiction of the CFTC. This unusual provision prompted a referral request from the Commerce Committee for H.R. 5447.

I should point out that the securities and options exchanges have no instrument, from a jurisdictional standpoint, that compares to stock index futures traded on commodity exchanges. An example of an instrument that might be comparable would be SEC-regulated options on pork bellies, sold on securities exchanges. To permit futures on stock indexes to be traded on commodities exchanges did not seem in keeping with the public policy requiring that the SEC oversee the securities markets as a whole, to assure that those markets fulfill their mission in the capital formation process and to see that they are fair and orderly and not susceptible to manipulation.

Therefore, a number of members of the Commerce Committee objected to the stock index futures provision in H.R. 5447. Some wanted to ban stock index futures entirely. Instead, we made a very minor change which we believed would preserve the SEC's historical interest in regulating the securities markets and yet make the least change to the jurisdictional accord worked out between the agencies.

In addition, we made minor amendments to the provision of the bill relating to the special study of the futures market. I believe the special study developed by Mr. GLICKMAN is extremely important. We have very little information about the futures markets at this point. I must say that the willingness of the Commerce Committee to go along with the provision permitting commodities exchanges to trade futures on securities indexes is in large part due to the fine work of the Committee on Agriculture, first, in creating the special study that we believe is so very important and, second, in creating the pilot program for stock index futures.

At this point, Mr. Chairman, I yield to the distinguished chairman of the full Committee on Agriculture, the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Chairman, I appreciate the gentleman's yielding.

In my original statement I have given my interpretation of the area of stock indexes contracts, and I would appreciate it very much if the distinguished chairman of the subcommittee, the gentleman from Colorado (Mr. WIRTH) would give us the benefit of his perusal of the situation and the committee's intent in order that we might coordinate that with our intent so that there be no question as to what the intention of the legislation is in regard to this area.

Mr. WIRTH. Mr. Chairman, I am happy to do so on behalf of the subcommittee and on behalf of the full committee and its chairman, the gentleman from Michigan (Mr. DINGELL).

This provision in H.R. 5447 was added by the Commerce Committee to deal with a very specialized situation.

It is not an absolute "veto" of CFTC-approved stock index futures, as some have characterized the provision.

The amendment only states that the SEC has equal authority with the CFTC to make a finding that futures contracts based on stock groups or indexes meet certain criteria.

Those criteria are set forth in the bill reported by the Committee on Agriculture, and the Commerce Committee did not change them:

First, the futures trading cannot manipulate the underlying securities and vice-versa.

Second, the securites index must be broad-based.

Third, the contract must be settled in cash, rather than by delivery of the underlying securities.

The SEC makes no determination of other factors traditionally within the purview of the CFTC.

I want to stress that we in no way intend to have the SEC involved in any way in the regulation of futures based on commodities or on any other nonstock instruments.

This is not intended to hamper the CFTC's independence nor is it intended to be a precedent for any intrusions by the SEC into the regulation of instruments traditionally regulated by the CFTC.

□ 1320

I hope that outline of our amendment is helpful. We accepted the basic criteria outlined by the Committee on Agriculture, with the understanding that any instrument based on a stock, whether it is an option or a future or whatever it might be, is and should be within the jurisdiction of the SEC. The Committee on Energy and Commerce is concerned with looking at the integrity of the securities market only.

I hope that again further clarifies the intent of the Committee on Energy and Commerce.

On behalf of the full committee I once again want to thank the distinguished chairman of the Agriculture Committee, Mr. DE LA GARZA, and his colleagues and staff for their help in working out what could be a very uncertain situation. I think they have done that well.

Mr. DE LA GARZA. If the gentleman would yield on that, I thank the gentleman and we accept as the legislative history of this area of the legislation the account which the gentleman has given us as to his understanding of the intent of the legislation.

Mr. WIRTH. I thank the distinguished chairman.

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

Mr. WIRTH. I am happy to yield to the gentleman from South Dakota.

Mr. DASCHLE. Mr. Chairman, I thank the gentleman. During the consideration of this bill by the Energy and Commerce Committee it was brought to my attention that section 101 of the bill as reported by the Committee on Agriculture may inadvertently ban in the United States transactions in futures contracts on securities issued by foreign governments.

One contract that would apparently be barred by this provision is a contract known as the "long gilt", which is based upon long-term United Kingdom Government debt obligations. The debt securities on which this contract is based are the United Kingdom's equivalent of U.S. Treasury bonds. My understanding is that neither the CFTC nor the SEC intended to bar transactions in contracts for future delivery of these securities in the United States in reaching the Johnson-Shad accord, of which section 101 is a part.

I would like to ask my colleague whether my understanding is correct and whether he believes that an amendment is necessary to solve this problem.

Mr. WIRTH. The gentleman from Oklahoma is correct in his understanding of the impact of section 101 of the bill on contracts for future delivery of securities. The gentleman is also correct that, according to Chairman Shad of the SEC and Chairman Johnson of the CFTC, neither the SEC nor the CFTC intended to ban transactions in foreign futures contracts on the long gilt bond when the two agencies concluded their jurisdictional accord.

I do not believe that an amendment to section 101 of H.R. 5447 is necessary to remedy this problem. By its terms, section 101 exempts from the prohibition futures contracts based on securities that are "exempted securities" under the Securities Act of 1933 or the Securities Exchange Act of 1934. Thus, if the SEC were to deem the gilt-edged securities on which the long gilt contract is based exempted securities, for the purpose of transactions in foreign futures contracts based on the long gilt, such transactions would be permitted in the United States because they would be excepted from the ban on the sale of futures on securities in section 101. I understand from the SEC that it intends promptly to take the necessary administrative action to accomplish this result so long as actual trading of the underlying gilt-edged securities does not occur in this country. The SEC may also in the future wish to take administrative action for the purpose of permitting transactions in foreign futures contracts on other securities issued by foreign governments. This legislation leaves the SEC free to do so.

Mr. DASCHLE. I appreciate the efforts of the gentleman from Colorado to insure a prompt and fair solution of this problem.

The CHAIRMAN. The gentleman from Colorado (Mr. WIRTH) has consumed 8 minutes.

The Chair now recognizes the gentleman from New Jersey (Mr. RINALDO).

Mr. RINALDO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 5447, the Futures Trading Act of 1982.

I am pleased that the Speaker of the House recognized the jurisdiction of the Energy and Commerce Committee over certain provisions of this bill, and I want to thank our chairman, the gentleman from Michigan, and the chairman of the subcommittee, the gentleman from Colorado (Mr. WIRTH), for their strong efforts to ensure that the committee's jurisdiction was recognized.

At the appropriate time, the amendments adopted by the Energy and Commerce Committee will be offered and I hope they will be accepted by the Agriculture Committee and by the House.

I would like to emphasize that the only interest of the Energy and Commerce Committee in this bill is in the provisions which affect the jurisdiction of the Securities and Exchange Commission and the orderly operation of the securities markets.

I urge the passage of H.R. 5447.

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

Mr. WIRTH. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

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

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute recommended by the Committee on Agriculture now

printed in the reported bill will be considered by titles as an original bill for the purpose of amendment, and each title shall be considered as having been read.

The Clerk will designate title I.

Title I reads as follows:

H.R. 5447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Futures Trading Act of 1982".

TITLE I—JURISDICTION

OPTIONS; FUTURES CONTRACTS

SEC. 101. (a) Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2) is amended by—

(1) redesignating paragraph (1) as paragraph (1)(A);

(2) inserting in the third sentence of paragraph (1)(A), as so redesignated ", except to the extent otherwise provided in subparagraph (B) of this paragraph," after "exclusive jurisdiction";

(3) adding a new subparagraph (B) to read as follows:

"(B) Notwithstanding any other provision of law—

"(i) This Act shall not apply to and the Commission shall have no jurisdiction to designate a board of trade as a contract market for any transaction whereby any party to such transaction acquires any put, call, or other option on one or more securities (as defined in section 2(1) of the Securities Act of 1933 or section 3(a)(10) of the Securities Exchange Act of 1934 on the date of enactment of the Futures Trading Act of 1982, including any group or index of such securities, or any interest therein or based on the value thereof.

"(ii) This Act shall apply to and the Commission shall have exclusive jurisdiction with respect to accounts, agreements (including any transaction which is of the character of, or is commonly known to the trade as, an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty') and transactions involving, and may designate a board of trade as a contract market in, contracts of sale (or options on such contracts) for future delivery of a group or index of securities (or any interest therein or based upon the value thereof): *Provided, however,* That no board of trade shall be designated as a contract market with respect to any such contracts of sale (or options on such contracts) for future delivery unless the board of trade making such application demonstrates and the Commission expressly finds that the specific contract (or option on such contract) with respect to which the application has been made meets the following minimum requirements:

"(a) Settlement of or delivery on such contract (or option on such contract) shall be effected in cash or by means other than the transfer or receipt of any security, except an exempted security under section 3 of the Securities Act of 1933 or section 3(a)(12) of the Securities Exchange Act of 1934 as in effect on the date of enactment of the Futures Trading Act of 1982 (other than any municipal security, as defined in section 3(a)(29) of the Securities Exchange Act of 1934 on the date of enactment of the Futures Trading Act of 1982);

"(b) Trading in such contract (or option on such contract) shall not be readily susceptible to manipulation of the price of such contract (or option on such contract), nor to causing or being used in the manipulation of the price of any underlying security, option on such security or option on a group or index including such securities; and

"(c) Such group or index of securities shall be predominately composed of the securities of unaffiliated issuers and shall be a widely published measure of, and shall reflect, the market for all publicly traded equity or debt securities or a substantial segment thereof, or shall be comparable to such measure.

"(iii) Upon application by a board of trade for designation as a contract market with respect to any contract of sale (or option on such contract) for future delivery involving a group or index of securities, the Commission shall provide an opportunity for public comment on whether such contracts (or options on such contracts) meet the minimum requirements set forth in clause (ii) hereof, and shall consult with the Securities and Exchange Commission with respect to such designation. If, within fifteen days following the close of the public comment period, the Securities and Exchange Commission shall object to the designation of a board of trade as a contract market in such contract (or option on such contract) on the ground that any minimum requirement of clause (ii) hereof is not met, the Commission shall afford the Securities and Exchange Commission an opportunity for an oral hearing, to be transcribed, before the Commission, and shall give appropriate weight to the views of the Securities and Exchange Commission. Such oral hearing shall be held after the public comment period, prior to Commission action upon such designation, and not less than thirty nor more than forty-five days after the close of the public comment period, unless both the Commission and the Securities and Exchange Commission otherwise agree. In the event that such an oral hearing is held and the Securities and Exchange Commission fails to withdraw its objections, and the Commission issues an order designating a board of trade as a contract market with respect to any such contract (or option on such contract), the Securities and Exchange Commission shall have the right of judicial review of such order in accordance with the standards of section 6(b) of this Act. In the event that, pursuant to section 6 of this Act, there is a hearing on the record with respect to such application for designation, the Securities and Exchange Commission shall have the right to participate in that hearing as an interested party.

"(iv) No person shall offer to enter into, enter into, or confirm the execution of any contract of sale (or option on such contract) for future delivery of any security, or interest therein or based on the value thereof, except an exempted security under section 3 of the Securities Act of 1933 or section 3(a)(12) of the Securities Exchange Act of 1934 as in effect on the date of enactment of the Futures Trading Act of 1982 (other than any municipal security as defined in section 3(a)(29) of the Securities Exchange Act of 1934 on the date of enactment of the Futures Trading Act of 1982); or except as provided in clause (ii) hereof, any group or index of such securities or any interest therein or based on the value thereof.".

OPTIONS ON FOREIGN CURRENCIES

SEC. 102. Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by adding a new subsection (f) to read as follows:

"(f) Nothing in this Act shall be deemed to govern or in any way be applicable to any transaction in an option on foreign currency traded on a national securities exchange.".

COMMODITY POOLS

SEC. 103. Section 4m of the Commodity Exchange Act (7 U.S.C. 6m) is amended by—

(1) designating the text of existing section 4m as subsection (1) of such section; and

(2) adding a new subsection (2) to read as follows:

"(2) Nothing in this Act shall relieve any person of any obligation or duty, or affect the availability of any right or remedy available to the Securities and Exchange Commission or any private party arising under the Securities Act of 1933 or the Securities Exchange Act of 1934 governing the issuance, offer, purchase, or sale of securities of a commodity pool, or of persons engaged in transactions with respect to such securities, or reporting by a commodity pool.".

SHARING INFORMATION WITH CONTRACT MARKETS AND OTHER SELF-REGULATORY ORGANIZATIONS

SEC. 104. Section 8a(6) of the Commodity Exchange Act (7 U.S.C. 12a) is amended by—

(1) inserting "registered futures association, or self-regulatory organization as defined in section 3(a)(26) of the Securities Exchange Act of 1934," before "notwithstanding"; and

(2) striking out "and consumers" and inserting in lieu thereof a comma and immediately thereafter "consumers or investors, or which is necessary or appropriate to effectuate the purposes of this Act: *Provided, however,* That any information furnished by the Commission under this subsection shall not be disclosed by such contract market, registered futures association, or self-regulatory organization except in any self-regulatory action or proceeding".

ENERGY AND COMMERCE COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first Energy and Commerce Committee amendment.

The Clerk read as follows:

Committee amendment: page 5, strike lines 15 through 25; page 6, strike lines 1 through 23 and insert in lieu thereof: hereof, and shall transmit a copy of such application to the Securities and Exchange Commission for review in accordance with clause (iv) hereof.

"(iv) The Commission shall not approve any application by a board of trade for designation as a contract market with respect to any contract of sale (or option on such contract) for future delivery of a group or index of securities if the Securities and Exchange Commission determines that such contract (or option on such contract) fails to meet the minimum requirements set forth in clause (ii) hereof. Such determination shall be made by rule or order within 45 days after the close of the comment period under clause (iii) hereof unless the Securities and Exchange Commission, with the consent of the board of trade involved and on the basis of a published statement of the reasons therefore, extends such 45 days to not more than 90 days. A person aggrieved by any such rule or order of the Securities and Exchange Commission may obtain judicial review thereof in the same manner as is provided in section 25 of the Securities Exchange Act of 1934.

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

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

There was no objection.

Mr. WIRTH. Mr. Chairman, I stand in support of the amendment of the Committee on Energy and Commerce to title I of H.R. 5447. This amendment would give the CFTC and the SEC concurrent jurisdiction over the approval of stock index futures contracts. Once stock index futures are approved for trading, the CFTC would regulate them in the manner it regulates all futures trading. I want to stress that it is a very minor change to the jurisdictional amendments proposed by the SEC and CFTC, but it is one that is very important to the Commerce Committee.

Provisions under title I of H.R. 5447, as reported by the Committee on Agriculture, permit the CFTC to approve stock index futures. The legislation recognized the SEC's critical role in the securities markets by providing that the CFTC must "consult" with the SEC before approving a contract. If the SEC objects to a contract, then the CFTC must afford the SEC a hearing. The CFTC could still approve the contract over the SEC's objection however, and the SEC's only recourse would be to sue the CFTC in Federal court. This procedure, in our view, was not appropriate.

The Energy and Commerce Committee amendment would provide the CFTC and the SEC with equal authority in making the determination that certain threshold requirements are met before a stock index futures contract begins trading. The legislation passed by the Committee on Agriculture sets out those threshold requirements, and I want to stress that our amendment did not alter those requirements. For example, a finding must be made that the futures trading would not be "susceptible to manipulating" the underlying securities. Surely the SEC is well equipped to make that determination.

Some have described the Commerce Committee amendment as the SEC "veto" amendment. This is incorrect. The SEC might find that a contract meets the threshold requirements, and the CFTC might disapprove the contract. In that situation, the CFTC's action would be a "veto."

Optional: As we noted on pages 19-20 of the committee's report on H.R. 5441, Congress in other cases has entrusted Federal agencies and departments with concurrent decision-making authority in a specialized complex situation. We believe this situation merits that kind of review, in view of the uncertainty surrounding these new instruments and the potential for abuses.

If the SEC is to carry out its statutory mandate to regulate the securities markets as a whole, it must be involved in the approval process for futures or any other instrument based on securities and which could potentially impact on trading in the securities markets as a whole.

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

Mr. Chairman, I rise in support of the Energy and Commerce Committee amendments to H.R. 5447, the Futures Trading Act of 1982.

Title I of this bill contains that part of the jurisdictional accord between the Securities and Exchange Commission and the Commodity Futures Trading Commission which amends the Commodity Exchange Act. It sets forth the CFTC's jurisdiction over all futures contracts, including exempt securities and stock indexes; options on futures contracts; and foreign currency traded on boards of trade.

The legislation establishes certain criteria for approval of contracts in stock index futures. First, settlement must be in cash. Second, the contract must not be readily susceptible to manipulation. Third, the stock group or index must be predominantly composed of securities of unaffiliated issuers and must be a widely published measure of the market.

The bill also provides a procedure for SEC participation in CFTC consideration and approval of contracts in stock index futures. As reported by the Agriculture Committee, the bill provides that the CFTC must consult with the SEC about the approval of contracts for stock index futures. If the SEC objects to approval of such a contract, the CFTC must provide an opportunity for an oral hearing. If the CFTC approves a contract over SEC objections, the SEC has the right of judicial review.

The Energy and Commerce Committee adopted an amendment revising this procedure to give the SEC an equal voice with the CFTC in the approval of stock index futures contracts. However, the SEC is required to act within 45 days after the close of the public comment period.

The Energy and Commerce Committee felt that the SEC should play a larger role in the approval of stock index futures than that provided in the Agriculture Committee bill. These instruments are securities derivatives which are more likely to be purchased by those investing in the securities markets than are other types of financial futures.

I urge the adoption of the Energy and Commerce Committee's amendment to title I of H.R. 5447.

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

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Colorado (Mr. WIRTH). I understand the gentleman's concern, and must commend him for his hard work on this important issue. Nevertheless, I do not believe it would be prudent policy to adopt this amendment now before us.

Mr. Chairman, this amendment is identical in purpose to an amendment the gentleman offered during consideration of H.R. 5447 before the Subcommittee on Telecommunications, Consumer Protection, and Finance of the Energy and Commerce Committee. What it does is to alter the terms of the original Securities and Exchange Commission and Commodity Futures Trading Commission jurisdictional agreement which is contained in title I of H.R. 5447 as it pertains to agency jurisdiction over stock index futures contract proposals. Under the current terms of title I of H.R. 5447, and as originally agreed to by the SEC and the CFTC, the SEC would be consulted on any stock index futures contract considered by the CFTC. If the SEC objects to designation, H.R. 5447 provides for an SEC oral hearing before the CFTC, and upon CFTC designation over SEC objection, the SEC would have the right to seek judicial review. The amendment before us, which was approved by the full Energy and Commerce Committee, would give the SEC concurrent review and veto authority over any stock index futures contract considered by the CFTC.

I am opposed to the amendment offered by the gentleman from Colorado for several reasons. To begin with, the amendment would give one independent Federal agency veto power over the duties and functions of another independent Federal agency. This would serve to reestablish the competitive and conflicting jurisdictional relationship between the CFTC and the SEC which the original agreement between the two agencies attempted to resolve. Thus, adoption of this amendment could hinder the effective operations of the two agencies while constricting the futures and securities markets.

The amendment also would establish a dangerous precedent by undercutting CFTC authority as the Federal agency charged with the responsibility of regulating all futures trading. There is no greater rationale for giving the SEC veto authority over futures contracts on stock indexes than there is for giving the USDA veto authority over all agricultural futures, the Department of Interior veto authority over gold, silver, and other precious metals futures, or the Department of Energy veto authority over energy futures. I believe the CFTC has developed into a capable regulatory agency, and should not have its

authority to function effectively undercut by this amendment.

Mr. Chairman, I would like to point out that there is no evident need for this amendment at this time. Both agencies worked long and hard to negotiate a clearly delineated jurisdictional scheme which would provide effective regulatory overview without adversely affecting the securities and futures markets. During the course of the joint agency negotiations, a proposal similar to this amendment was considered and ultimately rejected by the CFTC and the SEC as an unnecessary and unworkable jurisdictional arrangement. Both agencies view as satisfactory the terms of the original SEC-CFTC agreement as contained in title I. The futures industry and securities industry also support the terms of the original accord, which has been reviewed and approved intact by the House Agriculture Committee and two committees of the other body. In fact, the only known support for this amendment has come from the Energy and Commerce Committee.

Mr. Chairman, the administration strongly supports the terms of the original SEC-CFTC agreement and opposes adoption of this amendment before us. Phil Johnson, Chairman of the CFTC, and John Shad, Chairman of the SEC, both have stated in correspondence that their respective agencies support the terms of the original accord and oppose adoption of this amendment. Robert Mehle, Assistant Secretary of Treasury, also has stated in correspondence to me that the original CFTC/SEC agreement has been discussed and approved at the Cabinet level, and that the administration supports the original agreement and opposes the Wirth amendment. Furthermore, as SEC Chairman Shad points out in his letter, any problems or questions concerning the respective regulatory roles of the SEC and the CFTC could be addressed in the "special study" of the futures industry and the 2-year pilot program on stock index futures contracts required by Section 237 of H.R. 5447.

Finally, Mr. Chairman, I also would like to note that it simply is not necessary to have the SEC concurrently review stock index futures contracts after CFTC action on such proposals. The CFTC has a rigorous approval process that all contract proposals must pass before being allowed to be traded on an exchange. Furthermore, the stock index futures proposals have received the most intense scrutiny and review of any proposed trading instrument ever considered by the Commission. The first such contract approved, the Kansas City Value Line Index, came before the CFTC in 1978, yet was not approved for trading until 1982.

In view of these circumstances, I urge my colleagues to vote against adoption of the amendment offered by the gentleman from Colorado.

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Mr. CONABLE. Mr. Chairman, I rise in opposition to the amendment. I do so only for the purpose of asking the distinguished gentleman from Vermont if the acceptance of this amendment gives additional jurisdiction to the Commerce Committee?

Mr. JEFFORDS. Yes, it does, in that sense. Certainly the SEC. But it also, by virtue of that, in my estimation, extends jurisdiction over, to a certain extent, to the CFTC.

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

Mr. CONABLE. I yield to the gentleman from Colorado.

Mr. WIRTH. That is a matter of interpretation, and the Commerce Committee would disagree.

The basis for what is being discussed here, the stock index future contracts, is that that is a stock, that is a security, and not a commodity. Going directly to the gentleman's question. "Is this additional jurisdiction?" The answer is "no," the SEC has always had jurisdiction over stocks, and that is what we are concerned about; whether that is a stock index future or whatever it may be, it is fundamentally a security, and that that should continue to fall under the jurisdiction of the Securities and Exchange Commission.

Mr. CONABLE. May I ask the gentleman, then, what may be a totally ingenuous question, I do not know. Does this have anything to do with the amendment that I am going to offer later?

Mr. WIRTH. No; it does not. It is not related to the gentleman's amendment whatsoever.

Mr. CONABLE. Therefore, the members of the Commerce Committee will be totally dispassionate about my amendment?

Mr. WIRTH. If the gentleman will yield, we were hoping to dispense with the two amendments offered by the Commerce Committee at very high speed, and then the members of the Commerce Committee could get off the stage and leave it to the gentleman from New York.

Mr. CONABLE. I thank the gentleman for his great consideration, and I am certain this amendment has nothing to do with my amendment.

Mr. WIRTH. It has nothing to do with the gentleman's amendment.

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

Mr. CONABLE. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I can assure the gentleman from New York that I have wrestled with the gentleman from Colorado (Mr. WIRTH) on this issue for several months now on this amendment. I am not particularly in favor of it, but I am not going to object to it now, because I think it leaves us some unanswered questions that need to be resolved perhaps in conference, but, for the most part, I think that the intent of the gentleman is to give that SEC jurisdiction over its issues and not take futures jurisdiction away from the Commodity Futures Trading Commission.

Mr. CONABLE. If I may reclaim my time, the gentleman assures me that his failure to oppose this in fact has nothing to do with the timing of the offering of my amendment, or anything else?

Mr. GLICKMAN. That is correct. Never.

Mr. WIRTH. Far be it for us to interfere or intervene in any way, shape, or form with the amendment being offered by the gentleman from New York.

Mr. CONABLE. I am grateful to the gentleman from Colorado, who exhibits his usual statesmanship.

The CHAIRMAN. The question is on the Energy and Commerce Committee amendment.

The question was taken; and on a division (demanded by Mr. WIRTH) there were—ayes 7, noes 5.

So the Energy and Commerce Committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the second Energy and Commerce Committee amendment.

The Clerk read as follows:

Committee amendment: Page 8, line 3, redesignate clause (iv) as clause (v).

The CHAIRMAN. The question is on the Energy and Commerce Committee amendment.

The Energy and Commerce Committee amendment was agreed to.

The CHAIRMAN. Are there other amendments to title I? If not, the Clerk will designate title II.

Title II reads as follows:

TITLE II—MISCELLANEOUS AMENDMENTS TO THE COMMODITY EXCHANGE ACT

DEFINITION OF COMMODITY TRADING ADVISOR; TECHNICAL AMENDMENT

SEC. 201. Section 2(a) of the Commodity Exchange Act is amended by—

(1) inserting in paragraph (1)(A) (7 U.S.C. 2), as redesignated, immediately after the sentence defining the term "futures commission merchant" a new sentence to read as follows: "The term 'introducing broker' shall mean any person, except any individual who elects to be and is registered as an associated person of a futures commission merchant, engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market who does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom.";

(2) amending the definition of the term "commodity trading advisor" in paragraph (1)(A), as redesignated, to read as follows: "The term 'commodity trading advisor' shall mean any person who, for compensation or

profit, engages in the business of advising others, either directly or through publications, writings or electronic media, as to the value of or the advisability of trading in any contract for future delivery of a commodity made or to be made on or subject to the rules of a contract market, any commodity option authorized under section 4c, or any leverage transaction authorized under section 19, of this Act, or who, for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning any of the foregoing; but such term does not include (i) any bank or trust company or any person acting as an employee thereof, (ii) any news reporter, news columnist, or news editor of the print or electronic media, or any lawyer, accountant or teacher, (iii) any floor broker or futures commission merchant, (iv) the publisher or producer of any print or electronic data of general and regular dissemination, including its employees, (v) the fiduciary of any defined benefit plan which is subject to the provisions of the Employee Retirement Income Security Act of 1974, (vi) any contract market, and (vii) such other persons not within the intent of this definition as the Commission may specify by rule, regulation or order: *Provided*, That the furnishing of such services by the foregoing persons is solely incidental to the conduct of their business or profession: *Provided further*, That the Commission, by rule or regulation, may include within this definition, any person advising as to the value of commodities or issuing reports or analyses concerning commodities, if the Commission determines that such rule or regulation will effectuate the purposes of this provision.";

(3)(A) redesignating paragraph (7)(A) (7 U.S.C. 4a(f)(1)) as paragraph (7); and

(B) striking out existing paragraphs (7)(B) (7 U.S.C. 4a(f)(2)).

LEGISLATIVE FINDINGS

SEC. 202. Section 3 of the Commodity Exchange Act (7 U.S.C. 5) is amended to read as follows:

"SEC. 3. Transactions in commodities involving the sale thereof for future delivery as commonly conducted on boards of trade and known as 'futures' or 'options' are affected with a national public interest. Such futures transactions are carried on in large volume by the public generally and by persons engaged in the business of buying and selling commodities and the products and byproducts thereof in interstate commerce. The prices involved in such transactions are generally quoted and disseminated throughout the United States and in foreign countries as a basis for determining the prices to the producer and the consumer of commodities and the products and byproducts thereof and to facilitate the movements thereof in interstate commerce. Such transactions are utilized by shippers, dealers, millers, and others engaged in handling commodities and the products and byproducts thereof in interstate commerce as a means of hedging themselves against possible loss through fluctuations in price. The transactions and prices of commodities on such boards of trade are susceptible to excessive speculation and can be manipulated, controlled, cornered or squeezed, to the detriment of the producer or the consumer and the persons handling commodities and the products and byproducts thereof in interstate commerce, rendering regulation imperative for the protection of such commerce and the national public interest therein.".

UNLAWFUL FUTURES TRADING; FOREIGN FUTURES

SEC. 203. Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended to read as follows:

"SEC. 4. (a) It shall be unlawful for any person to offer to enter into, to enter into, to execute, to confirm the execution of, or to conduct any office or business anywhere in the United States or its territories or possessions for the purpose of soliciting or accepting any order for, or otherwise dealing in, any transaction in, or in connection with, a contract for the purchase or sale of a commodity for future delivery (other than a contract which is made on or subject to the rules of a board of trade, exchange or market located outside the United States, its territories or possessions) unless: (1) such transaction is conducted on or subject to the rules of a board of trade which has been designated by the Commission as a 'contract market' for such commodity, (2) such contract is executed or consummated by or through a member of such contract market, and (3) such contract is evidenced by a record in writing which shows the date, the parties to such contract and their addresses, the property covered and its price, and the terms of delivery: *Provided*, That each contract market member shall keep such record for a period of three years from the date thereof, or for a longer period if the Commission shall so direct, which record shall at all times be open to the inspection of any representative of the Commission or the United States Department of Justice.

"(b) The Commission may adopt rules and regulations proscribing fraud and requiring minimum financial standards, the disclosure of risk and reporting requirements, the keeping of books and records, the safeguarding of customer funds, and registration with the Commission by any person located in the United States, its territories, or possessions who engages in the offer and sale of any contract of sale of a commodity for future delivery which is made or to be made on or subject to the rules of a board of trade, exchange, or market located outside the United States, its territories or possessions. Such rules and regulations may impose different requirements for such persons depending upon the particular foreign board of trade or market on which such contracts are made. No rule or regulation shall be adopted by the Commission under this subsection that (1) governs in any way any rule or contract term or action of any foreign board of trade, exchange, or market, or clearinghouse for such market; or (2) requires Commission approval of any contract, rule, regulation, or action of any such market or its clearinghouse.".

SPECULATIVE LIMITS

SEC. 204. Section 4a of the Commodity Exchange Act (7 U.S.C. 6a) is amended by—

(1) adding in the fourth sentence of subsection (1) after "delivery months," the words "or for different number of days remaining until the last day of trading in a contract,";

(2) striking out in subsection (2) "order's promulgation" and inserting in lieu thereof "promulgation of the rule, regulation, or order";

(3) adding "rule, regulation, or" before "order" wherever it occurs in such section;

(4) amending subsection (3) to read as follows:

"(3) No rule, regulation, or order issued under subsection (1) of this section shall apply to transactions or positions which are shown to be bona fide hedging transactions or positions as such terms shall be defined by the Commission by rule, regulation, or order consistent with the purposes of this Act: *Provided*, That such terms shall permit producers, purchasers, sellers, middlemen, and users of a commodity or a product derived therefrom to hedge their legitimate anticipated business needs for that period of time into the future for which an appropriate futures contract is open and available on an exchange. For the purpose of determining the adequacy of this Act and the powers of the Commission acting thereunder to diminish, eliminate or prevent unwarranted price pressures by very large hedgers operating under this subsection, the Commission shall monitor the trading activities of large hedgers selected by the Commission and shall report its findings and recommendations to the Senate Agriculture, Nutrition, and Forestry Committee and the House Committee on Agriculture in its annual report for each of the four years following the date of enactment of the Futures Trading Act of 1982.";

(5) inserting in the first sentence of subsection (4) ", an introducing broker" after "futures commission merchant", and striking out "as" before "a floor broker"; and

(6) adding a new subsection (5) to read as follows:

"(5) Nothing in this section shall prohibit or impair the adoption by any contract market or by any other board of trade licensed or designated by the Commission, of any bylaw, rule, regulation, or resolution fixing limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of any commodity for future delivery traded on or subject to the rules of such contract market, or under options on such contracts or commodities, traded on or subject to the rules of such contract market or such board of trade: *Provided*, That if the Commission shall have fixed limits under this section for any contract or under section 4c of this Act for any commodity option, the bylaws, rules, regulations, and resolutions adopted by such contract market or such board of trade shall not be higher than the limits fixed by the Commission. It shall be a violation of this Act for any person to violate any bylaw, rule, regulation, or resolution of any contract market or other board of trade licensed or designated by the Commission fixing limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of any commodity for future delivery or under options on such contracts or commodities, if such bylaw, rule, regulation or resolution has been approved by the Commission: *Provided*, That the provisions of section 9(c) of this Act shall apply only to those who knowingly violate such limits.".

AGRICULTURAL OPTIONS

SEC. 205. Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by—

(1)(A) inserting "or" at the end of clause (A) of subsection (a); and

(B) striking out clause (B) of subsection (a);

(2) redesignating clause (C) of subsection (a) as clause (B);

(3) amending subsection (b) to read as follows:

"(b) No person shall offer to enter into, enter into or confirm the execution of, any transaction involving any commodity regulated under this Act which is of the character of, or is commonly known to the trade

as, an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty", contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe: *Provided*, That any such order, rule, or regulation may be made only after notice and opportunity for hearing: *And provided further*, That the Commission may set different terms and conditions for different markets.".

(4) in subsection (c), inserting immediately after the first sentence the following: "With respect to any commodity regulated under this Act and specifically set forth in section 2(a) of this Act prior to the date of enactment of the Commodity Futures Trading Commission Act of 1974, the Commission may, pursuant to the procedures set forth in this subsection, authorize a pilot program for a period not to exceed three years to permit such commodity option transactions if such authorization does not apply to more than one such commodity at any contract market designated therefor by the Commission, and beginning three years following the authorization of such pilot program, the Commission may authorize transactions in such commodities at contract markets designated therefor without regard to the restrictions in the pilot program after the Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry the documentation required under clause (1) of the first sentence of this subsection and the expiration of sixty calendar days of continuous session of Congress after the date of such transmittal.".

INTRODUCING BROKER-REGISTRATION REQUIREMENT—CUSTOMER FUNDS AND PROPERTY

SEC. 206. Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) is amended by—

(a) inserting in the introductory clause "or introducing broker" after "futures commission merchant";

(b) inserting in paragraph (1) "or introducing broker" after "futures commission merchant"; and

(c) inserting in paragraph (2) "if a futures commission merchant," after "such person shall,".

REGISTRATION—TECHNICAL AMENDMENTS

SEC. 207. Section 4f of the Commodity Exchange Act (7 U.S.C. 6f) is amended by—

(1) amending subsection (1) to read as follows:

"(1) Any person desiring to register as a futures commission merchant, introducing broker or floor broker hereunder shall be registered upon application to the Commission, which application shall be made in form and manner to be prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the business in which the applicant is or will be engaged including, in the case of an application of a futures commission merchant and introducing broker, the names and addresses of the managers of all branch offices, and the names of such officers and partners, if a partnership, and of such officers, directors, and stockholders, if a corporation, as the Commission may direct. Such person, when registered hereunder, shall likewise continue to report and furnish to the Commission the above-mentioned information and such other information pertaining to such person's business as the Commission may require. Each registration shall expire on December 31 of the year for which issued or at such other time, not less than one year from the date of issuance, as the Commission may by rule, regulation, or order prescribe, and shall be renewed upon application therefor unless the registration has been suspended (and the period of such suspension has not expired) or revoked pursuant to the provisions of this Act."; and

(2) inserting in subsection (2) "or as introducing broker" after "futures commission merchant".

INTRODUCING BROKERS—REPORTS, BOOKS, AND RECORDS

SEC. 208. Section 4g of the Commodity Exchange Act (7 U.S.C. 6g) is amended by—

(1) inserting in subsection (1) ", introducing broker" after "futures commission merchant"; and

(2) inserting in subsection (3) ", introducing brokers" after "Floor brokers".

MISREPRESENTATION—TECHNICAL AMENDMENTS

SEC. 209. Section 4h of the Commodity Exchange Act (7 U.S.C. 6h) is amended to read as follows:

"SEC. 4h. It shall be unlawful for any person falsely to represent such person to be a member of a contract market, or the representative or agent of such member, or to be a registrant under this Act, or the representative or agent of any registrant, in soliciting or handling any order or contract for the purchase or sale of any commodity in interstate commerce or for future delivery, or falsely to represent in connection with the handling of any such order or contract that the same is to be or has been executed on, or by or through any member of, any contract market.".

RECORDKEEPING CONFORMED TO CURRENT SYSTEM—LARGE TRADER REPORTS

SEC. 210. Section 4i of the Commodity Exchange Act (7 U.S.C. 6i) is amended to read as follows:

"SEC. 4i. It shall be unlawful for any person to make any contract for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market—

"(1) if such person shall directly or indirectly make such contracts with respect to any commodity, or any future of such commodity, during any one day in an amount equal to or in excess of such amount as shall be fixed from time to time by the Commission, and

"(2) if such person shall directly or indirectly have or obtain a long or short position in any commodity or any future of such commodity, equal to or in excess of such amount as shall be fixed from time to time by the Commission, unless, such person files or causes to be filed with the properly designated officer of the Commission such reports regarding any transactions or positions within the provisions of (1) and (2) hereof as the Commission may by rule or regulation require and unless, in accordance with rules and regulations of the Commission, such person shall keep books and records of all such transactions and positions and transactions and positions in any such commodity traded on or subject to the rules of any other board of trade, and of cash or spot transactions in, and inventories and purchase and sale commitments of, such commodity.

Such books and records shall show complete details concerning all such transactions, positions, inventories and commitments, including the names and addresses of all persons having any interest therein, and shall be open at all times to inspection by any representative of the Commission or the United States Department of Justice. For the purposes of this section, the futures and cash or spot transactions and positions of any person shall include such transactions and positions of any persons directly or indirectly controlled by such person.".

REGISTRATION, ASSOCIATED PERSON STATUS

SEC. 211. Section 4k of the Commodity Exchange Act (7 U.S.C. 6k) is amended to read as follows:

"SEC. 4k. (1) It shall be unlawful for any person to be associated with a futures commission merchant or with an introducing broker as a partner, officer, or employee (or any person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation or acceptance of customers' orders (other than in a clerical capacity) or (ii) the supervision of any person or persons so engaged, unless such person is registered with the Commission under this Act as an associated person of such futures commission merchant or of such introducing broker and such registration shall not have expired, been suspended (and the period of suspension has not expired), or been revoked, and it shall be unlawful for a futures commission merchant or introducing broker to permit such a person to become or remain associated with the futures commission merchant or introducing broker in any such capacity if such futures commission merchant or introducing broker knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired) or been revoked: *Provided*, That any individual who is registered as a floor broker, futures commission merchant or introducing broker (and such registration is not suspended or revoked) need not also register under these provisions.

"(2) It shall be unlawful for any person to be associated with any commodity pool operator as a partner, officer, employee, consultant or agent (or any person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation of funds, securities, or property for a participation in a commodity pool or (ii) the supervision of any person or persons so engaged, unless such person is registered as an associated person of such commodity pool operator, under this Act, with the Commission and such registration shall not have expired, been suspended (and the period of suspension has not expired) or been revoked, and it shall be unlawful for any commodity pool operator to permit such a person to become or remain associated with him in any such capacity if such commodity pool operator knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired) or been revoked: *Provided*, That any individual who is registered as a floor broker, futures commission merchant, introducing broker commodity pool operator, or as an associated person of another category of registrant under this section (and such registration is not suspended or revoked) need not also register under this provision: *Provided further*, That the Commission may exempt any person or class of persons from having to register under this provision by rule, regulation, or order.

"(3) It shall be unlawful for any person to be associated with any commodity trading advisor as a partner, officer, employee, consultant or agent (or any person occupying a

similar status or performing similar functions), in any capacity which involves (i) the solicitation of a client's or prospective client's discretionary account or (ii) the supervision of any person or persons so engaged, unless such person is registered as an associated person of such commodity trading advisor, under this Act, with the Commission and such registration shall not have expired, been suspended (and the period of suspension has not expired) or been revoked, and it shall be unlawful for any commodity trading advisor to permit such a person to become or remain associated with him in any such capacity if such commodity trading advisor knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired) or been revoked: *Provided,* That any individual who is registered as a floor broker, futures commission merchant, introducing broker, commodity trading advisor or as an associated person of another category of registrant under this section (and such registration is not suspended or revoked) need not also register under this provision: *Provided further,* That the Commission may exempt any person or class of persons from having to register under this provision by rule, regulation, or order.

"(4) Any person desiring to be registered as an associated person of a futures commission merchant, of an introducing broker, of a commodity pool operator, or of a commodity trading advisor shall make application to the Commission in the form and manner prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the applicant. Such person, when registered hereunder, shall likewise continue to report and furnish to the Commission such information as the Commission may require. Such registration shall expire at such time as the Commission may by rule, regulation, or order prescribe.

"(5) It shall be unlawful for any registrant to permit a person to become or remain an associated person of such registrant, if the registrant knew or should have known of facts regarding such associated person that are set forth as statutory disqualifications in section 8a(2) of this Act, unless such registrant has notified the Commission of such facts and the Commission has determined that such person should be registered or temporarily licensed.".

CONFORMING AMENDMENT

SEC. 212. Section 4n of the Commodity Exchange Act (7 U.S.C. 6n) is amended by striking out subsections (5) and (6) in their entirety.

EXTENSION OF ANTIFRAUD PROVISION

SEC. 213. Section 4o of the Commodity Exchange Act (7 U.S.C. 6o) is amended to read as follows:

"Sec. 4o. (1) It shall be unlawful for any commodity trading advisor, associated person of a commodity trading advisor, commodity pool operator or associated person of a commodity pool operator by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly—

"(A) to employ any device, scheme, or artifice to defraud any client or participant or prospective client or participant; or

"(B) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant.

"(2) It shall be unlawful for any commodity trading advisor, associated person of a commodity trading advisor, commodity pool operator or associated person of a commodity pool operator registered under this Act to represent or imply in any manner whatsoever that such person has been sponsored, recommended, or approved, or that such person's abilities or qualifications have in any respect been passed upon, by the United States or any agency or officer thereof: *Provided,* That this section shall not be construed to prohibit a statement that a person is registered under this Act as a commodity trading advisor, associated person of a commodity trading advisor, commodity pool operator or associated person of a commodity pool operator, if such statement is true in fact and if the effect of such registration is not misrepresented.".

EXTENSION OF AUTHORITY REGARDING PROFICIENCY EXAMINATION

SEC. 214. Section 4p of the Commodity Exchange Act (7 U.S.C. 6p) is amended by—

(1) striking out in the first sentence "futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers" and inserting in lieu thereof "persons registered with the Commission";

(2) striking out in the second and third sentences "as futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers"; and

(3) striking out in the last sentence "the customers of futures commission merchants and floor brokers" and inserting in lieu thereof "customers, clients, pool participants, or other members of the public with whom such persons deal".

REGISTRATION INFORMATION TO THE STATES

SEC. 215. The Commodity Exchange Act is amended by adding a new section 4q to read as follows:

"SEC. 4q. The Commission shall provide any registration information maintained by the Commission on any registrant upon reasonable request made by any department or agency of any State or any political subdivision thereof. Whenever the Commission determines that such information may be helpful to any department or agency of a State or political subdivision thereof, the Commission shall provide such information without request.".

DESIGNATION OF CONTRACT MARKETS

SEC. 216. Section 5(g) of the Commodity Exchange Act (7 U.S.C. 7(g)) is amended by adding at the end thereof the following: "In determining whether designation of such board of trade as a contract market for any commodity would be contrary to the public interest, the Commission shall consider, among other things, the extent to which trading in the commodity for which such designation is sought is likely to divert investment capital away from the capital formation process, to cause price manipulation, and to cause price destabilization in that commodity.".

CONTRACT MARKET RULES

SEC. 217. Section 5a of the Commodity Exchange Act (7 U.S.C. 7a) is amended by—

(1) amending subsection 5a(8) to read as follows:

"(8) enforce all bylaws, rules, regulations, and resolutions, made or issued by it or by the governing board thereof or any committee, which (1) have been approved by the Commission pursuant to paragraph (12) of this section, (2) have become effective under such paragraph, or (3) must be enforced pursuant to any Commission rule, regulation or order; and revoke and not enforce any bylaw, rule, regulation, or resolution, made, issued, or proposed by it or by the governing board thereof or any committee, which has been disapproved by the Commission;";

(2) amending paragraph (12) to read as follows:

"(12) except as otherwise provided in this paragraph, submit to the Commission for its prior approval all bylaws, rules, regulations, and resolutions ('rules') made or issued by such contract market, or by the governing board thereof or any committee thereof, that relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market, as such terms and conditions are defined by the Commission by rule or regulation, except those rules relating to the setting of levels of margin. Each contract market shall submit to the Commission all other rules (except those relating to the setting of levels of margin and except those that the Commission may specify by regulation) and may place such rules into effect unless, within ten days of receipt by the Commission of such submission, the contract market requests review and approval thereof by the Commission or the Commission notifies such contract market in writing of its determination to review for approval such rules. The determination to review such rules for approval shall not be delegable to any employee of the Commission. At least thirty days before approving any rules of major economic significance, as determined by the Commission, the Commission shall publish in the Federal Register a notice of such rules. The Commission shall give interested persons an opportunity to participate in the approval process through the submission of written data, views, or arguments. The determination by the Commission whether any such rules are of major economic significance shall be final and not subject to judicial review. The Commission shall approve such rules if such rules are determined by the Commission not to be in violation of this Act or the regulations of the Commission and the Commission shall disapprove, after appropriate notice and opportunity for hearing, any such rule which the Commission determines at any time to be in violation of the provisions of this Act or the regulations of the Commission. If the Commission institutes proceedings to determine whether a rule should be disapproved pursuant to this paragraph, it shall provide the contract market with written notice of the proposed grounds for disapproval, including the specific section or sections of this Act or the Commission's regulations which would be violated. At the conclusion of such proceedings, the Commission shall approve or disapprove such rule. Any disapproval shall specify the sections of this Act or the Commission's regulations which the Commission determines such rule has violated or, if effective, would violate. If the Commission does not approve or institute disapproval proceedings with respect to any rule within one hundred and eighty days after receipt or within such longer period as the contract market may agree to, or if the Commission does not conclude a disapproval proceeding with respect to any rule within one year after receipt or within such longer period as the contract market may agree to, such rule may be placed into effect by the contract market until such time as the Commission disapproves such rule in accordance with this subsection. The Commission shall specify the terms and conditions under

which a contract market may, in an emergency as defined by the Commission, make effective a rule on a temporary basis without prior Commission approval, or without compliance with the ten-day notice requirement under this paragraph, or during any period of review by the Commission. In the event of such an emergency, as defined by the Commission, requiring immediate action, the contract market by a two-thirds vote of its governing board may place into effect immediately a temporary rule dealing with such emergency if it notifies the Commission of such action with a complete explanation of the emergency involved.".

ARBITRATION

SEC. 218. Section 5a(11) of the Commodity Exchange Act (7 U.S.C. 7a(11)) is amended to read as follows:

"(11) provide a fair and equitable procedure through arbitration or otherwise (such as by delegation to a registered futures association having rules providing for such procedures) for the settlement of customers' claims and grievances against any member or employee thereof: *Provided*, That (i) the use of such procedure by a customer shall be voluntary and (ii) the term 'customer' as used in this subsection shall not include another member of the contract market; and".

SEC. 219. Section 17(b)(10) of the Commodity Exchange Act (7 U.S.C. 21) is amended to read as follows:

"(10) the rules of the association provide a fair and equitable expeditious procedure through arbitration or otherwise for the settlement of customers' claims and grievances against any member or employee thereof: *Provided*, That (i) the use of such procedure by a customer shall be voluntary, and (ii) the term 'customer' as used in this subsection shall not include another member of the association.".

DESIGNATION PROCEDURES

SEC. 220. Section 6 of the Commodity Exchange Act (7 U.S.C. 8) is amended by inserting immediately after the first sentence the following: "The Commission shall approve or deny an application for designation as a contract market within one year of the filing of the application. If the Commission notifies the board of trade that its application is materially incomplete and specifies the deficiencies in the application, the running of the one-year period shall be stayed from the time of such notification until the application is resubmitted in completed form: *Provided*, That the Commission shall have not less than sixty days to approve or deny the application from the time the application is resubmitted in completed form. If the Commission denies an application, it shall specify the grounds for the denial.".

APPEALS

SEC. 221. Section 6(b) of the Commodity Exchange Act (7 U.S.C. 9) is amended by—

(1) striking out in the first and ninth sentences "as futures commission merchant or any person associated therewith as described in section 4k of this Act, commodity trading advisor, commodity pool operator, or as floor broker hereunder" and inserting in lieu thereof "with the Commission in any capacity"; and

(2) inserting in the eleventh sentence after "doing business" the words ", or in the case of an order denying registration, the circuit in which the petitioner's principal place of business listed on petitioner's application for registration is located,".

RESTRAINING ORDERS

SEC. 222. Section 6c of the Commodity Exchange Act (7 U.S.C. 13a-1) is amended by adding in the proviso contained in the first sentence after "no restraining order" the following: "(other than a restraining order which prohibits any person from destroying, altering or disposing of, or refusing to permit authorized representatives of the Commission to inspect when and as requested, any books and records or other documents or which prohibits any person from withdrawing, transferring, removing, dissipating or disposing of any funds, assets or other property)".

CONFIDENTIALITY PROVISIONS—DISCLOSURE

SEC. 223. Section 8 of the Commodity Exchange Act (7 U.S.C. 12) is amended by—

(1) adding at the end of subsection (a) the following:

"The Commission shall promulgate regulations, pursuant to notice and receipt of public comment, specifying procedures by which—

"(1) the Commission shall, when requested by a submitter at the time of submission of information to the Commission, notify the submitter, within five days of receipt of a request, that such a request for records containing such information has been made under the Freedom of Information Act;

"(2) a submitter or requester may submit to the Commission written argument regarding a request made for disclosure of records; and

"(3) the Commission is not required to notify a submitter of the receipt of a request under clause (1) of this subsection if—

"(A) the Commission determines, prior to giving such notice, that the request for disclosure should be denied;

"(B) the disclosure is pursuant to law or Commission rule which requires disclosure of specific records in such a manner as to leave no discretion on the issue; or

"(C) the information has been published or otherwise made available to the public.";

(2) amending subsection (b) by—

(A) striking out "or" before "in an administrative or judicial proceeding"; and

(B) inserting immediately before the period at the end thereof ", in any receivership proceeding involving a receiver appointed in a judicial proceeding brought under this Act, or in any bankruptcy proceeding in which the Commission has intervened or in which the Commission has the right to appear and be heard under title 11 of the United States Code";

(3) amending subsection (e) by—

(A) striking out "of the Executive Branch"; and

(B) adding at the end thereof the following: "Upon the request of any department or agency of any State or any political subdivision thereof, acting within the scope of its jurisdiction or any department or agency of any foreign government or any political subdivision thereof, acting within the scope of its jurisdiction, the Commission may furnish to such department or agency any information in the possession of the Commission obtained in connection with the administration of this Act. Any information furnished to any department or agency of any State or political subdivision thereof shall not be disclosed by such department or agency except in connection with any adjudicatory action or proceeding brought under this Act or the laws of such State or political subdivision to which such State or political subdivision, or any department or agency thereof is a party. The Commission shall not furnish any information to a department or agency of a foreign government or political subdivision thereof unless the Commission is satisfied that the information will not be disclosed by such department or agency except in connection with any adjudicatory action or proceeding brought under the laws of such foreign government or political subdivision to which such foreign government or political subdivision or any department or agency thereof is a party."; and

(4) adding a new subsection (h) at the end thereof as follows:

"(h) The Commission shall disclose information in its possession pursuant to a subpena or summons only if—

"(1) a copy of the subpena or summons has been mailed to the last known home or business address of the person who submitted the information that is the subject of the subpena or summons, if the address is known to the Commission, and

"(2) fourteen days have expired from the date of mailing of the subpena or summons.".

REGISTRATION AUTHORITY; TEMPORARY LICENSE

SEC. 224. Section 8a(1) of the Commodity Exchange Act (7 U.S.C. 12a(1)) is amended to read as follows:

"(1) to register futures commission merchants, associated persons of futures commission merchants, introducing brokers, associated persons of introducing brokers, commodity trading advisors, associated persons of commodity trading advisors, commodity pool operators, associated persons of commodity pool operators, and floor brokers upon application in accordance with rules and regulations and in the form and manner to be prescribed by the Commission, which may require the applicant, and such persons associated with the applicant as the Commission may specify, to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing, and in connection therewith to fix and establish from time to time reasonable fees and charges for registration and renewals thereof: *Provided*, That notwithstanding any provision of this Act, the Commission may grant a temporary license to any applicant for registration with the Commission pursuant to such rules, regulations, or orders as the Commission may adopt: *Provided further*, That the term of any such temporary license shall not exceed six months from the date of its issuance;".

STATUTORY DISQUALIFICATION FROM REGISTRATION; DELEGATION OF REGISTRATION FUNCTIONS

SEC. 225. Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended by—

(1) amending paragraph (2) to read as follows:

"(2) upon notice, but without a hearing and pursuant to such rules, regulations, or orders as the Commission may adopt, to refuse to register, to register conditionally, to suspend, or to place restrictions upon the registration of, any person and with such a hearing as may be appropriate, to revoke the registration of any person—

"(A) if a prior registration of such person in any capacity has been suspended (and the period of such suspension has not expired) or has been revoked;

"(B) if registration of such person in any capacity has been refused under the provisions of paragraph (3) of this section within five years preceding the filing of the application for registration or at any time thereafter;

"(C) if such person is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdic-

tion (except that registration may not be revoked solely on the basis of such temporary order, judgment, or decree), including an order entered pursuant to an agreement of settlement to which the Commission or any Federal or State agency or other governmental body is a party, from (i) acting as a futures commission merchant, introducing broker, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under this Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company or affiliated person or employee of any of the foregoing or (ii) engaging in or continuing any activity involving any transaction in or advice concerning contracts of sale of a commodity for future delivery, or concerning activity subject to Commission regulation under section 4c or 19 of this Act or concerning securities;

"(D) if such person has been convicted within ten years preceding the filing of any application for registration or at any time thereafter of any felony which (i) involves any transactions or advice concerning any contract of sale of a commodity for future delivery, or any activity subject to Commission regulation under section 4c or 19 of this Act, or concerning a security; or (ii) arises out of the conduct of the business of a futures commission merchant, introducing broker, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under this Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or an affiliated person or employee of any of the foregoing; or (iii) involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling; or (iv) involves the violation of section 152, 1341, 1342, or 1343, or chapter 25, 47, 95, or 96 of title 18, United States Code;

"(E) if such person, within ten years preceding the filing of the application or at any time thereafter, has been found by any court of competent jurisdiction, by the Commission or any Federal or State agency or other governmental body, or by agreement of settlement to which the Commission or any Federal or State agency or other governmental body is a party, (i) to have violated any provision of this Act, the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Securities Investors Protection Act of 1970, the Foreign Corrupt Practices Act of 1977, or any similar statute of a State or foreign jurisdiction, or any rule, regulation, or order under any such statutes, or the rules of the Municipal Securities Rulemaking Board where such violation involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling; or (ii) to have willfully aided, abetted, counseled, commanded, induced, or procured such violation by any other person;

"(F) if such person is subject to an outstanding order of the Commission denying trading privileges on any contract market to such person, denying, suspending, or revoking such person's membership in any contract market or registered futures association, or barring or suspending such person from being associated with a registrant under this Act or with a member of a contract market or with a member of a registered futures association;

"(G) if, as to any of the matters set forth in subparagraphs (A) through (F) of this paragraph, such person willfully made any material false or misleading statement or omitted to state any material fact in his application; or

"(H) if refusal, suspension, or revocation of the registration of any principal of such person would be warranted because of a statutory disqualification listed in this paragraph: *Provided*, That for the purposes of paragraphs (2) and (3) of this section, principal shall mean, if the person is a partnership, any general partner or, if the person is a corporation, any officer, director, or beneficial owner of at least 10 per centum of the voting shares of the corporation, and any other person that the Commission by rule, regulation, or order determines has the power, directly or indirectly, through agreement or otherwise, to exercise a controlling influence over the activities of such person which are subject to regulation by the Commission: *Provided*, That such person may appeal from a decision to refuse registration, condition registration, suspend, revoke or to place restrictions upon registration made pursuant to the provisions of this paragraph in the manner provided in paragraph (b) of section 6 of this Act;";

(2) striking out existing paragraph (4) and redesignating existing paragraph (3) as paragraph (4);

(3) adding a new paragraph (3) to read as follows:

"(3) to refuse to register or to register conditionally any person, if it is found, after opportunity for hearing, that—

"(A) such person has been found by the Commission or by any court of competent jurisdiction to have violated or has consented to findings of a violation of, any provision of this Act, or any rule, regulation, or order thereunder (other than a violation set forth in paragraph (2) of this section), or to have willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any such provision;

"(B) such person has been found by any court of competent jurisdiction or by any Federal or State agency or other governmental body, or by agreement of settlement to which any Federal or State agency or other governmental body is a party, (i) to have violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Securities Investors Protection Act of 1970, the Foreign Corrupt Practices Act of 1977, or any similar statute of a State or foreign jurisdiction, or any rule, regulation, or order under any such statutes, or the rules of the Municipal Securities Rulemaking Board; or (ii) to have willfully aided, abetted, counseled, commanded, induced, or procured such violation by any other person;

"(C) such person failed reasonably to supervise another person, who is subject to such person's supervision, with a view to preventing violations of this Act, or of any of the statutes set forth in subparagraph (B) of this paragraph, or of any of the rules, regulations, or orders thereunder, and the person subject to supervision committed such a violation: *Provided*, That no person shall be deemed to have failed reasonably to supervise another person, within the meaning of this paragraph if (i) there have been established procedures, and a system for applying such procedures which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and (ii) such person has reasonably discharged the duties and obligations incumbent upon that person, as supervisor, by reason of such procedures and system, without reasonable cause to believe that such procedures and system were not being complied with;

"(D) such person was convicted of a felony other than a felony of the type specified in section 8a(2)(D) of this Act within ten years preceding the filing of the application or at any time thereafter, or was convicted of a felony, including a felony of the type specified in paragraph (2)(D) of this section, more than ten years preceding the filing of the application;

"(E) such person was convicted within ten years preceding the filing of any application for registration or at any time thereafter of any misdemeanor which (i) involves any transactions or advice concerning any contract of sale of a commodity for future delivery or any activity subject to Commission regulation under section 4c or 19 of this Act or concerning a security; or (ii) arises out of the conduct of the business of a futures commission merchant, introducing broker, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under this Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or an affiliated person or employee of any of the foregoing; or (iii) involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling; or (iv) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25, 47, 95, or 96 of title 18, United States Code;

"(F) such person was debarred by any agency of the United States from contracting with the United States;

"(G) such person willfully made any material false or misleading statement or willfully omitted to state any material fact in such person's. application or in any report required to be filed with the Commission by this Act or the regulations thereunder, or in any proceeding before the Commission;

"(H) such person has pleaded nolo contendere to criminal charges of felonious conduct, or has been convicted in a State court or in a foreign court of conduct which would constitute a felony under Federal law if the offense had been committed under Federal jurisdiction;

"(I) in the case of an applicant for registration in any capacity for which there are minimum financial requirements prescribed under this Act or under the rules or regulations of the Commission, such person has not established that he meets such minimum financial requirements;

"(J) such person is subject to an outstanding order denying, suspending, or expelling him from membership in a contract market, a registered futures association, or in any other self-regulatory organization, or barring or suspending him from being associated with any member or members of such

contract market, association, or self-regulatory organization;

"(K) such person has been found by any court of competent jurisdiction or by any Federal or State agency or other governmental body, or by agreement of settlement to which any Federal or State agency or other governmental body is a party, (i) to have violated any statute or any rule, regulation, or order thereunder which involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities, or property, forgery, counterfeiting, false pretenses, bribery, or gambling; or (ii) to have willfully aided, abetted, counseled, commanded, induced or procured such violation by any other person;

"(L) such person has associated with him any other person and knows, or in the exercise of reasonable care should know, of facts regarding such other person that are set forth as statutory disqualifications in paragraph (2) of this section, unless such person has notified the Commission of such facts and the Commission has determined that such other person should be registered or temporarily licensed;

"(M) there is other good cause; or

"(N) any principal, as defined in paragraph (2) of this section, of such person has been or could be refused registration:

Provided, That pending final determination under this paragraph (3), registration shall not be granted: *Provided further*, That such person may appeal from a decision to refuse registration or to condition registration made pursuant to the provisions of this paragraph in the manner provided in paragraph (b) of section 6 of this Act;";

(4) amending paragraph (4), as redesignated, to read as follows:

"(4) in accordance with the procedure provided for in paragraph (b) of section 6 of this Act, to suspend, revoke, or to place restrictions upon the registration of any person registered under this Act if cause exists under paragraph (3) of this section which would warrant a refusal of registration of such person, and to suspend or revoke the registration of any futures commission merchant or any introducing broker who shall knowingly accept any order for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market from any person if such person has been denied trading privileges on any contract market by order of the Commission under the provisions of paragraph (b) of section 6 of this Act and the period of denial specified in such order shall not have expired: *Provided*, That such person may appeal from a decision to suspend, revoke, or to place restrictions upon registration made pursuant to the provisions of this subsection in the manner provided in paragraph (b) of section 6 of this Act;";

(5) striking out "and" at the end of each of paragraphs (6), (7), and (8); and

(6) adding a new paragraph (10) to read as follows:

"(10) to authorize any person to perform any portion of the registration functions under this Act, in accordance with rules approved by the Commission, and subject to the provisions of this Act applicable to registrations granted by the Commission.".

EMERGENCY POWERS—JUDICIAL REVIEW

SEC. 226. Section 8a(9) of the Commodity Exchange Act (7 U.S.C. 12a(9)) is amended to read as follows:

"(9) to direct the contract market, whenever it has reason to believe that an emergency exists, to take such action as in the Commission's judgment is necessary to maintain or restore orderly trading in or liquidation of any futures contract, including the setting of temporary emergency margin levels on any futures contract, and the fixing of position limits that may apply to a position acquired in good faith prior to the effective date of the Commission's action. The term 'emergency' as used herein shall mean, in addition to threatened or actual market manipulations and corners, any act of the United States or a foreign government affecting a commodity or any other major market disturbance which prevents the market from accurately reflecting the forces of supply and demand for such commodity. Any action taken by the Commission under this paragraph shall be subject to review only in the United States court of appeals for the circuit in which the party seeking review resides or has its principal place of business, or in the court of appeals for the District of Columbia circuit. Such review shall be based upon an examination of all of the information before the Commission at the time the determination is made. The court reviewing the Commission's action shall not enter a stay or order of mandamus unless it has determined, after notice and hearing before a panel of the court, that the agency action complained of was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. Nothing herein shall be deemed to limit the meaning or interpretation given by a contract market to the terms 'market emergency', 'emergency', or equivalent language in its own bylaws, rules, regulations, or resolutions; and".

CERTAIN PROHIBITED TRANSACTIONS

SEC. 227. Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by—

(1) amending subsection (a) to read as follows:

"(a) It shall be a felony punishable by a fine of not more than $500,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any person registered or required to be registered under this Act, or any employee or agent thereof, to embezzle, steal, purloin, or with criminal intent convert to his own use or the use of another, any money, securities, or property having a value in excess of $100, which was received by such person or any employee or agent thereof to margin, guarantee, or secure the trades or contracts of any customer or accruing to such customer as a result of such trades or contracts, or which otherwise was received from any customer, client or pool participant in connection with the business of such person. Notwithstanding the foregoing, in the case of any violation described in the foregoing sentence by a person who is an individual, the fine shall not be more than $100,000, together with the costs of prosecution. The word 'value' as used in this paragraph means face, par, or market value, or cost price, either wholesale or retail, whichever is greater. Other provisions of this subsection notwithstanding, a person convicted of a felony under this subsection shall be suspended from registration under this Act and shall be denied reregistration for five years or such longer period as the Commission shall determine, unless the Commission determines that the imposition of such suspension or denial of reregistration is not required to protect the public interest.";

(2) amending subsection (b) by adding at the end thereof the following: "Other provisions of this subsection notwithstanding, a person convicted of a felony under this subsection shall be suspended from any registration under this Act, denied registration or reregistration for five years or such longer period as the Commission shall determine, and barred from using or participating in any manner in any market regulated by the Commission for five years or such longer period as the Commission shall determine on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension or denial of registration or reregistration is not required to protect the public interest.";

(3) amending subsection (c) by adding at the end thereof the following: "Other provisions of this subsection notwithstanding, a person convicted under this subsection of knowingly violating the provisions of section 4a shall be suspended from any registration under this Act, denied registration or reregistration for a period to two years or such longer period as the Commission shall determine, and barred from using or participating in any manner in any market regulated by the Commission for two years or such longer period as the Commission shall determine on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension or denial of registration or reregistration is not required to protect the public interest.";

(4) amending subsection (d) to read as follows:

"(d) It shall be a felony punishable by a fine of not more than $100,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any Commissioner of the Commission or any employee or agent thereof, to participate, directly or indirectly, in any transaction in commodity futures or any transaction of the character of or which is commonly known to the trade as an 'option,' 'privilege,' 'indemnity,' 'bid,' 'offer,' 'put,' 'call,' 'advance guaranty,' or 'decline guaranty,' or any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract, or for any such person to participate, directly or indirectly, in any investment transaction in an actual commodity. Such prohibition against any investment transaction in an actual commodity shall not apply to (1) a transaction in which such person buys an agricultural commodity or livestock for use in such person's own farming or ranching operations or sells an agricultural commodity which such person has produced in connection with such person's own farming or ranching operations nor to any transaction in which such person sells livestock owned by such person for at least three months, (2) a transaction entered into by the trustee of a trust established by such person over which such person exercises no control if such transaction is entered into solely to hedge against adverse price changes in connection with such farming or ranching operations or is a transaction for the lease of oil or gas or other mineral rights or interests owned by such person, and (3) a transaction in which such person buys or sells, directly or indirectly (except by means of an instrument regulated by the Commission), a

United States Government security, a certificate of deposit or similar financial instrument if no nonpublic information is used by such person in such transaction. With respect to such excepted transactions, the Commission shall require any Commissioner of the Commission or any employee or agent thereof who participates in any such transaction to notify the Commission thereof in accordance with such regulations as the Commission shall prescribe and the Commission shall make such information available to the public."; and

(5) inserting after the words "'decline guaranty'," in each place they appear in section 9(e) the following: ", or in any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract".

REAUTHORIZATION

SEC. 228. Section 12 of the Commodity Exchange Act (7 U.S.C. 16) is amended by amending subsection (d) to read as follows:

"(d) There are hereby authorized to be appropriated to carry out the provisions of this Act such sums as may be required for each of the fiscal years beginning October 1, 1982 and ending September 30, 1986.".

OFF-EXCHANGE JURISDICTION—ROLE OF STATES

SEC. 229. Section 12 of the Commodity Exchange Act (7 U.S.C. 16) is amended by adding a new subsection (e) to read as follows:

"(e) Nothing in this Act shall supersede or preempt—

"(1) criminal prosecution under any Federal criminal statute;

"(2) any Federal or State statute, including any rule or regulation thereunder, that is applicable to any transaction in or involving any commodity, product, right, service, or interest (A) that is not conducted on or subject to the rules of a contract market, or (B) (except as otherwise specified by the Commission by rule or regulation) that is not conducted on or subject to the rules of any board of trade, exchange or market located outside the United States, its territories or possessions, or (C) that is not subject to regulation by the Commission under section 4c or 19 of this Act; or

"(3) the application of any Federal or State statute, including any rule or regulation thereunder, to any person required to be registered or designated under this Act who shall fail or refuse to obtain such registration or designation. The Commission is authorized to refer any transaction or matter subject to such other Federal or State statutes to any department or agency administering such statutes for such investigation, action or proceedings as the department or agency shall deem appropriate.".

AIDING AND ABETTING—CONTROLLING PERSON

SEC. 230. Section 13 of the Commodity Exchange Act (7 U.S.C. 13c) is amended by—

(1) striking out "in administrative proceedings under this Act" in subsection (a);

(2) redesignating existing subsection (b) as subsection (c); and

(3) adding a new subsection (b) to read as follows:

"(b) Any person who, directly or indirectly, controls any person who has violated any provision of this Act or any of the rules, regulations, or orders issued pursuant thereto may be held liable for such violation in any action brought by the Commission to the same extent as such controlled person: *Provided*, That the Commission has the burden of proving that the controlling person did not act in good faith or directly or indirectly induced the act or acts constituting the violation.".

REPARATIONS PROCEDURE

SEC. 231. Section 14 of the Commodity Exchange Act (7 U.S.C. 18) is amended by—

(1) amending subsection (a) to read as follows:

"(a) Any person complaining of any violation of any provision of this Act or any rule, regulation, or order thereunder by any person who is registered under this Act may, at any time within two years after the cause of action accrues, apply to the Commission for an order awarding actual damages proximately caused by such violation.";

(2) striking out existing subsections (b), (c), and (e);

(3) redesignating subsections (d), (f), (g), (h), and (i) as (c), (d), (e), (f), and (g), respectively;

(4) adding a new subsection (b) to read as follows:

"(b) The Commission may promulgate such rules, regulations and orders as it deems necessary or appropriate for the efficient and expeditious administration of this section. Notwithstanding any other provision of law, such rules, regulations, and orders may prescribe, or otherwise condition, without limitation, the form, filing and service of pleadings or orders, the nature and scope of discovery, counterclaims, motion practice (including the grounds for dismissal of any claim or counterclaim), hearings (including the waiver thereof, which may relate to the amount in controversy), rights of appeal, if any, and all other matters governing proceedings before the Commission under this section.";

(5) changing the reference in subsection (d), as so redesignated, from "(g)" to "(e)"; and

(6) amending subsection (f), as so redesignated, to read as follows:

"(f) Unless the party against whom a reparation order has been issued shows to the satisfaction of the Commission within fifteen days from the expiration of the period allowed for compliance with such order that either an appeal as herein authorized has been taken or payment of the full amount of the order (or any agreed settlement thereof) has been made, such party shall be prohibited automatically from trading on all contract markets and, if the party is registered with the Commission, such registration shall be suspended automatically at the expiration of such fifteen-day period until such party shows to the satisfaction of the Commission that payment of such amount with interest thereon to date of payment has been made: *Provided*, That if on appeal the appellee prevails or if the appeal is dismissed the automatic prohibition against trading and suspension of registration shall become effective at the expiration of thirty days from the date of judgment on the appeal, but if the judgment is stayed by a court of competent jurisdiction the suspension shall become effective ten days after the expiration of such stay, unless prior thereto the judgment of the court has been satisfied.".

TECHNICAL AMENDMENT

SEC. 232. Section 16 of the Commodity Exchange Act (7 U.S.C. 20) is amended by inserting "or market positions" after "transactions" in subsection (d).

REGISTERED FUTURES ASSOCIATIONS

SEC. 233. Section 17 of the Commodity Exchange Act (7 U.S.C. 21) is amended by—

(1) amending subsection (b)(4)(E) by inserting before the period at the end thereof the following: ", which may require the applicant to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing. Notwithstanding any other provision of law, such an association may receive from the Attorney General all the results of such identification and processing";

(2) changing the reference in subsection (h) from "(k)" to "(i)";

(3) striking out the last sentence in subsection (j) and inserting in lieu thereof the following: "A registered futures association shall submit to the Commission any change in or addition to its rules and may place such rules into effect unless, within ten days of receipt by the Commission of such submission, the registered futures association requests review and approval thereof by the Commission or the Commission notifies such registered futures association in writing of its determination to review for approval such rules. The Commission shall approve such rules, within thirty days of their receipt if Commission approval is requested hereunder or within thirty days after the Commission determines to review for approval any other rules, unless the Commission notifies the registered futures association of its inability to complete such approval or review within such period of time. The Commission shall approve such rules if such rules are determined by the Commission to be consistent with the requirements of this section and not otherwise in violation of this Act or the regulations of the Commission and the Commission shall disapprove, after appropriate notice and opportunity for hearing, any such rule which the Commission determines at any time to be inconsistent with the requirements of this section or in violation of the provisions of the Act or the regulations of the Commission.";

(4) adding new subsections (o), (p), and (q) at the end thereof to read as follows:

"(o) The Commission is authorized to require any futures association registered pursuant to this section to perform any portion of the registration functions under this Act with respect to each member of the association other than a contract market and with respect to each associated person of such member, in accordance with the rules approved by the Commission, and subject to the provisions of this Act applicable to registrations granted by the Commission.

"(p) Notwithstanding any other provision of this section, each futures association registered under this section on the date of enactment of the Futures Trading Act of 1982, shall adopt and submit for Commission approval not later than ninety days after such date of enactment, and each futures association that applies for registration after such date shall adopt and include with its application for registration, rules of the association that require the association to—

"(1) establish training standards and proficiency testing for personnel of members involved in the solicitation of transactions subject to the provisions of this Act, supervisory officials of such personnel, and all individuals for which it has registration re-

sponsibilities, and a program to audit and enforce compliance with such standards;

"(2) establish minimum capital, segregation, and other financial requirements applicable to its members for which such requirements are imposed by the Commission and implement a program to audit and enforce compliance with such requirements. Such requirements may not be less stringent than those imposed on such firms by this Act or by Commission regulation; and

"(3) establish minimum standards governing the sales practices of its members and persons associated therewith as to transactions subject to the provisions of this Act.

"(q) Each futures association registered under this section shall develop a comprehensive program that fully implements the rules approved by the Commission under this section as soon as practicable but not later than two years after the date of enactment of the Futures Trading Act of 1982, in the case of any futures association registered on such date, and not later than two years after the date of registration in the case of any other futures association registered under this section.".

LEVERAGE TRANSACTIONS

SEC. 234. Section 19 of the Commodity Exchange Act (7 U.S.C. 23) is amended by—

(1) amending subsection (c) to read as follows:

"(c) The Commission shall regulate any transactions under a standardized contract described in subsection (a) of this section involving commodities described in subsection (b) of this section or any other commodities (except those commodities described in subsection (a) of this section) under such terms and conditions as the Commission shall prescribe by January 31, 1983: *Provided*, That any such order, rule, or regulation may be made only after notice and opportunity for hearing; *Provided further*, That the Commission may set different terms and conditions for such transactions involving different commodities."; and

(2) striking out subsection (d).

TECHNICAL AMENDMENT

SEC. 235. Section 19 of the Commodity Exchange Act (7 U.S.C. 24), as added by section 302 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2673), is redesignated as section 20.

PRIVATE RIGHTS OF ACTION

SEC. 236. The Commodity Exchange Act is amended by adding a new section 22 at the end thereof to read as follows:

"SEC. 22. (a)(1) Any person (other than a contract market, clearing organization of a contract market, licensed board of trade, or registered futures association) who violates this Act or who willfully aids, abets, counsels, induces, or procures the commission of a violation of this Act shall be liable for actual damages resulting from one or more of the transactions referred to in clauses (A) through (D) of this paragraph and caused by such violation to any other person:

"(A) who received trading advice from such person for a fee;

"(B) who made through such person any contract of sale of any commodity for future delivery (or option on such contract or any commodity) on or subject to the rules of any contract market or other board of trade; or who deposited with such person money, securities or property (or incurred debt in lieu thereof) in connection with any order to make such contract;

"(C) who purchased or sold or placed an order for the purchase or sale of:

"(i) an option subject to section 4c(d) of this Act;

"(ii) an option subject to section 4c(b) of this Act (other than an option purchased or sold on a contract market or other board of trade);

"(iii) a contract subject to section 19 of this Act;

"(iv) an interest or participation in a commodity pool; or

"(D) who purchased or sold a contract referred to in clause (B) hereof if the violation constitutes a manipulation of the price of any such contract or the price of the commodity underlying such contract.

"(2) The rights of action authorized by this subsection and by section 14 of this Act shall be the exclusive remedies under this Act available to any person that sustains loss as a result of any alleged violation of this Act. Nothing in this subsection shall limit or abridge the rights of the parties to agree in advance of a dispute upon the forum for resolving claims under this section, including arbitration.

"(b)(1)(A) A contract market or clearing organization of a contract market that fails to enforce any bylaw, rule, regulation or resolution that was made a condition of the designation of such contract market under section 5 of this Act or any amendment to such bylaw, rule, regulation or resolution, (B) a licensed board of trade that fails to enforce any bylaw, rule, regulation or resolution that was made a condition of its license or any amendment to such bylaw, rule, regulation or resolution, or (C) any contract market, clearing organization of a contract market or licensed board of trade that in enforcing any such bylaw, rule, regulation or resolution violates this Act or any Commission rule, regulation or order, shall be liable for actual damages sustained by a person that engaged in transactions on or subject to the rules of such contract market or licensed board of trade to the extent of such person's actual losses that resulted from such transactions and were caused by such failure to enforce or enforcement of such bylaws, rules, regulations or resolutions.

"(2) A registered futures association that fails to enforce any bylaw or rule that is required under section 17 of this Act or in enforcing any such bylaw or rule violates this Act or any Commission rule, regulation or order shall be liable for actual damages sustained by a person that engaged in transactions specified in subsection (a) of this section to the extent of such person's actual losses resulting from such transactions caused by such failure to enforce or enforcement of such bylaw or rule.

"(3) Any individual who, in the capacity as an officer, director, governor, committee member or employee of a contract market, licensed board of trade, or a registered futures association willfully aids, abets, counsels, induces or procures any failure by such contract market, clearing organization, or registered futures association to enforce (or any violation of the Act in enforcing) any bylaw, rule, regulation or resolution referred to in paragraph (1) or (2) of this subsection, shall be liable for actual damages sustained by a person that engaged in transactions specified in subsection (a) of this section on, or subject to the rules of, such contract market, licensed board of trade or, in the case of an officer, director, governor, committee member or employee of a registered futures association, transactions specified in subsection (a) of this section, in either case to the extent of such person's actual losses resulting from such transactions caused by such failure or violation.

"(4) A person seeking to enforce liability under this section must establish that the contract market, licensed board of trade, clearing organization, registered futures association, officer, director, governor, committee member, or employee acted in bad faith in failing to take action or in taking such action as was taken, and that such failure or action caused the loss.

"(5) The rights of action authorized by this subsection shall be the exclusive remedy under this Act available to any person that sustains a loss as a result of (A) the alleged failure by a contract market, licensed board of trade, clearing organization, or registered futures association or by any officer, director, governor, committee member or employee to enforce any bylaw, rule, regulation or resolution referred to in paragraph (1) or (2) of this subsection, or (B) the taking of action that is alleged to have violated this Act, or any Commission rule, regulation or order.

"(c) The United States district courts shall have exclusive jurisdiction of actions brought under this section. Any such action must be brought within two years after the date the cause of action accrued.

"(d) The provisions of this section shall become effective with respect to causes of action accruing on or after the date of enactment of the Futures Trading Act of 1982: *Provided*, That the enactment of the Futures Trading Act of 1982 does not affect any right of any parties which may exist with respect to causes of action accruing prior to such date.".

SPECIAL STUDY OF THE COMMODITY FUTURES INDUSTRY

SEC. 237. The Commodity Exchange Act is amended by adding a new section 23 at the end thereof as follows:

"SEC. 23. (a) The Commission shall organize and lead, with the assistance of the Securities and Exchange Commission, the Federal Reserve, and the Department of the Treasury, a study and investigation of the structure, participation, uses and effects of trading of futures and related instruments, such as options, on the economy. Among those areas to be studied are (i) the number, types, and characteristics of futures market speculators, arbitrageurs, and hedgers, the purposes for which these participants utilize futures markets, and the financial resources devoted to each of these activities; (ii) the impact of futures market speculation on the accuracy, liquidity, and stability of cash and futures prices and the conditions under which speculation may have adverse effects on these objectives, particularly with respect to the increased volume of financial futures and other nontraditional futures; (iii) the consequences that present and anticipated volumes of trading in futures have, if any, on formation of real capital in the economy, particularly that of a long-term nature, the structure of liquidity in credit markets, interest rates and inflation; and (iv) the sufficiency of the public policy tools available to the Commission or other agencies to limit or curtail any activity which is found likely to have a harmful effect on national economic goals. The report of this study shall be transmitted to Congress not later than September 30, 1984, and shall include an assessment of the impacts of these activities and recommendations for any legislative and regulatory changes. There are authorized to be appropriated such funds as may be necessary to carry out the study.

"(b) For the period beginning with the date of enactment of the Futures Trading Act of 1982 and ending September 30, 1984, all stock index futures contracts approved

by the Commission either prior or subsequent to the date of enactment of the Futures Trading Act of 1982 shall be subject to a pilot program for such contracts to be established by the Commission by rule, regulation or order. Such pilot program shall, at a minimum, include close monitoring by the Commission of the contracts, including the assessment of the impact if any of such contracts on the markets in the underlying securities and the effect if any of the contracts on the capital formation process. Not later than 120 days following the expiration of the pilot program, the Commission shall report to the Committee on Agriculture of the House of Representatives and Committee on Agriculture, Nutrition, and Forestry of the United States Senate its findings and conclusions with respect to the economic purposes being served by the contracts and any effect of such contracts on underlying markets in securities or capital formation. If such report concludes that the adverse effects on the underlying markets in securities or capital formation resulting from trading in the stock index futures contracts outweigh any benefits provided by the contracts' hedging or risk-management function, the Commission shall include in the report its plans for the orderly withdrawal of approval for all stock index futures contracts.".

NATIONAL FUTURES ASSOCIATION STUDY AND TRANSACTION FEES

SEC. 238. Section 26 of the Futures Trading Act of 1978 (92 Stat. 877) is amended by—

(1) redesignating the text of existing section 26 as subsection (a); and

(2) adding at the end thereof the following new subsections:

"(b) The Commodity Futures Trading Commission shall submit to Congress a report containing the results of a study of the regulatory experience of the National Futures Association during the period beginning January 1, 1983 and ending December 31, 1984. The report shall be submitted not later than March 1, 1985. The report shall include (but not be limited to) the following—

"(1) the extent to which the National Futures Association has fully implemented the program provided in the rules approved by the Commission under section 17 (p) and (q) of this Act and the effectiveness of the operation of such program;

"(2) the actual and projected cost savings to the Federal Government, if any, resulting from operations of the National Futures Association;

"(3) the actual and projected costs which the Commission and the public would have incurred if the Association had not undertaken self-regulatory responsibility for certain areas under the Commission's jurisdiction;

"(4) problem areas, if any, encountered by the Association;

"(5) the nature of the working relationship between the Association and the Commission;

"(6) an assessment of the actual and projected efficiences the Commission has achieved or expects to be achieved as a result of the continuing regulatory activities of the Association; and

"(7) the immediate and projected capabilities of the Commission at the time of submission of the study to turn its attention to more immediate problems of regulation, as a result of the activities of the Association.

"(c) Notwithstanding any provision of this Act or other law, no user fee, user tax, transaction tax or transaction fee on or involving a contract for the purchase or sale of a commodity for future delivery, commodity option traded on a contract market, other option pursuant to 4c(d) of this Act, or leverage contract pursuant to section 19 of this Act, shall be recommended pursuant to this section or implemented pursuant to any law until after the end of the session in which the Commission has submitted to Congress the study described in subsection (b) of this section. If the Commission should recommend at any time thereafter the imposition of a user fee, user tax, transaction fee, or transaction tax, such recommendation at a minimum shall be accompanied by data and studies measuring the relative benefit to commodity professionals as well as to the general public of the functions of the nation's commodity markets and of Federal commodity regulation, and the effect of the proposed fee or tax on United States contract market liquidity.

"(d) Nothing in this section shall limit the ability of the Commission to continue to charge appropriate fees for services currently rendered by the Commission in conjunction with its registration, reparations, adjudication, or informational services and activities.".

ENERGY AND COMMERCE COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the Energy and Commerce Committee amendment.

The Clerk read as follows:

Committee amendment: On page 73, strike out line 15 and all that follows through line 21 on page 75, and insert in lieu thereof the following new section:

STUDY OF THE COMMODITY FUTURES INDUSTRY

SEC. 237. The Commodity Exchange Act is amended by adding at the end thereof the following new section:

"SEC. 23. (a)(1) The Board of Governors of the Federal Reserve shall organize and conduct, with the assistance of the Commodity Futures Trading Commission, the Securities and Exchange Commission, and the Secretary of the Treasury, a study and investigation of the structure, participation, uses, and effects of trading in contracts of sale of commodities (including commodities which are rights and interests in evidences of indebtedness, foreign currency, securities, any group or index of securities, and other financial instruments) for future delivery and in related instruments, such as options, on the economy. Among those areas to be studied are—

"(A) the number, types, and characteristics of speculators, arbitrageurs, and hedgers engaged in such trading, the purposes for which such persons utilize such trading, and the financial resources devoted to each of these trading activities;

"(B) the impact of speculation in such trading on the accuracy, liquidity, and stability of cash and contract prices, and the conditions under which such speculation may have adverse effects on these objectives, particularly with respect to the increased volume of such trading;

"(C) the consequences that present and anticipated volumes of trading in such contracts and related instruments have, if any, on formation of real capital in the economy (particularly that of a long-term nature), the structure of liquidity in credit markets, interest rates, and inflation;

"(D) the sufficiency of the public policy tools available to the Commission or other agencies to limit or curtail any such trading activity which is found likely to have a harmful effect on national economic goals;

"(E) the economic purposes, if any, served by such trading, including the extent to which such contracts and related instruments are utilized for hedging and risk aversion purposes or for speculation;

"(F) the adequacy of investor protections afforded to participants in designated markets for such trading;

"(G) the impact, if any, of such contracts and related instruments on the markets for evidences of indebtedness, foreign currency, and securities;

"(H) the extent to which such contracts and related instruments may be utilized to manipulate, or to profit from the manipulation of, the markets for evidences of indebtedness, foreign currency, and securities;

"(I) the nature and consequences, if any, of perceived disparities between the regulation of such contracts and related instruments traded in contract markets regulated by the Commission and the regulation of functionally equivalent instruments traded in markets regulated by the Securities and Exchange Commission; and

"(J) the operation of the pilot program established under subsection (b)(1).

"(2) Not later than March 31, 1984, the Board of Governors of the Federal Reserve shall submit to the Congress and transmit to the Commission a preliminary report describing the results of the part of such study relating to trading in contracts of sale of commodities which are rights and interests in any group or index of securities and related instruments, for future delivery. The Board of Governors shall include in such report—

"(A) findings with respect to the economic benefits, if any, that have resulted from such trading;

"(B) a description of any adverse effects on the underlying markets in securities, on the formation of real capital, and on investor protection, that may have resulted from such trading; and

"(C) recommendations as to whether such trading should be permitted to continue after the termination of the pilot program established under subsection (b)(1), and, if continuation of such trading is recommended, whether any legislation or regulatory action applicable to such trading is necessary to mitigate any adverse effects found to have resulted from such trading or is necessary to eliminate any perceived disparities between the regulation of such trading and the regulation of trading in other comparable instruments.

"(3) Not later than September 30, 1984, the Board of Governors of the Federal Reserve shall submit to the Congress a report describing the results of such study. The Board of Governors shall include in such report an assessment of the impacts of the activities studied and recommendations for any legislation and regulatory action.

"(b)(1) For the period beginning on the date of the enactment of the Futures Trading Act of 1982 and ending September 30, 1984, all boards of trade designated, before or after the date of the enactment of the Futures Trading Act of 1982, as contract markets for trading in contracts in rights or interests in a group or index of securities for future delivery shall be subject to a pilot program with respect to such trading, to be established by the Commission by rule, regulation, or order. Under such pilot program, the Commission shall closely monitor such trading and shall make an assessment of the impact, if any, of such trading on the mar-

kets in the underlying securities and on the process of forming real capital.

"(2) If the Board of Governors of the Federal Reserve recommends, in the preliminary report transmitted under subsection (a)(2), that trading in such contracts be terminated or that other regulatory or legislative action be taken, then the Commission shall submit a report to the Congress, not later than September 30, 1984, containing a plan to implement the recommendations of the Board of Governors or a statement of reasons in support of the Commission's opinion that such recommendations should not be implemented.".

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

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

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Colorado (Mr. WIRTH) for 5 minutes.

Mr. WIRTH. I thank the Chairman.

Mr. Chairman, I stand in favor of the Energy and Commerce Committee amendment to title II, section 237 of H.R. 5447.

This amendment would place the Federal Reserve Board in the lead of a special study of the futures market. Our primary reason for urging that the Federal Reserve Board, instead of the CFTC, be the lead agency was that capital formation issues will be the focus of the study, as well as margin and credit allocation issues. The Federal Reserve Board certainly has expertise in these areas. The study will look both at instruments regulated by the SEC and instruments regulated by the CFTC. The study will also look at regulatory disparities between the SEC and CFTC, and it would be most useful if an independent agency lead the study.

There was some concern expressed at the Agriculture Committee markup that the study amendment did not clearly state an intent to review options on securities. We have worked with Mr. GLICKMAN to prepare an amendment to be offered to clarify that intent.

So I would hope that the Members would accept both the amendment offered by the gentleman from Kansas (Mr. GLICKMAN) to this amendment and this amendment to title II.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Texas (Mr. DE LA GARZA), the distinguished chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Chairman, I rise in support of the gentleman's amendment and state that we have no objection to the amendment. In fact, we would welcome the Federal Reserve taking the lead in this proposed study.

I am happy to hear that the gentleman is in agreement with an amendment to be offered by our colleague, the gentleman from Kansas (Mr. GLICKMAN), that would enlarge, in part, the study and make no change whatsoever except to add other items.

With that, we would accept the amendment if amended also by an amendment of the gentleman from Kansas (Mr. GLICKMAN).

Mr. WIRTH. I thank the distinguished Chairman.

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

Mr. WIRTH. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I am happy to say that I support the amendment, and I also support the amendment of the gentleman from Kansas (Mr. GLICKMAN).

Mr. WIRTH. The faster we do it, the quicker we get off the stage for the gentleman from New York (Mr. CONABLE).

I thank the gentleman.

AMENDMENT OFFERED BY MR. GLICKMAN TO THE ENERGY AND COMMERCE COMMITTEE AMENDMENT

Mr. GLICKMAN. Mr. Chairman, I offer an amendment to the Energy and Commerce Committee amendment.

The Clerk read as follows:

Amendment offered by Mr. GLICKMAN to the Energy and Commerce Committee amendment: Page 76, line 13, strike out "options," and insert in lieu thereof the following: "options (including options on commodities, options on contracts of sale of commodities for future delivery, and options on securities, including options on exempted securities or on any group or index of securities),".

Page 76, line 16, insert "investors," immediately before "speculators,".

Mr. GLICKMAN (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 Kansas?

There was no objection.

Mr. GLICKMAN. Mr. Chairman, this is the amendment that the gentleman from Colorado (Mr. WIRTH) referred to, which would clarify the intent of both the Commerce Committee and the Committee on Agriculture that the special study created in section 237 of the bill includes options on securities, as well as futures in options in commodities.

I do not think there is any objection to the base amendment.

I would like to add one additional thing: The amendment offered by the gentleman from Colorado (Mr. WIRTH) gives the Federal Reserve Board the chief responsibility for conducting this massive study. In recent days the Federal Reserve Board has indicated to our office that they have some problems being the lead agency. I am not sure it is for any substantive reason. It may be as much for money, or staff problems. I would like to reserve that this issue be worked out in conference so that we have an opportunity to perhaps talk again with all of the relevant agencies, to try to determine who in fact is the best agency to coordinate this responsibility.

Mr. WIRTH. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Kansas (Mr. GLICKMAN).

This amendment would clarify the intent of both the Commerce Committee and the Committee on Agriculture that the special study created in section 237 of the bill includes options on securities as well as futures and options on commodities.

The Commerce Committee, in reviewing H.R. 5447, was concerned about possible adverse effects in the securities markets that might result from trading in futures on securities in the commodities markets. Although the SEC regulates securities, the CFTC under H.R. 5447 as reported by the Committee on Agriculture would regulate futures contracts on securities groups or indexes. We were concerned that the CFTC might not adequately consider issues that have been of concern to the SEC in its regulation of the securities market for almost 50 years.

We also had a broader concern, however. Just as we were concerned about the impact of futures trading on capital formation, we also became concerned about the impact of securities options trading on capital formation.

Of course, much more is known about the securities options market than is known about the futures market. A special study of the securities options market completed in 1978 produced a great deal of information about trading practices and abuses in that market and ultimately resulted in vast improvements in securities options trading practices, supervision, and surveillance.

However, that study was unable to come to any conclusions about the impact of options trading on capital formation or on the markets in the underlying securities. The study did not fully address issues relating to credit (margin) requirements for purchasing options. The study did not compare the regulation of the SEC and CFTC over functionally comparable instruments in the futures and options market. That just was not an issue at the time of the study.

The special study originally created in H.R. 5447 and as amended by the Commerce Committee speaks in terms of futures and "related instruments, such as options * * *." Concerns were raised by members of the committee on Agriculture that the study lan-

guage might not clearly include options on securities, however. This amendment addresses those concerns.

Since the securities options market was studied in some detail only a few years ago, I would expect that the special study created in this bill would build on the information previously assembled in this area, except to the extent that the special study is charged with looking at areas that were not previously reviewed, or updating information that is no longer accurate in light of the dramatic changes taking place in our financial markets.

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I go at some length into this for the benefit of responding to the gentleman from Kansas (Mr. GLICKMAN) on the role and responsibilities of the Federal Reserve to point out that a great deal of work has been done on this issue which we have also brought to the attention of the Federal Reserve. I think that this will make easier the tasks that they must undertake. I would hope we would accept the amendment offered by the gentleman from Kansas.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. GLICKMAN) to the Energy and Commerce Committee amendment.

The amendment to the Energy and Commerce Committee amendment was agreed to.

The CHAIRMAN. The question is on the Energy and Commerce Committee amendment, as amended.

The Energy and Commerce Committee amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. GLICKMAN

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

The Clerk read as follows:

Amendment offered by Mr. GLICKMAN: On page 69, lines 22 and 23, strike out "who purchased or sold or placed an order for the purchase or sale of:" and insert in lieu thereof "who purchased from or sold to such person or placed through such person an order for the purchase or sale of:";

On page 70, line 13, strike out "section 14" and insert in lieu thereof "sections 5a(11), 14 and 17b(10)";

On page 70, line 17, strike out "the" and insert in lieu thereof "any";

On page 70, lines 21 through 23, strike out "that was made a condition of the designation of such contract market under section 5 of this Act or any amendment to such bylaw, rule, regulation or resolution," and insert in lieu thereof "that it is required to enforce by section 5a(8) and section 5a(9) of this Act,";

On page 70, line 25, and page 71, lines 1 and 2, strike out "that was made a condition of its license or any amendment to such bylaw, rule, regulation or resolution," and insert in lieu thereof "that it is required to enforce by the Commission,".

Mr. GLICKMAN (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 Kansas?

There was no objection.

Mr. GLICKMAN. Mr. Chairman, the proposed amendment (page 69, lines 22 and 23) to subsection (C) of new section 22(a)(1) of the act will permit persons who purchased or sold an option from a person who violated the act, and persons who placed orders through persons who violated the act to bring an action in the Federal District Court for damages that directly result from that violation. This will conform that provision to subsections (A) and (B) which permit persons to assert such claims with respect to transactions covered by those subsections.

The proposed amendment (page 70, lines 13 and 17) to subsection (a)(2) of new section 22 of the act merely clarifies that these new specific rights of action will not preclude a person from pursuing his claims in a CFTC reparation proceeding or through arbitration.

Proposed amendments to subsection (b)(1)(A) (pages 70 and 71) will clarify that a contract market that fails to enforce any of its rules that are required to be enforced by section 5(a)(8) of the act shall be liable for damages directly resulting from that failure to enforce those rules. Similarly, a board of trade that has not been technically designated as a contract market but has been licensed by the CFTC to trade options would be liable for damages resulting from its failure to enforce rules which the Commission requires it to enforce.

It is a consumer protection amendment. I think it is one that is technical in nature and will strengthen the existing language of the bill.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

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

Mr. DE LA GARZA. I thank the gentleman for yielding.

I would like to inform the gentleman that the consensus on the committee is that the gentleman makes a valuable contribution with the amendment and we would be very happy to accept it.

Mr. GLICKMAN. I thank the gentleman.

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

Mr. GLICKMAN. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding.

Mr. Chairman, I just rise to say that this side has no opposition to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. GLICKMAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WAMPLER

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

The Clerk read as follows:

Amendment offered by Mr. WAMPLER: Insert the following sentence at the end of section 233(3) on p. 66, line 9: "If the Commission does not approve or institute disapproval proceedings with respect to any rule within one hundred and eighty days after receipt or within such longer period of time as the registered futures association may agree to, or if the Commission does not conclude a disapproval proceeding with respect to any rule within one year after receipt or within such longer period as the registered futures association may agree to, such rule may be placed into effect by the registered futures association until such time as the Commission disapproves such rule in accordance with this subsection.".

Mr. WAMPLER. Mr. Chairman, the purpose of this amendment is to provide important time limitations on CFTC review of futures association rules. These time limitations would be identical to those limits imposed for CFTC consideration of contract market rules, and should enable the futures industry's self-regulatory body, the National Futures Association, to begin to implement its new functions expeditiously.

Mr. Chairman, under the existing provisions of H.R. 5447, section 17(j) of the Commodity Exchange Act would be amended to provide authority to a registered futures association to place into effect its rules or rule changes 10 days following their receipt by the Commission, unless the association requests express CFTC approval or the CFTC determines on its own initiative to review the rule or rule change. However, H.R. 5447 does not put an explicit cap on the time available to the CFTC to complete its review.

The amendment I am proposing would correct this apparent oversight. Under the amendment, the CFTC would have 180 days from the date of receipt of any futures association rule or rule change to finish its review of the rule and one year, from receipt of the rule, to initiate and complete a disapproval proceeding.

Mr. Chairman, I believe this is an important and necessary amendment. In the past, contract market rules that have been submitted to the CFTC for approval have languished for lengthy periods of time. Frequently, important self-regulatory measures have had to be deferred or have not ever been put into operation. The Commission has recognized this problem and recently has been somewhat sucessful in reducing the period of delay. Nevertheless, in recognition of the continuing and perhaps recuring problem in this area, H.R. 5447 imposes time limitations on CFTC review and disapproval actions of contract market rules. However, the

bill is silent on any parallel restrictions with respect to CFTC review of the rules of a registered futures association. Since the National Futures Association—the industry-wide self-regulatory body that has been registered by the CFTC—is about to begin operations, restrictions also are needed on the time the CFTC may have for its approval or disapproval actions on futures association rules. The proposed amendment satisfies this need by providing time limitations on CFTC review of futures association rules, in a manner identical to the provisions in H.R. 5447 pertaining to contract market rules.

In addition to insuring timely CFTC action on all self-regulatory rule submissions, the amendment may be essential if the NFA is to be given a fair chance to accomplish one aspect of its mandate as contained in H.R. 5447. The bill would amend the Commodity Exchange Act by adding two new subsections to section 17, which deals with futures associations. Under section 17(p), NFA will be called upon to have submitted to the CFTC, within 90 days of the date of enactment of the bill, rules providing: training standards for members, proficiency testing, auditing and compliance standards, minimum capital and segregation requirements, and minimum sales practice standards. Section 17(q) then will require the registered futures association to implement fully these rules as soon as practicable, but not later than 2 years after the date of enactment of the bill. In the case of NFA, its ability to implement fully these rules within the timeframe required under new section 17(q) might turn on whether the CFTC acts expeditiously to review and approve those rules of NFA which the CFTC determines, or is asked, to review.

New sections 17 (p) and (q) of the act were intended by the committee to provide a frame of reference for Congress to gage accurately the progress NFA will be making toward accomplishing its self-regulatory objectives. Congress, the futures industry, and the public have long awaited NFA's development and new sections 17 (p) and (q) therefore impose somewhat tight, yet reasonable, time limitations on NFA to commence fulfilling its statutory mandates. Similarly, the amendment imposes tight, yet reasonable, time restrictions on the CFTC—180 days for review of rules submissions and 1 year to complete a disapproval proceeding. These mandated periods for CFTC review and disapproval of futures association rules are identical to those provided in H.R. 5447 for contract market rules.

In all but the most unusual circumstances, CFTC review or disapproval of NFA rules should not take the full 180-day or 1-year period. In fact, the CFTC has stated that it will endeavor to expedite its consideration of NFA rules and believes that most NFA rules will be approved within at least 60 days. This expedited treatment is clearly necessary and appropriate. If the CFTC were to take a full year to complete disapproval proceedings for futures association rule submissions, more than half the time allotted by new section 17(q) to a futures association to accomplish the important task of implementing its regulatory program could be spent on costly administrative or judicial proceedings that would determine what rules the association is required to implement. By encouraging expedited CFTC review and disapproval proceedings of futures association rules, the amendment would serve the overall congressional objective to insure maximum CFTC cooperation and consultation with NFA. This will enable the NFA to begin its self-regulatory mission as soon as possible.

Mr. Chairman, this amendment is supported by the CFTC and the futures industry. I am not aware of any opposition to its adoption.

I urge my colleagues to support this amendment.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

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

Mr. DE LA GARZA. Mr. Chairman, I would like to thank the gentleman for his contribution. We are informed that this amendment indeed simplifies and gives the needed authority to the CFTC to deal in the matter concerned, and we would be very happy to accept the amendment on this side.

Mr. WAMPLER. I thank the gentleman.

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

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WAMPLER

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

The Clerk read as follows:

Amendment offered by Mr. WAMPLER: delete the provisions of section 225(6) and section 233(4) (to the extent it would create a new subsection 17(o) of the Commodity Exchange Act), and insert in lieu thereof the following:

"(10) to authorize any person to perform any portion of the registrations functions under this Act, in accordance with rules, notwithstanding any other provisions of law, adopted by such person and submitted to the Commission for approval, and subject to the provisions of this Act applicable to registrations granted by the Commission."

"(o) The Commission is authorized to require any futures association registered pursuant to this section to perform any portion of the registration functions under this Act with respect to each member of the association other than a contract market and with respect to each associated person of such member, in accordance with rules, notwithstanding any other provision of law, adopted by such futures association and submitted to the Commission pursuant to Section 17(j) of this Act, and subject to the provisions of this Act applicable to registrations granted by the Commission.

"(1) In performing any Commission registration function authorized by the Commission under section 8a(10), this section or any other applicable provisions of this Act, a futures association may issue orders (A) to refuse to register, (B) to register conditionally, (C) to suspend the registration of, (D) to place restrictions on the registration of, or (E) to revoke the registration of, any person. Any person against whom such an order has been issued, which is the final decision of such futures association, may petition the Commission to review this decision. The Commission may on its own initiative or upon petition decline review or may grant review and affirm, set aside, or modify such an order of the futures association, and the findings of the futures association, as to the facts, if supported by the weight of the evidence, shall be conclusive. Unless the Commission grants review under this section of an order concerning registration issued by a futures association, the order of the futures association shall be considered to be an order issued by the Commission.

"(2) If a futures association grants a registration application in performing any Commission registration function authorized by the Commission under section 8a(10), this section, or any other applicable provisions of this Act, that registration shall be conditional until the expiration of fifteen days after notification of such registration is received by the Commission, unless the Commission, within that 15 day period, directs the futures association to vacate the grant of registration and to take further action on the application.

"(3) In the event that a person against whom a futures association has issued a registration order under subsection (1) petitions the Commission to review that order and the Commission declines to take review, such person may file a petition for review with a United States Court of Appeals, in accordance with the requirements of section 6(b) of this Act.".

Mr. WAMPLER (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. WAMPLER. Mr. Chairman, the amendment I am offering seeks to facilitate the assumption of certain CFTC registration functions by the National Futures Association. I believe this amendment is in the best interest of the futures industry and the Commodity Futures Trading Commission. I urge my colleagues to support this amendment.

Mr. Chairman, H.R. 5447 contains two new sections of the Commodity Exchange Act that are intended to facilitate the transfer of the CFTC's registration program to the industrywide registered futures association—the National Futures Association (NFA). The first provision is specifically targeted toward futures associations. New section 17(o) would authorize the CFTC

to require any registered futures association to perform any portion, or all, of the CFTC's registration functions under the act. The futures association would be required to perform this registration function for each member of the association and each associated person of such member. The second provision is more general. Under new section 8a(10), the Commission would be empowered to authorize any person to perform any portion of the Commission's registration functions under the act.

The NFA is eager to begin as soon as possible to assume at least a portion of the CFTC's registration functions. According to NFA's most recent schedule, it plans to be able to begin, on or about January 15, 1983, to conduct registration proceedings for all classes of CFTC registrants. NFA's intention to assume CFTC registration duties at such an early time bodes well for a complete assumption by NFA of that function, since every registered commodity professional, except floor brokers, must be a member of NFA in order to fulfill the 1978 congressional grant of authority to the CFTC to make membership in a registered futures association compulsory.

Nevertheless, despite the best intentions of the CFTC and NFA, problems could arise that might delay NFA's assumption of the registration function unless we take great care, at this time, to spell out with some degree of specificity the authority in this area of the CFTC and NFA. The amendment I am proposing would accomplish this goal without hampering in any meaningful way the broad discretion and authority vested in the CFTC under new sections 8a(10) and 17(o) of the act, as contained in H.R. 5447. In fact, under H.R. 5447's provision for new section 8a(10), as well as the provisions contained in this amendment, the Commission would be empowered to authorize a registered futures association to perform any portion of the CFTC registration program, even if the Commission were to require a futures association to register persons who are not members of the association.

In order to perfect these provisions, the amendment would make four basic changes or additions to new sections 8a(10) and 17(o). First, both section 8a(10) and section 17(o) would be amended to clarify that the exclusive procedures governing registration proceedings conducted by a registered futures association or any other person authorized by the Commission would be set forth in rules of the registered futures association or other authorized person submitted to the Commission for its approval. H.R. 5447's provisions in new sections 8a(10) and 17(o) refer to performing the registration function merely "in accordance with rules approved by the Commission." It is not absolutely clear under this language which rules govern these registration proceedings. The amendment contemplates that futures association rules submitted and approved by the Commission will be the exclusive procedures followed in conducting any aspect of the registration function. Thus, the amendment will clarify that a registration proceeding conducted by a registered futures association or any other person authorized by the CFTC, in accordance with the procedural rules submitted to the CFTC, may not be subject to legal challenge on the ground that procedures contained in the Administrative Procedure Act or any other statute or regulation were not followed.

The second aspect of the amendment expressly provides for CFTC review of final registration decisions rendered by a futures association. The amendment would also make explicit that a futures association may take the full range of registration actions available to the Commission under the act and Commission regulations. This is consistent with the provisions in both new section 8a(10) and new section 17(o) of H.R. 5447, which state that any registered futures association or other authorized person may perform a CFTC registration function "subject to the provisions of this act applicable to registrations granted by the Commission." In addition, the amendment provides a standard for CFTC review of futures association registration decisions that mirrors the standard for appellate review of CFTC registration decisions under the existing scheme. This will avoid petitions being filed with the Commission requesting that it conduct a laborious, costly, and duplicative de novo or other form of factfinding review of a futures association registration proceeding.

The third aspect of the amendment covers CFTC oversight of registration granted by a futures association. Under this provision, registration of an individual would be conditional until 15 days after notification of the CFTC by the registering futures association, unless the CFTC directs the association to revoke or reconsider the application during that 15-day period.

The fourth and final aspect of the amendment would comport with basic notions of due process of law by providing any person against whom a futures association has issued a final registration decision and the Commission has declined to review the merits of such decision, to petition an appropriate U.S. court of appeals for appellate review of the decision under the procedures in section 6(b) of the act that govern appellate review of CFTC registration decisions. This aspect of the amendment will therefore merely make explicit in the statute that the right to judicial review from registration decisions will not be affected by authorizing a futures association to perform these functions.

It should be noted that the last three aspects of the amendment I have explained would apply only to a registered futures association and, therefore, only to the National Futures Association at this time. This is because the context in which new section 17(o) appears in H.R. 5447 warrants that these perfecting amendments apply to registered futures associations authorized or required by the Commission to perform any portion or all of the CFTC's registration functions. The amendment will resolve any potential uncertainty concerning the appropriate interpretation of the relationship between new sections 8a(10) and 17(o) of the act in the event a registered futures association, like NFA, is called upon to assume the CFTC's registration function.

Mr. Chairman, I believe this amendment is needed in order to allow the National Futures Association to get its functions into operation. This amendment is supported by the futures industry, and the CFTC also is in agreement.

I urge my colleagues to support its passage.

□ 1350

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the distinguished committee chairman.

Mr. DE LA GARZA. Mr. Chairman, I just want to state to the gentleman that we have no objection to the amendment.

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

The amendment was agreed to.

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

Mr. Chairman, I would like to engage the chairman of our full committee, the gentleman from Texas (Mr. DE LA GARZA) in two separate colloquies.

The first colloquy, Mr. Chairman, concerns section 223(4).

Section 223(4) of H.R. 5447 amends section 8 of the Commodity Exchange Act to require that notice be given of any subpena served on the CFTC which requests records containing information submitted by a third party. My understanding of this new subsection 8(h) is that it is strictly a procedural requirement. It does not override or preempt any provision of the act relating to confidential or protected information. For example, records which are confidential under the act remain confidential regardless of how they are sought.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I would be glad to yield.

Mr. DE LA GARZA. Mr. Chairman, I would like to state to the gentleman that he is correct. New subsection 8(h) is strictly a procedural provision. It does not authorize or require the disclosure of any information—confidential or otherwise. In fact, it is intended to help assure that confidential information is not inadvertently released by the CFTC, by requiring notice of a subpena to the person who submitted the information to the CFTC in the first place. That person can then take whatever steps are necessary to protect his or her rights under the act.

Mr. GLICKMAN. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I have an additional set of questions that I would like to ask the chairman of the full committee.

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

Mr. GLICKMAN. Mr. Chairman, H.R. 5447 amends section 4k(5) of the Commodity Exchange Act to make it unlawful for any registrant to permit a person to become or remain an associated person of the registrant if the registrant knew or should have known of facts regarding the associated person that are set forth in the act as statutory disqualifications. The amendment makes an exception if the registrant notified the Commission of these facts and the Commission has determined that the person should be registered or temporarily licensed. Questions have been raised with me regarding the intent of this provision, and I would like to engage in a colloquy with the chairman of the committee as to how it is intended that this provision should be applied. The first question relates to what actions the registrant must take in order to satisfy the requirements as to whether he should have known of any facts that would disqualify the employee.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I would be glad to yield.

Mr. DE LA GARZA. I thank the gentleman for the opportunity to expand on the intent as to the operation of this provision. In my view this section contemplates that the employer has an obligation to make a reasonable background check regarding the employee and if, as a result of such background check, no facts that would disqualify the employee have come to his attention then he cannot be charged with a violation of section 4k(5). It is not contemplated that a registered company has an obligation to check the employee with every Federal and State court system and regulatory authority.

Mr. GLICKMAN. I thank the chairman and I wish to ask a further question. As I mentioned, section 4k(5) allows the registrant to continue to hire the employee as an associated person if it has notified the Commission of any facts that are a statutory basis for disqualifying the employee from registration and the Commission has determined that the person should be registered or temporarily licensed. I would appreciate the chairman informing me as to how this provision would operate if there is an outstanding registration or temporary license for the employee at the time the facts regarding the statutory disqualification become known.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I would be glad to yield.

Mr. DE LA GARZA. Mr. Chairman, I would like to state to the gentleman that in my view the registrant would not be in violation of this section if he should continue the employment of the associated person who has previously been registered or temporarily licensed as long as the Commission had not taken affirmative action to suspend or revoke the registration or license. If, however, the Commission should take action to suspend the registration or temporary license or should revoke it after the required hearing there would be an immediate obligation for the employer to terminate the employee as an associated person.

Mr. GLICKMAN. I thank the chairman.

AMENDMENT OFFERED BY MR. CONABLE

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

The Clerk read as follows:

Amendment offered by Mr. CONABLE: H.R. 5447 is amended by—

(1) striking the "and" on line 16, page 55 in section 226;

(2) inserting in section 225 between lines 5 and 6 on page 54 the following new paragraph (11) to section 8(a) of the Commodity Exchange Act to read as follows:

"(11) to establish and from time to time fix the amount of reasonable fees and charges for registrations under this Act and renewals thereof, for filing reports with the Commission, for processing reparations claims, and for other regulatory duties and services performed by the Commission in accordance with this Act or a rule, regulation, or order of the Commission."; and by

(3) deleting section 238 in its entirety and lines 7 and 8 on page 81, and inserting in lieu thereof the following:

TRANSACTION FEES

SEC. 238. (a) Section 26 of the Futures Trading Act of 1978 (7 U.S.C. 16a) is amended by striking out the existing language.

(b) The Commodity Exchange Act is amended by adding a new section 24 to read as follows:

"TRANSACTION FEES

"SEC. 24. (a) Each contract market, or other board of trade licensed by the Commission shall remit to the Treasury of the United States, with written verification thereof to the Commission, by February 1 of each year, a fee in the following amounts for each contract for the purchase or sale of a commodity for future delivery and for each commodity option subject to the provisions of section 4c of this Act entered on or subject to the rules of such contract market or board of trade during the preceding year ended September 30 ("fiscal year") or portion thereof following the effective date of this section:

"(1) 12 cents for each such contract or option which is made or executed for the account or benefit of a person who is not a member of such contract market or board of trade or of a registered futures association; and

"(2) 6 cents for each such contract or option which is made or executed for the proprietary account (as defined by the Commission) of a person who is a member of such contract market, board of trade or of a registered futures association.

"(b) Each person who grants a commodity option pursuant to section 4c(d) of this Act, or who is engaged in the business of offering and leverage transaction pursuant to section 19 of this Act, shall remit to the Treasury of the United States, with written verification thereof to the Commission, by February 1 of each year, a fee of $3 for each such option granted or leverage contract entered during the preceding fiscal year or portion thereof following the effective date of this section.

"(c) The fees assessed hereunder for any fiscal year are intended not to exceed the funds appropriated by the Congress for the Commission's activities for the following fiscal year. In the event that the total fees remitted to the Treasury of the United States pursuant to this section for any fiscal year or portion thereof exceeds the funds appropriated for the Commission for the following fiscal year, the Commission shall, by rule, regulation, or order, suspend the assessment of fees in the current fiscal year for such period as the Commission determines, to the extent practicable and based on current market volume, would otherwise generate an amount equal to excess fees remitted for the preceding fiscal year. No fees shall be required to be remitted for transactions effected during such period of suspension determined by the Commission; provided that at the conclusion of such period, the obligation to assess fees to be remitted under this section shall resume.

"(d) Notwithstanding any other provision of this section, the Commission, after notice and opportunity for hearing, may by rule, regulation, or order reduce, suspend, or waive the application to any person or class of persons, of the fees or any portion thereof upon finding that such action is necessary to prevent or correct any significant adverse effect upon any market or person occasioned by such fee.

"(e) The Commission shall create, prior to or after the effective date of this section, an advisory committee pursuant to the Federal Advisory Committee Act, comprised of persons materially affected by the operation of this section. Such advisory committee shall remain in existence until June 30, 1985. The advisory committee shall be empowered to advise the Commission with respect to the efficacy of the fee system created by this section, to consult with the Commission with respect to actions taken under subsection (d), hereof to prepare a report containing its assessment and recommendations with respect to the fee system, and to perform such other duties and functions as the Commission may prescribe. Such report, together with the views and recommendations of the Commission, shall be submitted to the Committee on Agriculture of the House

of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the United States Senate no later than June 30, 1985."

Mr. CONABLE (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 New York?

There was no objection.

Mr. PEYSER. Mr. Chairman, 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 appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1400

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 gentleman from New York (Mr. CONABLE) is recognized for 5 minutes in support of his amendment.

Mr. CONABLE. Mr. Chairman, I thank my friend, the gentleman from New York (Mr. PEYSER) for calling the quorum call. It was lonely over here during the pendency of this amendment, and I will appreciate whatever consideration my colleagues can give to a proposal which astonishes me because of the depth of the opposition when the proposal imposes a 6-cents-a-transaction fee on futures commodity transactions. It is, in fact, a very modest fee, but because of the large number of transactions, it will raise almost the amount of the cost of running the Commodity Futures Trading Commission.

That cost is estimated now at about $20 million. Over the next couple of years, the number of transactions is expected to increase, and it will be ample to cover the entire cost, rather than have that money come out of the Treasury.

Now, I acknowledge that in the total complex of Federal expenditures this is not a large sum of money, this $15 million, but clearly it is an appropriate subject for a user fee because all people do not benefit from futures transactions. The people who will benefit the most, and I believe at least historically they are farmers, although I must acknowledge that futures transactions now involve all kinds of securities as well, the people who historically have benefited the most, the farm groups, do not object to this measure. They see it as a reasonable way of paying the cost of the regulatory commission.

Now, one objection that is made against this proposal is that an effort is being made to provide some self-policing. As we move ahead through the futures association, there is nothing inconsistent with having self-policing in addition to a user fee of this sort. In fact, many other types of markets have similar, parallel structures. One would hope that the futures association will be an effective agency and will develop rules that will facilitate the work of this exchange.

But in the meantime—and it doubtless will take at least a couple of years for the futures association to get its rules in place—why in the world should the taxpayers pay the cost of this particular regulation?

The money goes to the Treasury and it is roughly equivalent. It is not burdensome at 6 cents a transaction or 12 cents for nonmembers; only because of the staggering number of transactions does the amount of money raised constitute a significant enough sum to be an appropriate subject of amendment here today.

□ 1410

Mr. Chairman, I understand there is very strong opposition to this proposal. I regret that it was necessary to have a member not of the Commerce Committee or the Agriculture Committee, the two affected committees, present this amendment. I would not have presented it had it not appeared on its face, anyway, so totally reasonable. I will be happy to listen to the argument against it, but I hope somebody here will represent the taxpayers and not those who participate actively in the business of trading futures.

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

Mr. Chairman, there is no Member of this body for whom the gentleman from Virginia has a higher personal regard than he does the gentleman from New York (Mr. CONABLE). However, I must rise in opposition to the gentleman's amendment.

The Committee on Agriculture considered at great length the recommendation by the CFTC to authorize the imposition of user fees on commodity transactions subject to the Commission's jurisdiction. The purpose of the proposed fees, as I understand it, would be to recover a major proportion of the CFTC's operating budget. The committee agreed to defer the authorization of user fees and, instead, directed the CFTC to study the possible effect of such fees and report to the Congress with its findings by January 1, 1984.

I believe, Mr. Chairman, there are several significant reasons for this approach. I think all of us are mindful of the need to reduce the cost of the Federal Government. Nevertheless, the committee concluded that it did not have enough information to determine the potential effect of user fees on the commodity markets. The committee also recognized that the National Futures Association, an industry-funded, self-regulatory organization recently approved by the CFTC, is now being organized, and Government-imposed fees at this time, at least in the judgment of the gentleman from Virginia, could jeopardize the formation of the National Futures Association, which, when operating, will indeed relieve the CFTC of a number of its regulatory burdens.

The committee was aware that the commodities industry already bears a significant share of the burden of regulating these markets through fees paid to fund the self-regulatory programs carried out by the exchanges, and it would seem to me that before imposing additional fees on the industry, it would be better and more important to determine what portion of the CFTC's budget benefits the public, and therefore should be most appropriately borne by the taxpayer.

Therefore, a study and report by the CFTC will be forthcoming which will better enable the Congress to make an informed judgment on whether and to what extent user fees should be imposed on the commodities industry.

I might also point out, Mr. Chairman, that the participants in the futures markets already bear a significant share of the burden of regulating those markets. Like their counterparts in the securities industry, all Commission registrants pay registration fees which reimburse the Commission for the direct costs of regulating those market participants. Moreover, market participants pay exchange transaction fees which support the self-regulatory functions of the exchange. Annual membership dues are paid by exchange members, and these dues support those functions. A recent industry survey prepared for the reauthorization hearings showed that approximately $18 million is spent on self-regulatory activities by the exchanges now.

Mr. Chairman, it seems to me that this amendment is premature, that we should await the study mandated by the bill that will be made, and then we can make a better-informed judgment.

I might also point out, Mr. Chairman, there is great concern expressed over the impact of user fees, and this comes not from the futures industry, but from many farm groups which use the markets to hedge their crops or livestock. These groups, which include the American Farm Bureau, the Na-

tional Cattleman's Association, the National Grain and Feed Association, the National Farmers Union, and the National Grain Trade Council, are all concerned that these fees, which likely will be passed through to them, will only increase producers' costs. Various commercial hedgers, such as the American Cotton Shipper's Association, have also expressed concern before the Committee on Agriculture about the proposed user fees because of increased costs, and more importantly, about the potential adverse impact that such fees may have on market liquidity.

I therefore urge my colleagues to reject the amendment of the gentleman from New York.

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

Mr. Chairman, I am the author of the language in the bill, and I think there are a few points that need to be cleared up. One of the concerns that the Agriculture Committee has is the issue of protection of the public. The CFTC, ever since its formation, has been criticized because it is not strong enough to protect the public. Certainly, the commodities industry is a huge industry, a mammoth industry compared to any business in this country.

The CFTC from the standpoint of regulatory agencies is a very small one and a very new one, still in its infancy. In fact, the CFTC has only been in existence since 1975.

The administration urges the imposition of user fees, not to add to the funds that are already being provided to CFTC for the purpose of regulating the industry and preventing fraud and corruption, but in place of the funds that were already there.

Many within the industry have pointed out that Congress has requested a self-regulatory agency be set up to assist the CFTC with its regulation of the industry. They have stated that if a user fee is put into place it could damage and perhaps kill the National Futures Association concept.

My proposed compromise is this: The National Futures Association would be given the opportunity to prove itself, and the CFTC would be the judge. If at the end of a 2-year period the CFTC had found that the NFA was not contributing to the regulation, was not assisting in protecting the public, then a user fee would be assessed against the commodities industry. But, that money would not replace public money, but would instead be added to that money so that the public could receive greater protection.

The bottom line is this: $23 million worth of protection is provided within the authorization for funding for the CFTC. An additional $6 million has been assessed by the industry against itself for the NFA. The public will receive, in effect, $29 million worth of protection under the committee's bill.

□ 1420

If we follow the route that the gentleman from New York (Mr. CONABLE) has propsed, the very most the public can hope for is $23 million in protection. If we find that the administration of the NFA is not successful, if the industry does not police itself, does it not make good sense to simply apply that funding to the CFTC and to strengthen an agency that we all know is well underfunded and understrength? I think that if we pursue the course charted out by the committee, we will find that the public is better protected and better served.

I must say that I do find it rather ironic that this administration, one which has made such a point of the fact that we should have less Government regulation and that we should encourage the private sector to regulate itself, would now be throwing cold water on this very philosophy in the committee bill.

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

Mr. ENGLISH. I am happy to yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, the gentleman from Oklahoma (Mr. ENGLISH) assumes that the development of the National Futures Association is inconsistent with the charging of this fee.

Is there any reason why the National Futures Association cannot go forward also?

Many other exchanges have similar organizations. For instance, the National Association of Securities Dealers continues to perform although there is a much more burdensome fee charged on brokers in order to regulate the Securities and Exchange Commission.

Mr. ENGLISH. Mr. Chairman, I would have to say to the gentleman that I wish it were so. But I think we all recognize that with an infant agency such as CGTC and with an infant organization such as NFA, without question it presents a problem.

The CHAIRMAN. The time of the gentleman from Oklahoma (Mr. ENGLISH) has expired.

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

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

Mr. ENGLISH. I am happy to yield to the gentleman from Minnesota.

Mr. HAGEDORN. Mr. Chairman, I want to compliment the gentleman in the well for describing this legislation so ably. I think that the committee has come up with reasonable language to give us some time and a study and to determine later on whether we should go to a self-financing by taxing transactions or whether we should continue and try to give new life to the National Futures Association and to let that take over much of the responsibilities as it is intended to.

I know that the NFA testified extensively before our committee and submitted substantial documentation of its plans and of its ability to assume the Commodity Futures Trading Commission functions in the areas of registration, financial auditing, sales practice standards, and customer arbitrations.

A rose is a rose is a rose, and a tax is a tax is a tax. That is what we have heard. It is another tax, and I believe the American people are, quite frankly, being taxed to death, and that this is an unneeded tax at this time.

We ought to allow for a study and further consideration and not move overly hastily.

Mr. Chairman, this is another example where in a number of areas this administration has moved in this direction, and it is one which I cannot support myself.

Mr. ENGLISH. Mr. Chairman, I simply urge that we seek greater protection for the public. I believe we will accomplish that by staying with this compromise language. If NFA does not perform as it has promised, then that money should be added to the CFTC budget, not taken away.

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

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

Mr. Chairman, this issue was considered very carefully by the committee, and it was decided to delay the imposition of any user fees for at least 2 years.

This delay was granted so that the industry could move ahead with implementing the National Futures Association, an industry self-regulatory organization which will assess the industry as much as $9 million annually.

The National Futures Association will provide regulatory standards for certain off-exchange sectors of the industry which receive little direct attention from the CFTC. The NFA is patterned after the National Association of Securities Dealers which has successfully dealt with many similar problems within the securities industry. The implementation of the National Futures Association has been under way for some months.

During debate on the user fee proposal, the committee was convinced that the imposition of the fee would unfairly deprive the NFA of its funding base during its infancy. Special consideration was given to this argument since both the committee and the Commission have been actively en-

couraging establishment of the NFA since 1974. To impose an additional fee on the same individuals and corporations at this critical time would constitute action in bad faith on the part of the committee and the Congress.

Additionally I want to point out that this industry operates generally under a self-regulation concept where the functions of the exchanges are paid for by the industry itself. According to one industry expert the six major commodity exchanges alone spent close to $18 million on self-regulatory functions in 1981.

Mr. Chairman, this means that the commodities industry will be spending around $27 million on self-regulatory functions next year when the NFA is fully operational. They are doing what we asked of them. For this reason I will oppose this user fee amendment and support the committee bill which provides for a 2-year delay in the imposition of such fees giving the NFA a fair chance to get started.

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

Mr. Chairman, unfortunately, I must rise in opposition to this amendment. It is with great trepidation that I do so. I have no greater respect for any Member of the House than the gentleman from New York (Mr. CONABLE), the ranking Republican member of the Committee on Ways and Means.

But I think in this case this amendment needs to be before the Ways and Means Committee for consideration before we ask the Members of the House to vote on it.

Mr. Chairman, a tax by any other name is a tax. A user fee or a trading fee is in fact a tax. It is a forced levy by the Government upon citizens to be paid into the Treasury. That is a classic definition of a tax.

Taxes should come from the Ways and Means Committee after hearings to determine their need and their applicable level. While perhaps transactions before the CFTC should pay a fee or pay for part of the cost of running that agency, should they pay for all of it? This amendment will raise almost the full operating cost of the CFTC, a Federal agency.

Does the CFTC not serve the public to some degree? Is it there solely for the transactors who go before it? I do not believe that is the case, and that is usually not the case with any Federal agency.

Therefore, the General Treasury does have an obligation to pay for at least some part of the cost of the operation of one of its Federal agencies, certainly one that gives some benefit to the general public and at least in proportion to its benefit to the general public.

The Treasury pays almost all the cost of the running of the agency now, so the adoption of this amendment would be a change, and a drastic change.

I support reducing deficits and the concept of user fees at some fair level where applicable. We do not know whether it is applicable here or not. There have been no hearings. We do not know at what level it should be applied. We have had no hearings.

Therefore, the amendment should be defeated and considered subsequently by the Ways and Means Committee.

User fees are a tax, and a user fee by any other name is still a tax. If we are going to apply this tax to somebody that comes before this agency, it ought not be in excess of what the Congress judges that proportion of the benefits of that agency accrued to that particular transactor. If the agency benefits accrue one-half to the public, the Treasury ought to pay one-half and the transactors one-half. We do not know that in this case.

This amendment ought to be refused, and we ought to go into this question of user fees, as all taxes should be, before the Ways and Means Committee.

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

Mr. MOORE. I certainly yield to the distinguished ranking minority member of the Ways and Means Committee.

Mr. CONABLE. Mr. Chairman, allow me to pay my respects to the gentleman also. I appreciate the gentleman's worrying about the sacred turf of the Ways and Means Committee. There may be others in the room who feel the same way.

However, this measure as it came before the body had no user fee in it, and thus there was no basis for us to assert jurisdiction over it.

I think we should not supinely accept what is a rather unfortunate result simply because we need to protect sacred turf.

I am sure the gentleman did not mean to imply that anybody but the taxpayers pays the cost of this Commission now. They are paying the cost through the income tax, however, and for him to assume that this is totally a public charge or even in part a public charge or to say that we ought to spend a good deal of time and worry about jurisdictional niceties for that reason when it involves such an eclectic operation as the purchase of futures is, I think, rather unusual.

Mr. MOORE. Mr. Chairman, may I say in answer to the distinguished ranking minority member that is not my concern. My concern is not one of jurisdiction. The Ways and Means Committee has jurisdiction for a reason to consider all tax bills. We do not write tax bills on the House floor. We want to be sure that when we impose a tax on someone, it is fair and needed, and that we have levied it in the right amount.

□ 1430

This is a tax and should be treated the same way.

The fact remains that right now the Treasury is paying all of the costs of the operation of this agency. I accede to the gentleman that maybe that is not entirely correct but nor is it correct to go to the other extreme as the gentleman would have us do and have the transactors before a Federal agency pay all of the costs of that agency.

The agency is there not just for the benefit of the transactors but for the benefit of the general public also and it is the job of the Ways and Means Committee to sit down and go through this matter, determine how much should be paid by the General Treasury, how much should be paid by a tax on those who in particular use that agency's services.

I think this is a real question that the administration should have brought to us in an entire package on user fees. They did bring this Congress a package on other user fees. With the exception of those on airplane ticket taxes and fuel that came through in the tax bill that passed last month, all of those user fees have been rejected by the Congress.

All of those should have come to the Ways and Means Committee and I believe were slated to do so, as would be properly the case.

Mr. CONABLE. I thank the gentleman. The gentleman knows something about the area of user fees and I know he has studied this a great deal. I happen to disagree with him in this case.

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

Mr. Chairman, this amendment clearly constitutes a revenue measure, and thus comes within the jurisdiction of the Committee on Ways and Means, whether characterized as a user fee or a tax. In fact, the fee proposed in this amendment may well be a tax. The Committee on Agriculture considered and rejected a similar proposal during its deliberations on this bill. The committee's report notes that the fee was "not so much a user fee but a transaction tax."

PROVISIONS OF THE AMENDMENT

Whether a user fee or a tax, the provisions of the amendment raise questions that clearly deserve the attention of this House.

First. What is the rationale for establishing a 2-to-1 discrepancy in the charge imposed on nonmembers as opposed to members of the exchanges or the futures association?

Why is the charge for a futures contract established at 12 cents or 6 cents, while that for options is $3?

Do the costs of regulation vary that significantly? If not, I would suggest that what we have here is not a fee based on the costs involved, but a tax based on some other criteria that should be carefully examined.

Second. Is it appropriate to permit a regulatory commission, rather than the Congress, to determine when these charges will be imposed and when they will be suspended or waived?

It is unprecedented to provide revenue powers to such a body, one that is independent of the executive branch and must be reauthorized by the Congress only periodically. If the Congress is willing to raise revenues by imposing charges on certain acitivities, it should also clearly establish the terms and conditions of such charges.

Instead, the amendment before us provides that the Commodity Futures Trading Commission (CFTC) may suspend the fees for a period of time if collections for the preceding fiscal year exceed the amount appropriated to the Commission. There are no details on the extent of this power or the conditions of its exercise. For example, must the Commission suspend the fees even if it projects that fees for the current fiscal year will be insufficient? How are requests for supplemental appropriations to be taken into account? What notice is to be provided? Can a suspension and reinstitution of fees take place at any time during the year?

Even more disturbing is the provision allowing the Commission to reduce, suspend or waive these fees as to any person upon a finding that the fees would cause an adverse effect on a person or market. Where else do we waive a fee or a tax on this basis? Is this an invitation to the special interests to lobby the CFTC for special treatment? What really is contemplated here? It seems to me that if there really is a possibility of harm to the extent that this provision is necessary, the fees proposed are not well conceived and should not be enacted until any potential problems are fully considered and appropriately resolved. The solution proposed in the amendment is just not acceptable.

Third, in conclusion, I would remind my colleagues that user fees, while justified in many circumstances, are not the ultimate answer to every funding problem. We should carefully consider, in the normal legislative process, when fees are appropriate and the extent to which these should be relied upon in funding Government services.

The economic benefits provided by the commodity markets are widely shared and do not accrue to market participants alone. Thus, it is appropriate to rely on general revenues for some portion of the Commission's funding in reflection of the public interest to be served by the careful and responsible regulation of these markets.

I strongly urge my colleagues to reject the Conable amendment.

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

Mr. ROSTENKOWSKI. I am pleased to yield to the gentleman from New York.

Mr. CONABLE. It is within the power of our committee always to have hearings on anything that is in fact a tax. If this is a tax I point out to the distinguished chairman of the Ways and Means Committee that a point of order would have lain against it. But in fact it is a fee.

I would like to say also that as a fee this is not a remarkable fee. It is less than one-third the cost of a postage stamp per transaction, and we are putting $50 million of burden to the general taxpayers if we do not adopt it.

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

Mr. Chairman, I will be brief. The distinguished gentleman from New York is aware of my admiration and respect for him. Mr. CONABLE is as wise and able a legislator as there is in this House.

The question of user fees has been discussed at great length over recent months. A variety of user fees have been proposed which in the main, have not been enacted.

After careful consideration, however, the Committee on Agriculture determined it was wiser to encourage the industry to carry forward its plans to develop a protection system similar to those that exist in the securities industry. This system will require contributions by the industry.

Looking ahead to that, we should not impose on the industry the further burden of a user fee, transaction tax, or whatever one chooses to call it.

In addition, I note that the gentleman from New York's amendment provides that the user fee would be 12 cents for the nonmember and 6 cents for the member. For nonmembers such as farmers using future trading, it seems to me that perhaps 12 cents is a bit stiff, as they say.

Mr. CONABLE. Mr. Chairman will the gentleman yield on that point?

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

Mr. CONABLE. I wish to point out that the farm groups, at least the Farm Bureau, the Grange, the National Cattlemen's Association all support this user fee. They apparently do not feel it is discriminatory or burdensome.

Mr. FOLEY. I thank the gentleman for that information. I certainly had no particular charge from them to make this complaint.

I simply noticed that nonmembers are changed 100 percent more in user fees than members are.

In any event, the entire question of whether there should be user fees or not has been addressed. In the case of a variety of other activities, and economic activities in particular, we have chosen not to expand user fees.

Additionally, because this industry particular is about to undertake an expensive, important, and highly useful program of self-regulation and indemnification to protect the customers of the various commodities markets, I think it has sufficient and justifiable reason to request that user fees not be imposed.

□ 1440

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

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

Mr. CONABLE. Obviously, the increment that is charged nonmembers will encourage participation in the association, something that should help self-regulation rather than discourage it.

The self-regulation is not in any way inconsistent with the imposition of a user fee to pay the cost of the commission.

Mr. FOLEY. Nonmembers by their very title would not be members of the association. The real point is, however, that the industry will be expected to undertake the responsibility of giving protection to customers. Under the circumstances, the Agriculture Committee felt that it would be better not to move forward on a user fee at this time; and I would hope that the House and the committee would follow its recommendation, of the committee, the amendment offered by the wise, generous, and competent gentleman from New York notwithstanding.

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

Mr. Chairman, I rise in opposition to the amendment offered by my colleague, the gentleman from New York, that would impose user fees, additional user fees, I might add, on the futures industry at this time. I do so with some mixed emotion, because as usual he makes a lot of sense in the argument that he makes. But I can also say the same of Chairman ROSTENKOWSKI and the gentleman from Washington (Mr. FOLEY), who just spoke. And I would like to reiterate, for just a moment, some of the main points that I think the committee needs to take into consideration as we act on this important amendment.

The Agriculture Committee has carefully considered the issue. That committee directed the CFTC to proceed in three important ways. First, the CFTC is to conduct a study concerning the effectiveness of the National Futures Association and submit that study to the Congress. Second, the CFTC is to conduct a study measuring the relative benefits of user fees to the general public. Third, the CFTC must also analyze the effect of any proposed fee or tax on the liquidity of the futures markets in the United States.

These three steps have not yet occurred. I urge my colleagues to accept the thoughtful threefold approach of the Agriculture Committee and to avoid any premature action now.

During the extensive hearings conducted by the Agriculture Committee, several witnesses testified that user fees would have serious adverse effects on the market. Witnesses stated that user fees would discourage trading and reduce the effectiveness of the risk shifting and price discovery functions of the markets. Other witnesses testified that the cost of user fees would be borne by the producers who cannot afford this additional burden. Others testified that since the general public benefits from the futures markets, the public should also share the cost of regulating them. I suspect that such testimony is well founded. I am at least willing to let a study go forward to find out.

I fear the impact of these so-called user fees will extend beyond the futures industry and fall most heavily on the farmers of America that use directly or indirectly the futures market to hedge their crops or their livestock feeding costs.

Therefore, I urge my colleagues to recognize that the economic impact of user fees on the direct users of the markets, and on those hundreds of thousands who depend on the futures markets to facilitate the marketing of their production, should be carefully examined, to see who benefits—the users or the general public—before the Congress should even consider such a fee or tax.

The point I want to reiterate is this: It is not that additional user fees in commodity trading are necessarily a bad idea. They may very well be a good idea, and the gentleman from New York may be totally correct. I strongly support the idea of those who use a Government service paying for at least a portion of its cost, if not all.

But we need to remember two major points: First, the industry is already paying significant user fees; in fact, almost twice what we are talking about in this amendment. The question, then, is not whether or not, but how much additional fees or taxes we should impose. Second, business does not pay taxes or fees. Business collects taxes for government. Consumers end up paying taxes or fees levied on business. Now, this is a user fee, rather than a tax; but the principle is the same: It is an added cost of doing business. And I cannot help thinking that sooner or later it will be reflected in the prices that in this case farmers will receive for their commodities. This is not the time to add an additional cost on our farmers.

Until the CFTC completes its study and the Congress carefully considers all aspects of this issue, including committee jurisdiction, we should not go forward and impose an additional fee at this time. I urge my colleagues to reject this amendment. We should oppose this user fee at this time until the proper studies can be completed.

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

Mr. Chairman, I have listened to this debate for the last 30, 35 minutes, and I find it very difficult, as I am sure the American public must, as to just what is happening here and where the argument is.

Now, unless I am mistaken, and I am sure my good friends who are on the floor here will correct me in that case, as I certainly want them to do, when a transaction takes place dealing with the commodity markets and trading in futures, a commission is paid, a commission is paid to the broker, somebody who is handling this transaction.

My understanding is that the average commission paid under these types of transactions, the average, is about $60 to $70.

Now, the gentleman from New York has offered an amendment saying that 6 cents should be paid to help pay the cost of regulating this whole operation. And somehow the inference has been given that nobody is really paying this now, that it is just sort of going on, and to impose this 6 cents to members, or 12 cents to nonmembers, is really not necessary.

One of my colleagues on the Republican side said that the American people really were being well served by this. I would love to have this issue put to a vote of the American people, and I tell you that it would not get 10 percent of the vote because the American taxpayer is paying about $15 million a year to help regulate and operate these exchanges, when it should be paid by those participating, as it is, I believe, in practically every other exchange.

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

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

Mr. MOORE. I appreciate the gentleman yielding. I will be glad to ask for additional time for the gentleman should the gentleman not be able to complete his remarks.

What I was attempting to refer to—and I assume the gentleman was referring to me a moment ago when he identified an unknown Member from this side of the aisle—was the fact that this Federal agency exists for the purpose of the transactors, to be sure, to regulate them; but also to protect the general public. Otherwise there would be no sense in having a Federal agency do this.

The whole idea of a users fee or a tax is to try to apportion the fair rate that the transactor pays for that percent of the operations of the agency that accrue to him and him alone, and then what part the General Treasury ought to pay for that portion of the activities that accrue to the benefit of the general public.

All I am saying is, there maybe ought to be a user fee here. We do not know how much or to what degree until we delve into this question, as we have done with all user fees in the past. The one that came through here in the airport tax, for instance, will pay for about 60 percent of the operations of the FAA, it being the thinking of the Public Works Committee and the Ways and Means Committee, from studies done, that about 40 percent of the operations of the FAA attribute to the general benefit of the public and, therefore, ought to come from the General Treasury and not from users of airplanes or pilots or whatever.

That is the point I was trying to make, and I appreciate the gentleman yielding.

□ 1450

Mr. PEYSER. I thank the gentleman for his comment. As long as the issue of user fees has been brought up, I would like to say we have just passed a tax bill that had included in it a user's fee that tripled the telephone tax. This is to Mr. and Mrs. America out there, everybody who has a telephone.

I never saw nor did I ever hear of any study being conducted as to the impact of that tripling of a telephone tax for the average American public, what the impact was on them. Because there was no study.

I just feel that when we are talking now and saying let us wait and we will have a study, let us have the Conable amendment passed and then have a study. If it turns out 6 cents is too little, then we can raise it the next year to 8 cents or 10 cents, whatever it may be. We know it will not be too much because it is just covering what it now costs.

I think it is important that we somehow get a handle on what this $15 million means. In our work here on the floor, it is seldom we get down to argu-

ing about $15 million; $15 million is not worth the time of day around here.

The CHAIRMAN. The time of the gentleman from New York (Mr. PEYSER) has expired.

(By unanimous consent, Mr. PEYSER was allowed to proceed for 5 additional minutes.)

Mr. PEYSER. The issue that we are talking about is $15 million, I said, normally we are dealing in hundreds of millions or billions of dollars; and many times we do not have as much discussion as we are having right now on $15 million. But I looked at some figures here. I figured out—and I hope my colleagues who are back in their office are going to give thought to this as they are watching—what does $15 million really mean in governmental waste?

I worked it out. I found out that 7,500 more students in this country could get guaranteed student loans if $15 million were given to that. I found out over 15,000 Pell grant students could get Pell grants if that $15 million were applied to them.

I found out one could open and keep running over 200 new senior citizen centers with that $15 million; over 15 million school lunches could be served, and so forth and so on. It is a real important item.

It is coming right out of our taxpayer's pockets.

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

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

Mr. ENGLISH. Mr. Chairman, I appreciate the gentleman yielding.

I think the gentleman certainly has made a couple of good points. I think there is one question we really have not focused on that much here today. I think it is one that is very important.

That is the question of whether or not the CFTC, the Commodity Futures Trading Commission's efforts have been sufficient. Certainly, if they have been sufficient, if they have done the job, if they have protected the public, if we are satisfied with that overall effort, then I would agree with the gentleman and the amendment offered by the gentleman from New York (Mr. CONABLE) would make a great deal of sense.

Every indication we have had from the formation of the CFTC in 1975 is that this is an infant agency that is playing catch-up. It is desperately trying to play catch-up. In fact, to give the gentleman some idea of just how far we have had to go, we have even given the States the authority to prosecute, under Federal law, in the Federal court, because the CFTC simply did not have the resources to go out and cover the jurisdiction that was expected of them.

What we have tried to do here in this bill is to recognize that. We understood that. This was the whole idea of the concept behind trying to provide incentive for the industry to do some self-regulation itself.

We finally came down and said, "Look, we are just starting up the NFA. We will give them 2 years. If they do not do the job at the end of that 2-year period, we will impose the user fees, but we will not put that money into the Commodity Futures Trading Commission in place of tax money; we are going to add it to the tax money."

So if the gentleman's concern is—and I think there has been sufficient publicity to advertise the problems in the commodities industry—if the gentleman's real interest and concern is protecting the public, there is no way one can go other than staying with the committee amendment.

Mr. PEYSER. I appreciate the gentleman's comments.

I must say I find the whole issue, including what the gentleman was just saying, hard to understand why we should not still say that 6 cents per transaction should be paid to offset what it is costing the American taxpayer. Sure, we want regulations; we want them to be done the correct way; but I do not see how there is an argument that can possibly be made that we should not charge the traders instead we should charge the American taxpayer.

I may be mistaken on this issue. Once again, I will be glad to be corrected. Do any of the other exchanges pay anything? Are there any other exchanges that have no charges?

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

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

Mr. CONABLE. As far as I know, there is ample precedent for this in the other exchanges. I do think it is important to stress, if the gentleman will yield to me further, that there is nothing inconsistent in this measure with the development of the National Futures Association as a self-policing body. In fact, it should encourage the National Futures Association's future development because of the fee schedule.

Mr. PEYSER. I would think so as well. I say to my friend that I think the amendment is a sound one. I think those of us who talk about being supporters of consumers ought to really look at this little amendment that is on the floor and ought to act for the consumers.

There is one thing that I have heard over the years, and that deals with the futures market. Years ago when I was in New York, I talked to a friend of mine who was a broker on the street about trying to invest in the futures market.

The CHAIRMAN. The time of the gentleman from New York (Mr. PEYSER) has expired.

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

Mr. PEYSER. I asked this broker about investing in the futures market, and he said to me, "Peter, if you like shooting crap, go into the futures market."

That is really what the futures market has been over the years. Fortunes have been made overnight and have been lost overnight; and for us to say we are not going to charge 6 cents for this kind of a transaction, I do not think makes sense.

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

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

Mr. MOORE. I thank the gentleman for yielding.

In answering the gentleman's question a moment ago we are ignoring the fact the other exchanges are private. They are not Federal exchanges. The stock exchanges, the commodity exchanges, they are not Federal exchanges. This is.

Second, we have an extreme situation in the law now where the Government—the Treasury—is paying for the sole cost of this. I think the amendment offered by the gentleman from New York (Mr. CONABLE) goes to the other extreme of having the transactors pay the sole cost of a Federal agency.

I again say the Ways and Means Committee ought to be charged with coming up with a user fee that somehow finds the true proportion the public ought to pay and the users ought to pay.

Mr. PEYSER. Once again I hope the Ways and Means Committee chooses to act on this as well. I think between now and when that time takes place, the American public has footed the bill long enough on the issue. We ought to certainly move out and pass this amendment and give the taxpayer a break even if it is only $15 million.

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

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

Mr. Chairman, the committee considered at great length a recommendation by the CFTC to authorize the imposition of user fees on commodity transations subject to the Commission's jurisdiction. The purpose of the proposed fees would be to recover a major portion of the CFTC's operating budget. The committee agreed to defer the authorization of user fees and, instead, directed the CFTC to study the possible effect of such fees and report

to Congress with its findings by January 1, 1984. There are several significant reasons for this approach.

While mindful of the need to reduce the costs of the Federal Government, the committe nevertheless concluded that it did not have enough information to determine the potential effect of user fees on the commodities markets. Furthermore, the committee recognized that the national Futures Association, an industry-funded, self-regulatory organization recently approved by the CFTC, is now being organized. Government-imposed fees at this time could jeopardize the formation of the NFA, which, when operating, will relieve the CFTC of a number of its regulatory burdens.

Mr. Chairman, the committee was aware that the commodities industry already bears a significant share of the burden of regulating these markets through fees paid to fund the self-regulatory programs carried out by the exchanges. Before imposing additional fees on the industry, the committee believes it important to determine what portion of the CFTC's budget benefits the public and, therefore, should most appropriately be borne by the taxpayer.

The study and report by the CFTC will enable Congress to make an informed judgment on whether and to what extent user fees should be imposed on the commodities industry. I therefore urge my colleagues to vote against adoption of this amendment.

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

Mr. Chairman, I rise in opposition to the amendment. I will not use the full 5 minutes. I think we want to vote here. I think the point made by the gentleman from New York (Mr. PEYSER) was an erroneous one if we look only at that issue.

The issue is not how much money we tax the transactors or the users. The real issue is what percentage of that money will comprise the CFTC budget. That will not be decided until we get the results of the study. All this bill is asking is to give us that chance to find out, to give us that chance to find out how much the users ought to pay, how much the general public ought to pay.

In a rural area, we know the impact the CFTC has on our people, on our farmers, on our grain elevators, on just about every element of the the agricultural economy. So with that goes the responsibility to help pay for that regulation, and I think this bill addresses it very adequately.

Mr. Chairman, I rise in support of the provisions in the committee bill which prohibit, at this time, any transaction tax or fee to be imposed on commodity transactions. Conversely, I oppose any and all attempts by the CFTC and the Office of Management and Budget to obtain financing for the CFTC's operations through the imposition of a tax directly on participants in the futures markets.

Perhaps the primary issue facing Congress during this CFTC reauthorization process has been the question of transaction taxes which the CFTC and OMB have attempted to sell to Congress under the misnomer—user fees. The question whether to term this proposal as one for a transaction tax or a user fee is not merely an academic exercise in terminology. Instead, as was revealed during committee hearings and debates on this subject, the question whether this proposal involves a tax or user fee is central to understanding the erroneous assumptions underlying this proposal.

The CFTC employs the term "user fees" in an attempt to suggest that only those persons who use the futures markets benefit from regulation of those markets and therefore should pay a fee for that benefit. The fee proposed by the CFTC, however, would affect not only traders, but also all other segments of our economy including consumers, producers, processors, and other economic institutions who rely upon the futures markets and therefore use the markets, either directly or indirectly. For that reason, the term "transaction tax" more accurately describes the payment the CFTC proposes to exact from any participant in a futures transaction in order to cover the cost of the CFTC's operations.

The basis for the CFTC and OMB position is clear. They assert that futures regulation benefits only participants in the marketplace. That is, only individual and entities who actually trade futures contracts have something to gain from regulation of the markets. This premise is inconsistent with an express congressional finding embodied in the Commodity Exchange Act since 1922. Section 3 of the Commodity Exchange Act recognizes explicitly that the public interest that justifies Government regulation of the futures markets embraces not merely protecting participants in transactions executed on the various boards of trade. Rather, in addition to the other important economic functions performed by futures markets, section 3 of the act recognizes that "the prices involved in such transactions are generally quoted and disseminated throughout the United States and in foreign countries as a basis for determining the prices to the producer and the consumer of commodities and the products and byproducts thereof, and to facilitate the movements thereof in interstate commerce." Section 3 goes on to provide that since the potential for market manipulation of the price of these transactions could diminish public reliance on futures market prices, Government regulation is warranted. Under the act, therefore, futures regulation guards against a potential harm to nonparticipants in the markets. Thus, it is a historical fact that the Federal Government, recently the CFTC, has been called upon to regulate these markets principally because all consumers and businesses are, in a real sense, users of the markets.

The CFTC and OMB have not offered any evidence indicating that the 60-year-old congressional judgment is erroneous, inaccurate, or out of date. In the absence of any such evidence, the Commodity Exchange Act itself argues forcefully against the basic premise underlying the CFTC transaction tax proposal.

Congress is not the only institution that has recognized the fallacy of the theory underlying the CFTC proposal. The Supreme Court in the recently issued opinion in *Merrill Lynch, Pierce, Fenner and Smith* v. *Curran*, Docket No. 80-203, 80-757, 80-895 and 80-936 (May 3, 1982), reviewed the history and evolution of Federal regulation of the futures markets. The Court recognized, as all will concede, that the immediate beneficiaries of a healthy futures market are the producers and processors of commodities who can minimize the risk of loss from volatile price changes in the cash market by hedging in the futures market. But the Court acknowledged that producers, processors and, indeed, speculators who trade on the markets are not the only class affected by Federal regulation. Instead, the Court stated unequivocally "Federal regulation of futures trading benefits the entire economy; a sound futures market tends to reduce retail prices of the underlying commodities". (*Merrill Lynch* v. *Curran, supra*, slip op. at 36.) Thus, the Supreme Court also appreciates that the beneficiaries of sound and effective regulation of the futures markets include the public at large who consume or purchase commodities and products or byproducts of commodities traded on those markets.

In light of this statutory and case law authority, it seems clear to me that the fundamental premise underlying the CFTC transaction tax proposal is hopelessly flawed. Accordingly, I cannot and will not support any legislation that would tax participants in futures transactions in order to fund the CFTC.

□ 1500

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

Mr. DASCHLE. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I just wish to join the gentleman in his remarks as to the importance of the

CFTC to the Midwest, to the farmers, to agriculture, and also to the fact that with this transaction tax the impact it would have on the National Futures Association in its ability to continue to self-regulate.

I rise in opposition, as does the gentleman, to the amendment of the gentleman from New York.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment. I think we should conclude the debate on this issue.

I would like to state that I think the gentleman from Louisiana has made a very excellent point in relation to the basic issue of taxation.

What I would like to state, though, is that I find myself very much regretting that I must be contrary to my distinguished colleague, the gentleman from New York, after we fought so valiantly to eliminate the golden nematode in his area.

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

Mr. DE LA GARZA. I yield to the gentleman.

Mr. CONABLE. Mr. Chairman, I would like to acknowledge publicly that the contribution the gentleman has made leads me to believe the gentleman is a hero to every potato farmer in western New York.

Mr. DE LA GARZA. I thank the gentleman.

Mr. Chairman, what I would like to make explicitly clear is that I do not know what prompted the gentleman from New York to offer the amendment or the other gentleman from New York to speak. I have no knowledge of what prompted them to do this.

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

Mr. DE LA GARZA. Yes, I yield.

Mr. CONABLE. Mr. Chairman, I would like to say that when the amendment was suggested to me it sounded eminently fair and I did not think it needed a great deal of prompting.

Mr. DE LA GARZA. I take the gentleman's word for that.

Mr. CONABLE. I would like to say also, however, that the administration supports my amendment. For those of you who are committed to the administration, as I am sure the gentleman from Texas is, here is an opportunity once again to strike a blow for sound fiscal policy.

Mr. DE LA GARZA. I appreciate that. The gentleman has made, I think, explicitly clear the point that I would like to make. I would like my colleagues to kindly please remember this. Those of us who have worked with this issue since the inception of CFTC in 1975 have had under consideration continuous oversight and evaluation of the functioning of the commodity markets and the needs of those who are participants in the market in the buying and selling of futures contracts.

Therefore, we do not believe with all due respect, that because others may be subject to user fees that there should be user fees imposed on the commodity industry. Well, that is not the American system basically. The Communists may say that everybody will have a white house with three rooms, with a white picket fence, with a little Ford or whatever car in front and everyone will be equal and every agency will do the same. It does not operate the same way in a democracy, in our Government.

The Stock Exchange has a function and definite needs.

The Security and Exchange Commission has a function and definite needs.

The Commodity Futures Trading Commission has a function and definite needs, and they cannot all be the same. They cannot all be a copy or a clone of the other.

Now, as far as the taxpayers are concerned, we have concerns for the taxpayer. The Agriculture Committee is a committee that has reduced its expenditures, both for the committee and for the Department of Agriculture, more than any other committee in this House. We are the ones who have thought of the taxpayers and contributed our knowledge and expertise to reduce the impact of their budgets on the taxpayers. That is the reason that I perhaps was one of the most vocal in telling the industry that something had to be done.

Mr. Stockman, who called for a veto of this legislation, would not give the money, would not give the CFTC the money to do what they need to do, so we had to impose on the industry somewhat against their wishes and with this legislation, this compromise amendment that we have in the bill that Mr. CONABLE wishes to strike out. It should reduce the cost of the CFTC by basically one-half. The NFA will bring in some $12 million that will be used to reduce the impact on the taxpayers of the operations of the CFTC.

Therefore, we are contributing almost one-half their current budget. That will buy more school lunches. That will give more Pell grants.

This reduction of the necessity of expenditure for the CFTC by the work that the NFA will do will accrue to the benefit of the taxpayers. The money that they will bring from fees and charges imposed on their members to do work that is now being done by the CFTC will reduce, I tell you the need for funds by the CFTC. If the budget is $23 million now and the work that will be done, by the NFA is replacement for work formerly done by the CFTC is worth $12 million, then the CFTC is saved $12 million.

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

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

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

Mr. DE LA GARZA. I yield very briefly.

Mr. CONABLE. Mr. Chairman, I take it from the earnestness of the gentleman's demeanor here on the floor that he feels that 6 cents a transaction will somehow suppress the economic life of this institution; is that right?

Mr. DE LA GARZA. No. The gentleman is entirely wrong. That is a good argument, 6 cents or 12 cents, that is not the argument.

Mr. CONABLE. Is that not what the fee would be?

Mr. DE LA GARZA. No. The argument is that this gentleman feels that he has a moral obligation to comply with an endeavor that he started long before the gentleman had ever become acquainted with the CFTC.

Mr. CONABLE. I applaud the gentleman for that endeavor.

Mr. DE LA GARZA. And that endeavor was to see that the CFTC perform its function we forced the industry, in effect, to impose upon themselves duties and fees to do the work of self-policing.

Now, the end result is that we again offered a compromise. We said we are not ready to make a decision on user fees now because the self-regulatory agency has just been set up we are saying that we are not going to make that decision; today. What we are seeking as a compromise for, those of us who have worked through the years with the program, those of us who have aspired to protect the investing public, let us have a study after two year as to the efficacy of the NFA then we will see where we are.

I think we ought to vote at this time, Mr. Chairman.

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

Mr. Chairman, I am impressed always with my friend, the gentleman from New York, especially when he can use a word like eclectic to advance an amendment that he is proposing; but notwithstanding that, I am constrained to rise in opposition to the amendment.

The Committee on Agriculture gave careful consideration to the question of imposing user fees on the futures trading industry, and concluded that the decision should be left for later.

In considering this issue, I think it is important to keep in mind the purpose of the CFTC. It was created to protect the public interest, not to protect brokerage firms and commodity traders. In our discussions in 1974, we were

more concerned with protecting farmers, small investors, and the general public from market manipulation.

The administration would like to tax the people from whom we are, supposedly, protecting the public to pay for the cost of that protection. That may be like taxing one group or class of citizens to pay for the police protection that is provided to all.

These proposed fees have been compared to the fees charged by the Securities and Exchange Commission. A study conducted in 1980 by the SEC showed that transaction fees accounted for about 19 percent of the total fees collected by the agency, with 79 percent coming from registration statement fees and fees from other filings and reports. Thus, the bulk of SEC revenue comes from fees collected from individuals and corporations which participate in the securities markets. In contrast, it is estimated that 94 percent of the revenue to be collected by the CFTC would come from transaction fees, while only 6 percent would come from service-related fees.

Finally, I would like to point out that the CFTC approved formation of the National Futures Association, a self-regulatory body to be funded by user fees from the industry. I share the concern expressed by many in the industry that CFTC user fees might inhibit the development of the National Futures Association. We do not know how many of the functions of the CFTC the National Futures Association will be able to assume, nor do we know how quickly. Obviously, more study of this complex issue is in order.

Mr. Chairman, for these reasons and others, I oppose this amendment to the bill reported by the committee, and I urge my colleagues to do so, too.

In general, I favor user fees, but I feel it is premature to settle at this time the question of CFTC user fees.

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

Mr. Chairman, I rise in oppositon to the amendment offered by the gentleman from New York (Mr. CONABLE) the imposition of a transaction tax on commodity futures and options transactions. The proposal offered by the CFTC to impose a tax on market participants presents perhaps the most important question to be considered by Congress since the CFTC was created in 1974.

In my view, the issue is quite simple. If we want to insure the creation of an ever-expanding Federal Government regulatory presence over the futures markets, then we should vote for the transaction tax. If, instead, we want to promote and encourage meaningful and effective self-regulation by the futures industry at no cost to the taxpayers and, hopefully, thereby diminish the role of the Federal Government in regulation of futures trading, we should vote against user fees. Put in other terms, if Congress wants to insure the sustained development and growth of the National Futures Association, we should oppose and reject the proposal for a transaction tax.

At the heart of the transaction tax question, therefore, is the issue of the viability of the National Futures Association. During hearings before the Committee on Agriculture, substantial documentary evidence was produced demonstrating the harsh and adverse effects a transaction tax would have on the ability of the National Futures Association to begin to fulfill its self-regulatory promise. Congress, historically, has been a primary mover in support of the National Futures Association. The 1974 act authorized the creation of such an association. The 1978 act authorized the CFTC to require and make mandatory the membership of all commodity professionals in a futures association. Since that time, the CFTC has taken the significant step of registering the National Futures Association as a registered futures association. By applying for and obtaining registration, NFA now has agreed to perform many statutory responsibilities in order to assist the CFTC in regulating futures trading. In fact, NFA will perform a variety of functions now performed by the CFTC. The General Accounting Office, in its recent report on futures regulation, describes the functions which NFA will soon assume as the "three major customer protection programs." These programs include registration of all commodity professionals, auditing and financial surveillance of commodities firms, and the resolution of commodity customer claims. NFA's rules to facilitate its accomplishment of these tasks will take effect on October 1, 1982. Nevertheless, whether those rules will, in fact, be effective may well depend upon our vote on the CFTC's transaction tax proposal.

I believe it would be grossly unfair to require participants in futures transactions to pay twice for the same regulation. NFA is being funded by participants in the futures industry. It is not a nickel and dime operation. NFA has a substantial operating budget, commensurate with its substantial self-regulatory responsibilities. In fact, the futures industry's commitment of millions of dollars to the development of NFA is unambiguous evidence that the industry fully intends to police itself effectively and vigorously.

The CFTC's transaction tax proposal would provide that in addition to the cost of NFA, the futures industry would foot the bill for the CFTC. By adding a transaction tax for the CFTC on top of the NFA membership payments, the CFTC places participants in futures transaction in the unenviable position of paying twice for the same regulation. Not even their counterparts in the securities business pay twice for the same form and type of regulation. Thus, in my view, the CFTC transaction tax is both unwise and unprecedented—it should not be enacted into law.

Significantly, the committee bill contains provisions that fully reflect the relationship between the National Futures Association and transaction taxes. Under section 238 of the committee bill, the CFTC would be instructed to conduct a study of the regulatory experience of the National Futures Association during, essentially, its first 2 years of operation. This study would include documentation that would assist Congress in answering the ultimate question whether NFA will in fact reduce CFTC expenditures. The study will also analyze whether NFA will increase the efficiency and productivity of regulation of the futures markets.

Mrs. COLLINS of Illinois. Mr Chairman, I rise in opposition to the amendment of the gentleman from New York (Mr. CONABLE) which would impose so-called user fees on the futures industry.

I urge my colleagues to reject the fallacious comparison between these so-called user fees and those fees now imposed by the SEC. An SEC study conducted during 1980 concluded that its transaction fees accounted for an average of only 19 percent of the total fees collected by the SEC. The transaction fee of one-three hundredth of 1 percent the aggregate dollar sales volume of exchange-traded securities was described by the SEC as relatively small. Indeed, the transaction fees are only 22 percent of the entire SEC budget. By contrast, the fees at issue on the futures industry would fund 100 percent of the CFTC budget.

Again, using the SEC comparison, the 1980 study demonstrated that 52 percent of the total fees collected by the Securities and Exchange Commission were derived from registration statement fees, and fees from other filings and reports. These SEC fees are for services provided directly to the very large group of individuals and corporations that participate in the securities markets. By contrast, the relatively small number of participants in the futures markets limits the ability of the CFTC to collect significant amounts of revenue from service-related fees. To ask that the fees collected from the futures industry equal the fees collected in the securities industry is like asking the crowd at your local high school football game to pay for the cost of the Super Bowl. The attempt is prohibitively burdensome on a relatively small number of participants.

The user fee amendment at issue would impose a significant financial burden on individual traders in relation to the volume of trading by these individuals. This disproportionate burden on professional traders cannot be justified. Traders are the market makers, the ones that assume the risk in order to permit hedgers the necessary protections of the futures markets. A user fee could clearly cause a decline in the participation of these traders in the markets, which would only result in a decrease of market liquidity, which results in an adverse effect on the hedging and price discovery function of the futures markets.

I urge my colleagues to accept the recommendation of the Agriculture Committee. It makes sense to require the CFTC to carefully study the effect of user fees on market liquidity, and report its findings to the Congress. Until that study is completed, I must strongly oppose user fees and ask my colleagues to defeat this amendment.

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

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 216, not voting 46, as follows:

[Roll No. 365]

AYES—170

Anderson
Ashbrook
Atkinson
Barnes
Bedell
Beilenson
Bennett
Bereuter
Bingham
Bliley
Boland
Bolling
Brodhead
Broomfield
Broyhill
Burgener
Butler
Carman
Carney
Chappie
Cheney
Clausen
Clay
Clinger
Coats
Conable
Conte
Coughlin
Courter
Coyne, James
Coyne, William
Crockett
D'Amours
Dannemeyer
Daub
DeNardis
Derwinski
Dickinson
Dixon
Donnelly
Dunn
Dwyer
Early
Edgar
Edwards (AL)
Edwards (CA)
Erlenborn
Evans (IA)
Fenwick
Fiedler
Fields
Florio
Foglietta
Frank
Gejdenson
Gibbons
Gilman
Gingrich
Goldwater
Goodling
Gradison
Gramm
Green
Grisham
Hall (OH)
Hamilton
Hansen (UT)
Hartnett
Hawkins
Heckler
Hiler
Hollenbeck
Holt
Horton
Hughes
Johnston
Kastenmeier
Kildee
Kindness
Lagomarsino
Latta
Leach
Levitas
Livingston
Long (MD)
Lott
Lowry (WA)
Lujan
Lundine
Lungren
Markey
Marks
Martin (NC)
Martin (NY)
McClory
McCloskey
McCollum
McDade
McEwen
McKinney
Michel
Mikulski
Miller (CA)
Miller (OH)
Minish
Mitchell (NY)
Moakley
Murphy
Nelligan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Oxley
Patterson
Pease
Peyser
Porter
Pritchard
Pursell
Regula
Rinaldo
Ritter
Rodino
Roemer
Rogers
Rosenthal
Roth
Roukema
Rudd
Sabo
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shamansky
Sharp
Shaw
Shuster
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Snyder
Solarz
Solomon
Spence
St Germain
Stanton
Staton
Stokes
Studds
Stump
Taylor
Thomas
Udall
Vento
Walgren
Walker
Waxman
Weaver
Weber (OH)
Whittaker
Williams (OH)
Wirth
Wolpe
Young (FL)

NOES—216

Akaka
Albosta
Alexander
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Bailey (MO)
Bailey (PA)
Benedict
Bethune
Bevill
Biaggi
Blanchard
Boggs
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brooks
Brown (CA)
Brown (CO)
Byron
Campbell
Coelho
Coleman
Corcoran
Craig
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Daschle
Davis
de la Garza
Dellums
Derrick
Dicks
Dorgan
Dougherty
Dowdy
Downey
Dreier
Duncan
Dymally
Dyson
Eckart
Edwards (OK)
Emerson
Emery
English
Erdahl
Evans (DE)
Evans (IN)
Fary
Fazio
Ferraro
Findley
Flippo
Foley
Ford (TN)
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Ginn
Glickman
Gonzalez
Gore
Gray
Gregg
Guarini
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hammerschmidt
Hansen (ID)
Harkin
Hatcher
Hefner
Heftel
Hendon
Hertel
Hightower
Hillis
Holland
Hopkins
Howard
Hoyer
Hubbard
Huckaby
Hunter
Hutto
Hyde
Jacobs
Jeffords
Jeffries
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kazen
Kemp
Kennelly
Kogovsek
Kramer
Lantos
Leath
LeBoutillier
Leland
Lent
Lewis
Loeffler
Long (LA)
Lowery (CA)
Luken
Madigan
Marlenee
Marriott
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCurdy
McDonald
McGrath
McHugh
Mica
Mineta
Mitchell (MD)
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Oakar
Panetta
Parris
Pashayan
Patman
Paul
Pepper
Perkins
Pickle
Price
Quillen
Rahall
Railsback
Rangel
Ratchford
Reuss
Roberts (KS)
Roberts (SD)
Robinson
Roe
Rostenkowski
Roybal
Russo
Santini
Sawyer
Schulze
Sensenbrenner
Shannon
Shelby
Shumway
Siljander
Simon
Skeen
Snowe
Stangeland
Stenholm
Swift
Synar
Tauke
Tauzin
Traxler
Trible
Vander Jagt
Volkmer
Wampler
Washington
Watkins
Weber (MN)
White
Whitehurst
Whitley
Whitten
Williams (MT)
Wilson
Winn
Wolf
Wright
Wyden
Wylie
Yatron
Young (AK)
Young (MO)
Zablocki

NOT VOTING—46

Addabbo
Badham
Bafalis
Barnard
Beard
Boner
Brown (OH)
Burton, John
Burton, Phillip
Chappell
Chisholm
Collins (IL)
Collins (TX)
Conyers
Deckard
Dingell
Dornan
Ertel
Evans (GA)
Fascell
Fish
Fithian
Ford (MI)
Forsythe
Garcia
Hance
Ireland
LaFalce
Lee
Lehman
Mattox
Moffett
Napier
Petri
Rhodes
Rose
Rousselot
Savage
Skelton
Smith (PA)
Stark
Stratton
Weiss
Wortley
Yates
Zeferetti

□ 1520

Mrs. KENNELLY changed her vote from "aye" to "no."

Messrs. GEJDENSON, HAWKINS, SILJANDER, D'AMOURS, SMITH of Alabama, and TAYLOR changed their votes from "no" to "aye."

Mr. SILJANDER changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. FOLEY) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

□ 1530

FUTURES TRADING ACT OF 1982

The CHAIRMAN. Are there other amendments to title II?

AMENDMENT OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Iowa: On page 55, between lines 16 and 17, insert the following:

The Commodity Exchange Act, as amended (7 U.S.C. 1-20) is further amended by inserting after section 8c (7 U.S.C. 12c) the following:

"SEC. 8d The Commission shall revoke the registration of any futures commission merchant, associate of any futures commission merchant, commodity pool operator or floor broker—

"(1) who accepts or places, either directly or indirectly, any order for the purchases or sale of any commodity for future delivery on any contract market from any person who has been found in violation of the provisions of section 20; or

"(2) who, himself, is a person who has been found in violation of the provisions of section 20.

Any such person whose registration is revoked in accordance with this section shall

not be eligible to reapply for registration until twelve months after the date of revocation.".

SEC. 2. The Commodity Exchange Act, as amended, is further amended by adding at the end thereof the following new section:

"SEC. 20. Any person who, directly or indirectly, sells for export or agrees to sell for export the quantities determined pursuant to subsection (c) below of any wheat, corn, soybeans, and any component or commodity related to wheat, corn, or soybean as the Commissioin may designate shall report the following information to the Commission: (1) the date of such sale or agreement, (2) the name and full identity of the commodity, (3) the quantity of the commodity, (4) the country or countries to which the commodity is to be shipped and the ultimate destination if known, and (5) such other information as the Commission may by regulation require. The report must be received by the Commission within forty-eight hours of the sale or agreement.

"(b) Notwithstanding the provisions of section 8 of this Act or any other provision of this Act, the Commission shall make available to the public each such report filed with the Commission pursuant to subsection (a) on the first working day following their receipt by the Commission. The Commission shall make these reports public in a manner that will (1) assure that all interested persons may obtain access to these reports at the same time and (2) protect against any person or firm obtaining premature disclosure of the information the reports contain. The Commission shall continue to make this information available to the public for a reasonable period of time.

"(c) Consistent with the interest of agricultural producers and others in the information contained in these reports, the purposes of this section, and the public interest, the Commission shall promulgate rules and regulations implementing the provisions of this section within ninety days of the effective date of this Act and may amend those rules and regulations from time to time thereafter. The Commission may by rule or regulation, among other things, limit the class of persons required to report pursuant to subsection (a). Unless or until changed by rule or regulation promulgated pursuant to this subsection, the class of persons required to report hereunder shall be limited to those persons whose total export sales and cancellations of wheat, corn, and soybeans exceed one hundred thousand metric tons daily or whose total export sales and cancellations of such commodities exceed two hundred thousand metric tons within seven calendar days.".

Mr. SMITH of Iowa (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 Iowa.

There was no objection.

Mr. SMITH of Iowa. Mr. Chairman, this amendment has been before the House before, and it passed by a vote of 273 to 125. It is the same amendment. The principal change in the situation since that time is another example of why the amendment is needed.

The amendment provides that those big traders that deal with big foreign buyers that have big sales or big purchases must report these sales so that the people in this country know within 48 hours that a big sale was made.

Under the present reporting system, they are supposed to report to the Department of Agriculture after they find out that a sale is made, but they have overseas subsidiaries, and in one way or the other they avoid for as long as 18 days letting the people in this country know when a big sale is being made.

They can hedge on our Board of Trade, even though the grain covered in a fixed-price sale is of foriegn origin and our farmers lost money on the big Canadian wheat sale of 60 million bushels. They not only hedged the amount of wheat they sold at a fixed price but, in addition to that, bought more on the Board of Trade and then sold it back onto the market later at a big profit. The most recent example was the Argentine corn sale.

An embargo was issued on grain to Russia and as a result of the embargo there was a shift in the world market of these buyers, and they replaced corn that would have been U.S. origin with corn from Argentina and hedged it through their subsidiaries on our Board of Trade. It appeared for a while that there was an increase in exports instead of a decrease in exports. The market held up for a while, and then, when they started canceling those contracts when they delivered the corn, corn dropped badly. It hurt our farmers in the end. Our farmers paid for the hedging of that Argentine corn.

This amendment provides that those who sell huge quantities will report those big sales to the CFTC within 1 day and CFTC will then make it public within 48 hours.

Now, let me point out another thing. We have 17 people in the Department of Agriculture taking care of the so-called sales reports, and all they are is historical reports. By the time they get to them and put them out, it is history. USDA has 17 people doing that, and 3 people can do the same thing down at CFTC and just send the copies over to the Department of Agriculture and they will have better information than they have now.

I think the very least we can do for a free market system is to give them the information they need, and the only people who should oppose this are the foreign trading companies like the Russians and some big companies that trade with them. It will help protect U.S. farmers and businesses.

So, Mr. Chairman, I urge the adoption of this amendment again this year.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from Iowa is correct, and I agree with what he is trying to do.

I have some reservation about this amendment, but the gentleman has worked so diligently and even though I personally do not feel comfortable with it, I would not oppose the amendment at this point and would reserve further discussion perhaps in conference. We would not oppose the amendment at this point.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. SMITH).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Iowa: On page 36, between lines 3 and 4, insert the following:

The Commodity Exchange Act, as amended, is further amended by—

(1) inserting in section 5 after "to designate any board of trade" the following: "except as specified in section 5(h) of this Act";

(2) inserting in section 5 a new subsection (h) as follows:

"(h) Beginning with contracts which expire during or after February 1985, designation shall be hereby deemed withdrawn for all contract markets for cattle or beef parts or beef products until or unless designated as hereafter provided in this section. No board of trade shall be designated as a contract market for cattle or beef parts or beef products until or unless the Secretary of Agriculture determines that the designation of such board of trade as a contract market is approved or favored by at least a majority of the producers who, during a representative period determined by the Secretary, have been engaged in the production for sale of the cattle specified in the futures contract for which such board of trade is seeking designation or in the production for sale of the cattle from which the beef parts of beef products are derived for which such board of trade is seeking designation.".

Mr. SMITH of Iowa (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 Iowa?

There was no objection.

Mr. SMITH of Iowa. Mr. Chairman, I want to thank the chairman of the committee for accepting the last amendment, and I want to lay this one out.

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

Mr. SMITH of Iowa. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, may I inquire, which amendment is the gentleman discussing?

Mr. SMITH of Iowa. This is the futures on cattle.

Mr. GLICKMAN. Mr. Chairman, I thank the gentleman.

Mr. SMITH of Iowa. Mr. Chairman, I want to draw the attention of the Members to this. I think it is a good

amendment, I really do. All the amendment does really is to say that the cattle futures contract, which has been in considerable trouble and is still not performing the way it should be performing, would be suspended a year and a half from now if between now and that time they do not clean it up and secure an affirmative referendum from the cattle producers. Now, that is, in a nutshell, what it does. It gives them time to clean it up and to have a referendum.

We have had a number of referendums on checkoff. It only costs $60,000 to $70,000 for a referendum. We have had checkoffs on beef and on eggs and on a number of commodities. So that is the way the referendum would be conducted. I have no doubt in my mind at all that if they will clean up this contract and do what they ought to do, the cattle producers would support it. Right now there are a number of cattle organizations on record that want it canceled as of today, but at the same time they recognized that it is possible to have a cattle contract that would be good for the cattle producers of this country so that we can shift the risk. The main problem with the cattle contract is that there are too many shorts compared to longs, and as a result, about 96 percent of the people in the cattle contract are speculators. That is just too much speculation. The "Merc" has not seen fit to try to reduce the number of shorts who are not farmers or who are not cattle producers in any manner at all, and, therefore, we are going to continue to have too many shorts compared to longs and too heavy a percentage of speculation in these futures unless they do something about it.

So, Mr. Chairman, I would ask that this amendment be adopted. Again, what it does is to say that a year and a half from now, they cannot sell a February 1985 contract unless between now and then they have an affirmative referendum by the cattle producers of this country.

Mr. DE LA GARZA. I rise in opposition to the amendment.

Mr. Chairman, I appreciate the work and the diligence of our colleague, the gentleman from Iowa (Mr. SMITH). The fact is, though, Mr. Chairman, that this would be entirely disruptive of the CFTC jurisdiction and authorization. It would be unworkable due to the fact that not only do the cattle producers trade or engage in purchases of the commodity but there are other people engaged in purchases of the commodity such as processors and packers.

The fact is, as the gentleman from Iowa well knows, that for anyone interested in any new contracts submitted to the CFTC for approval, there are necessary timeframes within which producers or anyone interested can present their views and have an impact. The CFTC supervises this, and that is the agency to which we have given the authority.

To open it up and set a precedent that contracts or proposed contracts by exchanges, for example, would be put to a referendum separate and apart from comment periods in the Federal Register and hearings as necessary, I think the gentleman would agree with me, would present a problem.

I have no problem with the gentleman's intent. I would agree with the gentleman on that, and I would work with him in any way I can, but I think to open contracts to referendum by producers would have a devastating effect. What would we do then with wheat, with corn, or with petroleum?

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Iowa.

□ 1540

Mr. SMITH of Iowa. Let me point out clearly right now, wheat and corn contracts are working. I have no criticism about them other than delivery points.

But I think that where there is one contract that has a serious problem that they ought to clean up that one contract for the protection of the reputation of the entire industry.

I want to ask the gentleman this. The gentleman understands, I know, that there are a lot of problems in this cattle contract. He also knows they have not done anything to move to clean them up.

I want to find some way to keep pressure on them to improve this contract. If they do not do something to improve this contract, will the gentleman consider this kind of legislation seriously?

Mr. DE LA GARZA. I would tell the gentleman now that I join with him in telling the industry, the CFTC to take a look at this contract and to try and improve it if it needs improvement. If that does not meet with the requirements of the gentleman, then of course we would offer the gentleman hearings at the appropriate time.

But I join with the gentleman now.

Mr. SMITH of Iowa. The gentleman knows the cattle feeders are really in trouble. There is no doubt about that. If we do not pass this amendment today, would the gentleman next February or March, when we get back here have a hearing on this and consider going ahead if they have not cleaned up this contract at that time?

Mr. DE LA GARZA. I will tell the gentleman most assuredly. Our committee has a continuing committee on oversight and on the needs of our agriculture and our people. Any time that a need presents itself, it is our responsibility to have adequate hearings and to proceed accordingly after testimony is presented.

Again, I reluctantly oppose the amendment of the gentleman because of its technical aspects, not because of the intent and the diligence of the gentleman. I concur with that and will do everything that I can to assist the gentleman in that endeavor.

Mr. SMITH of Iowa. I understand the pressure you are under for time and I am not going to ask for a recorded vote based upon what the gentleman has said.

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

Mr. DE LA GARZA. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I would like also to echo my concern about the viability of the cattle market. But as the chairman of the full committee said, a lot of other people have interests in the price and the price discovery mechanisms other than the cattlemen or the cattle producers.

You have the Safeway stores and the middlemen who have an interest in this as well.

Mr. SMITH of Iowa. Will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman.

Mr. SMITH of Iowa. The record shows that very few of them use the futures.

Mr. GLICKMAN. I do not know about that.

Mr. SMITH of Iowa. Yes. We had a 16-month study, the only one done by computer, and they are just not a significant force in the contracts.

Mr. GLICKMAN. But the fact of the matter is that they are third-party beneficiaries to the actions that occur on the Mercantile Exchange. So I would hate to just automatically set up a situation where one group of people would be able to ban the whole trading of the situation.

But, on the other hand, I want to tell you that you have done more than anybody else to indicate to the Congress the continuing and consistent problems that occur in an industry, and I assure the gentleman of my own personal support also to do the necessary oversight in the committee next year.

Mr. SMITH of Iowa. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. SMITH).

The amendment was rejected.

AMENDMENT OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Iowa: On page 40, between lines 13 and 14, insert the following:

Section 8 of the Commodity Exchange Act is amended by inserting a new section, section 8(d), as follows:

SEC. 8. (d)(1) As used in this subsection "insider" means any individual who has access to information, not generally available to the public, about present or anticipated cash or futures trading or present or anticipated cash or futures positions, to which such individual is not a party, in any commodity of any other person, where such trading or positions are in amounts at or above Commission designated reporting levels as specified pursuant to section 41 of this Act.

(2) No insider shall own, control, have a beneficial interest in, or enter into any contract or contract for future delivery in any such commodity on any contract market.

Mr. SMITH of Iowa (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 Iowa?

There was no objection.

Mr. SMITH of Iowa. Mr. Chairman, first, before I proceed with the amendment, I want to thank the committee for the amount of work on this CFTC bill this year.

When I first had the idea of a CFTC some 8 years ago, there were only 17 people down in what was called the CEA in the Department of Agriculture. The industry was just about to explode.

The administration at that time did not think there was any need at all to get concerned. They did not see this explosion coming on. But, in fact, there has been an explosion even beyond what those of us who saw it coming had anticipated.

It has now become an important financial tool to the United States of America and this is a very important bill.

I thank the gentleman from Texas and the others on the committee for having proceeded diligently with this bill this year.

I hope that the gentleman will accept the amendment.

The amendment provides that an insider cannot trade futures on his own account.

The SEC does not permit insiders to do so but it is not a violation of commodities law.

An insider is defined in one paragraph and the other paragraph says those insiders cannot trade. It would prohibit the officers of corporations that have access to their company's future trading information from trading on their own account.

Some companies prohibit that. It is really a conflict of interest to do it. But some companies do not prohibit it.

It also prohibits those brokers that handle those kinds of trades from trading on their own.

We had a study in the Small Business Committee and found out that out of 1,027 big traders there were 80 insiders. The 80 insiders made $100 million of the $155 million that was on the profit side during a 16-month period.

When 80 out of 1,027 make two-thirds of the profits on the profit side during that period, it raises questions especially when they have information about big traders positions.

They have an advantage. Insiders just should not be in the market at all.

Some companies prohibit their officers from trading on their own in commodities the company is trading in. I think they all should.

So what the amendment would do here is just say that like with the SEC, insiders should not be trading in futures at all.

Mr. BROWN of Colorado. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Colorado.

Mr. BROWN of Colorado. The profits that the gentleman reported from the new definition of insiders, were those net profits or were those trading profits?

Mr. SMITH of Iowa. Those were trading profits.

Mr. BROWN of Colorado. So it could well be those individuals had a net loss in their overall trading?

Mr. SMITH of Iowa. No, not in this case. The study went far enough to prove that this was not the case.

Obviously there are losses that offset profits somewhere in the marketplace. But the losses were not absorbed by these 80 that had these positions.

Mr. BROWN of Colorado. The individuals who were involved here, were they corporate employees in most cases?

Mr. SMITH of Iowa. In most cases.

Mr. BROWN of Colorado. Does not the definition for a corporate insider also deal with the question of using corporate information for gain?

Mr. SMITH of Iowa. Is the gentleman asking should the SEC do something about this?

Mr. BROWN of Colorado. I am saying the current statutes with regard to the SEC provide the use of insider information for a corporation cannot be used for personal profit in these circumstances.

Mr. SMITH of Iowa. They could not do it in the stock market but they can do it in commodities and, as a matter of fact, the head of one of the commodities organizations said that he did not think that he had the right to prohibit speculation by anybody.

Mr. BROWN of Colorado. It would seem to me, and I know that there are other Members who are more skilled in that portion of the SEC statutes than I, but I think you will find that it is very clear that there is an opportunity for a stockholder derivative suit if information is gained from corporate employees involving insiders' information and if they use that information for a profitable purpose.

I think, the situation is already covered.

Mr. SMITH of Iowa. I think the easy way to handle this is just to say that they cannot trade, period, and then you do not have to go through a lawsuit to try to get some money back.

Besides, how are you going to get the evidence?

Mr. BROWN of Colorado. The evidence, of course, in these transactions is easily obtained because when you are above the futures trading limit that requires a reporting. All of your trades are reported.

Mr. SMITH of Iowa. But only to the CFTC. The stockholder out there does not get that information.

Mr. BROWN of Colorado. But those are public records or ones that can be obtained by the public.

Mr. SMITH of Iowa. No, there is a provision in the bill that says they cannot be released. It has been in the law and I am for it in most cases.

I think you have to have some limitation on the amount of information that is distributed that comes from that source.

Mr. BROWN of Colorado. Do I understand you are saying that if someone alleges wrongdoing they cannot get access to that trading information?

Mr. SMITH of Iowa. That is right.

Mr. BROWN of Colorado. You are saying if there is an alleged wrongdoing, through court process you are not allowed to get access to the information?

Mr. SMITH of Iowa. Not under this statute.

□ 1550

Mr. DE LA GARZA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman has a valid concern that I agree with. His amendment, though, I am not satisfied is drafted technically to do exactly what he wants to do. Besides, I would like to inform the gentleman—he already knows, because he has read the legislation—in the study to be conducted and led by the Federal Reserve, we have provisions that take care of his concerns. The study requires information on the sufficiency of the public policy tools available to the Commission or other agencies to limit or curtail any such trading activity which is found likely to have a harmful effect on national economic goals. That is part of the study.

Second, the study calls for the adequacy of investor protection afforded to participants in designated markets for such trading; that is another part of the study.

Finally, the extent to which contracts and related instruments may be utilized to manipulate or to profit

from the manipulation of the markets for evidences of indebtedness, foreign currency and securities, is another part of the study.

It encompasses overall what the gentleman attempts to do.

I hope that that might satisfy the gentleman and that the Federal Reserve and the designated agencies would look into that situation.

My concern is that the amendment does not define "individual who has access to information," and this conceivably impose criminal sanctions upon a farmer, completely away from the market if he should perchance fall into any information. It does not say from what source. Now, an insider or somebody working solely in the Exchange or solely with a broker, that already has been addressed. But my concern is with the refinement of "individual" and the refinement of "information" I think would be necessary before we would accept this amendment. The thrust of the gentleman's amendment I have no problem with.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I might point out to the gentleman that we changed the wording a little bit since yesterday on the suggestion of, I think, one of your counsel, and I think it was a good change. I do not believe that problem is there now. It is only in the event that they have information not available to the public on the trading positions of one of these big traders, not from anybody else, just one of the big traders.

Mr. DE LA GARZA. Well, that still does not cure it. An individual can be a farmer trying to plan for his commodities, a cattle feeder or a poultry producer. They could not hedge their future needs for grains if they were on a plane and they heard someone from some company say, "Hey, look, I think that this might happen or that might happen."

Now, I do not know, again, how you would enforce this, how you would find out who, as an insider defined by the gentleman, had information. What is the enforcement procedure? How are we going to find out that someone who traded had insider information?

So we are left, then, to haphazard, by accident or by innuendo or by someone who does not like him. How would we address that issue?

Mr. SMITH of Iowa. If the gentleman will yield, to start with, they only need look at the big traders. They are making reportable trades. And then if these are officers of big traders, they would enforce it through the CFTC. The CFTC is going to do it.

Mr. DE LA GARZA. Well, the CFTC already has that jurisdiction.

Mr. SMITH of Iowa. But there is not a law that prohibits these insiders from trading.

Mr. DE LA GARZA. Yes, they have a law to enforce against anyone who in any way obstructs or goes against the regulations.

Mr. SMITH of Iowa. But there are no regulations that prohibit that.

Mr. DE LA GARZA. There are regulations against fraud. Maybe if the gentleman could work further with us, to try and draft legislation—

Mr. SMITH of Iowa. I would be glad to. But why does not gentleman take it to conference with him, and let us work out some language.

Mr. DE LA GARZA. Perhaps we owe the gentleman that, for the work that he has done; with no obligation on our part. Perhaps it could be refined, because we agree with his basic intent; we would accept his amendment, to take it to conference for possible refinement, to see if we can do what the gentleman would like to do.

Mr. SMITH of Iowa. I thank the gentleman. I know the gentleman from Kansas has had a longtime interest in this very subject, and I think between the three of us we can do something.

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

Mr. Chairman, I will agree with my chairman. I am not going to object to this amendment because I think it has an interesting concept. But the amendment as drafted is not clear in this respect: You use the language that an insider means any individual who has access to information not generally available to the public about present or anticipated cash or futures trading. But nowhere in the amendment is the word "materiality" used. So nowhere do you have in there that it is material information. It could be immaterial information about future trading transactions. You certainly would not want to penalize somebody for unimportant information, nor would we want somebody to be subject to a lawsuit. Those are the kinds of issues I think need to be refined.

Mr. SMITH of Iowa. If the gentleman will yield, I think that is a legitimate criticism of the amendment. I know the gentleman has been interested in this for a long time. But the gentleman does agree that we do need something in CFTC comparable to what they have in the SEC on that.

Mr. GLICKMAN. I think this language needs to be refined, however; but I am not going to object to the amendment.

Mr. SMITH of Iowa. And at the very least, then the boards themselves would exclude people who should not be trading. Now some do not think they can.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. SMITH).

The question was taken; and on a division (demanded by Mr. SMITH of Iowa) there were—ayes 18, noes 10.

So the amendment was agreed to.

The CHAIRMAN. Are there other amendments to title II? If not, 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 pro tempore (Mr. MURTHA) having resumed the chair, Mr. STOKES, 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. 5447) to extend the Commodity Exchange Act, and for other purposes, pursuant to House Resolution 566, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. 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 pro tempore. 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.

□ 1600

The SPEAKER pro tempore. The question is on the passage of the bill.

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

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

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 319, nays 59, not voting 54, as follows:

[Roll No. 366]

YEAS—319

Akaka	Archer	Bennett
Albosta	Aspin	Bereuter
Alexander	AuCoin	Bethune
Anderson	Bailey (MO)	Bevill
Andrews	Bailey (PA)	Biaggi
Annunzio	Barnes	Bingham
Anthony	Bedell	Blanchard
Applegate	Beilenson	Bliley

Boggs
Boland
Bolling
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Brown (CA)
Broyhill
Byron
Campbell
Carney
Clausen
Clay
Coleman
Corcoran
Coyne, William
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel, Dan
Daniel, R. W.
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erdahl
Erlenborn
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fazio
Ferraro
Fiedler
Findley
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fountain
Fowler
Frank
Frost
Fuqua
Gaydos
Gejdenson
Gephardt
Gibbons
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gregg
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Harkin
Hatcher
Hawkins
Heckler
Hefner
Hendon
Hertel
Hightower
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Lagomarsino
Lantos
Latta
Leach
Leath
LeBoutillier
Leland
Lent
Levitas
Lewis
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Madigan
Markey
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martinez
Matsui
Mavroules
Mazzoli
McClory
McDade
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Pepper
Perkins
Pickle
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rinaldo
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Rogers
Rosenthal
Rostenkowski
Roth
Roybal
Russo
Sabo
Santini
Sawyer
Scheuer
Schneider
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shelby
Shumway
Siljander
Simon
Skeen
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Snyder
Spence
St Germain
Stangeland
Stanton
Stark
Stenholm
Stokes
Studds
Synar
Tauke
Tauzin
Taylor
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wright
Wyden
Wylie
Yatron
Young (AK)
Zablocki

NAYS—59

Ashbrook
Atkinson
Broomfield
Brown (CO)
Butler
Carman
Chappie
Cheney
Clinger
Coats
Conable
Conte
Courter
Coyne, James
Dannemeyer
Dickinson
Dornan
Dreier
Fenwick
Fields
Frenzel
Gilman
Gramm
Green
Hansen (ID)
Hansen (UT)
Hartnett
Hiler
Hubbard
Jeffries
Johnston
Kramer
Livingston
Lungren
Martin (NY)
McCloskey
McCollum
McDonald
Mottl
Nelligan
Paul
Peyser
Porter
Ritter
Roemer
Roukema
Rudd
Schroeder
Shaw
Shuster
Smith (AL)
Smith (OR)
Solomon
Staton
Stump
Swift
Thomas
Walker
Young (FL)

NOT VOTING—54

Addabbo
Badham
Bafalis
Barnard
Beard
Benedict
Boner
Brown (OH)
Burgener
Burton, John
Burton, Phillip
Chappell
Chisholm
Coelho
Collins (IL)
Collins (TX)
Conyers
Coughlin
Derwinski
Ertel
Evans (GA)
Fascell
Fithian
Forsythe
Garcia
Gray
Grisham
Hance
Heftel
Ireland
LaFalce
Lee
Lehman
Mattox
McCurdy
Moffett
Napier
O'Brien
Petri
Ratchford
Rhodes
Rose
Rousselot
Savage
Skelton
Smith (PA)
Solarz
Stratton
Udall
Weiss
Wortley
Yates
Young (MO)
Zeferetti

□ 1610

Messrs. BUTLER, STUMP, KRAMER, and ROEMER changed their votes from "yea" to "nay."

Mr. PHILIP M. CRANE and Mr. DANIEL B. CRANE changed their votes from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

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

There was no objection.

EXTENDING APPRECIATION OF THE CONGRESS TO U.S. DEPARTMENT OF AGRICULTURE GRADUATE SCHOOL ON ITS 60TH ANNIVERSARY

Mr. DE LA GARZA. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 412) extending to the Graduate School, United States Department of Agriculture, the appreciation of the Congress on the 60th anniversary of the founding of the school, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

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

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 412

Whereas, the Graduate School, United States Department of Agriculture, is an innovative and important provider of practical, relevant continuing education and training for government personnel and agencies, and the public; and

Whereas, the Graduate School is operated on a self-sustaining nonprofit basis and receives no appropriated funds from the Federal Government; and

Whereas, the public interest has been well served by the Graduate School, United States Department of Agriculture, since its founding in 1921: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress recognizes the school year 1981–1982 as the sixtieth anniversary of the founding of the Graduate School, United States Department of Agriculture, and hereby extends to that institution its appreciation for the flexible, effective, and efficient educational services rendered to all branches of government and to the public over the past sixty years.

Mr. DE LA GARZA. Mr. Speaker, for 60 years the Graduate School of the U.S. Department of Agriculture has been serving the Government and the public. I believe the Congress owes an expression of gratitude to this institution, and I want today to place on the public record my appreciation of its services.

The kind of education provided by this school is the type which grows out of one of our most basic traditions. It grows out of the desire of individuals to learn for the sake of self-improvement.

The Graduate School does not grant degrees. Its students do not wear academic gowns. It has no football team. Students who have attended the Graduate School since its founding in 1921 have done so for just one reason—they wanted to learn more about subjects ranging from shorthand to law and from personnel administration to economics and math, in order to improve their ability to work and make progress in their careers.

The school is open to adults of all ages. Its faculty, which works on a part-time basis, is recruited mainly from the ranks of Government experts and from educators in the Washington area. By working on this basis, the school has been able to attract and keep a highly skilled faculty in 20 subject areas.

This educational system has, of course, been valuable to the thousands of men and women who have passed through the doors of the Graduate School over the past 60 years. But, Mr. Speaker, I believe it has also been of

great value to the U.S. Goverment and to the people that Government serves. The Graduate School has given us Federal employees who are better equipped because of their voluntary studies to do their jobs in all branches of Government. The training provided by the Graduate School has given us more effective and more efficient public servants, and for that we all owe a debt of gratitude and praise to the school and its students.

I think the House should know that the service provided by the school goes beyond the classroom. Since 1922, a great many scholars, statesmen, scientists, and public officials have taken part in lecture series sponsored by the school. The Graduate School press has made many of these lectures available to even wider audiences by a series of books, and it has also produced a series of useful and effective publications in areas ranging from political science to studies in the operation of Government agencies.

The Graduate School grew out of a need which was felt by leaders in our Government as far back as 1898, when the Secretary of Agriculture of that time announced there was a special need for continuing education for young scientists. Finally, after World War I, a joint congressional committee recommended that Government departments give more attention to providing opportunities for the continuing eduction of Government employees. The result was the creation of the Graduate School in 1921 to serve Government employees—throughout the Government, not just in the Agriculture Department—and to serve other adults.

The Secretary who established the Graduate School in 1921 said:

> I believe those who may be able to avail theselves of this opportunity will both enrich themselves and enhance the value of the service they render.

Mr. Speaker, that was an accurate prophecy. The school has served us well, and it should be congratulated. I have sponsored, with Mr. WAMPLER of Virginia, a resolution recognizing the 1981-82 school year as the 60th anniversary year of this institution which operates on a self-financing basis with no appropriated Federal funds.

Our resolution extends the appreciation of Congress for the flexible, effective and efficient service rendered by the school. It is appreciation which has been well earned.

● Mr. WAMPLER. Mr. Speaker, I rise to extend my congratulations to the Graduate School, U.S. Department of Agriculture on the 60th anniversary of its founding.

This school has become an integral part of what is one of the principal industries in the Nation's Capital—education.

The course offerings provided by the Graduate School extend from various gardening courses to higher mathematics, advanced accounting, and so forth. A number of personnel from the staffs of Members here in the House as well as those who are employed in the executive and judicial branches of Government utilize the courses offered by the school. It is a principal source of "continuing education" not only for Government personnel but the public generally in the Washington metropolitan area.

This school has performed well since its founding in 1921-22 and I extend my best wishes for its continued success.●

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING DEVELOPMENT OF WEB RURAL WATER DEVELOPMENT PROJECT

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4347) to authorize the Secretary of the Interior to proceed with development of the WEB pipeline, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to make available Missouri basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power, 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 the WEB Rural Water Development Project, authorized by section 9 of the Rural Development Policy Act of 1980 (94 Stat. 1175), is reauthorized subject to the provisions of section 9 of that Act, as amended by section 2 of this Act. The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to proceed with the development of the WEB Rural Water Development Project, consistent with the terms and conditions of section 9(e) of that Act, as amended by section 2 of this Act, and to make available for immediate obligation any funds appropriated for such project for fiscal year 1981.

SEC. 2. Section 9 of the Rural Development Policy Act of 1980 is amended by—

(a) striking out in subsection (b) all after "the types of construction involved herein" and inserting a period in lieu thereof;

(b) striking out the first sentence of subsection (d); and

(c) striking out the first sentence of subsection (e) and inserting in lieu thereof the following: "The Secretary of the Interior shall use funds appropriated under this Act to provide financial assistance to plan and develop the WEB Rural Water Development Project under the terms and conditions of the Consolidated Farm and Rural Development Act and the rules and regulations promulgated by the Department of Agriculture under that Act, except to the extent such Act or rules or regulations promulgated thereunder are inconsistent with the provisions of this section.".

SEC. 3. (a) The Secretary is authorized, in cooperation with the State of South Dakota, to conduct feasibility investigations of the following proposed water resource developments:

(1) alternate uses of facilities constructed for use in conjunction with the Oahe unit, initial stage, James division, Pick-Sloan Missouri basin program, South Dakota;

(2) future uses in South Dakota of water delivered by the Garrison unit, Pick-Sloan Missouri basin program, North Dakota; and

(3) a reformulated plan for the development of the Pollock-Herreid unit, South Dakota pumping division, Pick-Sloan Missouri basin program, South Dakota, including irrigation of alternative lands or reduced acreages.

(b) The Secretary shall report to Congress the findings of the studies authorized by this section along with his recommendations.

(c) The Secretary may contract with the State to carry out the studies authorized by this section.

SEC. 4. (a) The Secretary is authorized to cancel the master contract and participating and security contracts for the Oahe unit, initial Stage: *Provided*, That such actions shall be done with the agreement of the Oahe Conservancy Subdistrict and the Spink and West Brown irrigation districts: *Provided further*, That any repayment obligation existing at the time of cancellation of the master and participating and security contracts shall thereafter be treated as a deferred cost of the Pick-Sloan Missouri basin program: *Provided, however*, That such costs shall be assumed and repaid by the beneficiaries of any future project which utilizes the Oahe unit facilities. Such repayment obligation and manner of repayment shall be determined pursuant to the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof (43 U.S.C. 371).

(b) Those features of the authorized plan of development for the Oahe unit, initial stage, which were designed for and could be used only to deliver irrigation water to the Spink and West Brown irrigation districts namely: Faulkton, Cresbard, West Main, Redfield, James, and East canals; Cresbard and Byron dams and reservoirs; James and Byron pumping plants; and associated features; shall not be constructed by the Secretary without further action by the Congress, but nothing in this Act shall be deemed to limit the authority of the Secretary to recommend development of other features, based upon any study authorized by section 3(a)(1) of this Act.

SEC. 5. The Secretary of the Interior, in cooperation with the Department of Energy, is authorized to make available the Pick-Sloan Missouri basin program pumping power to the Crow Creek, Cheyenne River, Omaha and Standing Rock Indian Reservation irrigation developments, and the Grass Rope Unit, Pick-Sloan Missouri basin program. Such pumping power shall also be made available to such additional irrigation projects as may be subsequently authorized to receive such power by Act of Congress.

SEC. 6. There is hereby authorized to be appropriated beginning October 1, 1982, such funds as may be necessary to carry out the provisions of this Act.

Mr. DE LA GARZA (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

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

There was no objection.

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

Mr. COLEMAN. Mr. Speaker, reserving the right to object, I reserve the right to object in order to enter into a colloquy with the two gentlemen from South Dakota regarding this bill, and if it is in order, I would like to propound questions to the gentlemen and receive assurances with their answers.

Mr. Speaker, I direct my questions to the gentleman from South Dakota (Mr. DASCHLE) and the gentleman from South Dakota (Mr. ROBERTS).

The first question is, what specific feasibility investigations are authorized by this legislation? In the section-by-section analysis of the bill as it was amended in the other body, section 3 is described as "self-explanatory."

□ 1620

I find that inadequate and ask that my two colleagues from South Dakota better explain section 3.

Mr. DASCHLE. Mr. Speaker, will the gentleman yield to me?

Mr. COLEMAN. I yield to the gentleman from South Dakota.

Mr. DASCHLE. I thank the gentleman for yielding.

Mr. Speaker, section 3 of the bill authorizes three separate studies:

First, a study to see if there is some manner in which already in-place features of the Oahe project such as the Pierre pumping plant and the Pierre Canal, can be used in an alternative irrigation project. Essentially, this would be what is known as the CENDAK project, an irrigation project designed to deliver water to the central portion of South Dakota, terminating in a return into the James River. There would be no interbasin transfer of water in this project.

Second, a study to determine how, and in what manner, water to be potentially delivered to the James River in South Dakota through possible future construction of the Garrison project might be used in the State. Without such a study, involving the possibility of dredging of the James River and the implementation of ring dikes and ox bows on the river, as well as timing of the return flows and quality of the same, the construction of the Garrison might result in periodic flooding and dewatering of the James River, and have a negative impact on water quality. The purposes of this study would be to see if there is some way to avoid these problems, and instead enhance the possibility of irrigation and municipal and domestic uses from the James River for South Dakota. No interbasin transfers of water will occur under this study.

Third, a study to determine if the presently authorized Pollock-Herreid irrigation project, which was proved too costly to area residents can be reduced in scale to prove more cost effective for potential users. Again, this study, and any resultant project, would result in no interbasin transfer of water.

Mr. COLEMAN. Mr. Speaker, at this point I yield to the gentleman from South Dakota (Mr. ROBERTS).

Mr. ROBERTS of South Dakota. I thank the gentleman for yielding.

Mr. Speaker, H.R. 4347 authorizes three studies: The first is now identified by the Bureau of Reclamation as the Central South Dakota Water Supply System Concept.

The second is an extension of the currently underconstruction Garrison project, to see if there are any beneficial uses of the return flows of that project for South Dakota.

The third is for a reformulated plan of the authorized Pollock-Herreid unit. This plan proved infeasible at the 14,000-acre level. The study would analyze different soil areas, but all near the river, as in the original unit authorization.

All three studies are at the point of needing feasibility authorization to further the ongoing studies.

Mr. COLEMAN. Further reserving the right to object, Mr. Speaker, my second question is: If reauthorization of WEB means that the Oahe is deauthorized, and with the deletion of paragraph 3(b), is it correct to assume that a Federal commitment for irrigation development in South Dakota no longer exists? And if that is the case, then what water development projects are being studied?

Mr. DASCHLE. Mr. Speaker, will the gentleman yield to me?

Mr. COLEMAN. I yield to the gentleman from South Dakota.

Mr. DASCHLE. I thank the gentleman for yielding.

Mr. Speaker, reauthorization of WEB does not mean that the Oahe project is deauthorized. However, the bill does deauthorize many of the project features, as well as set up a mechanism for the cancellation of master and participating contracts on the project. Effectively this completely prevents the original Oahe project from ever being constructed. The deletion of section 3(b) by the Senate is a discouraging one for South Dakota, since it removes from the legislation a legally stated commitment by the Federal Government for preferential treatment of South Dakota future projects in recognition of the over half million acres South Dakota lost to the construction of Missouri main stem dams. The South Dakota delegation still believes such a commitment should exist, but realizes that the realistic situation is that such a commitment will not be made in law at this time. The water development projects being studied are those listed in response to question 1.

Mr. COLEMAN. Further reserving the right to object, Mr. Speaker, I yield to the other gentleman from South Dakota (Mr. ROBERTS).

Mr. ROBERTS of South Dakota. I thank my colleague for yielding.

Mr. Speaker, H.R. 4347 does not deauthorize Oahe. It prevents the construction of the main delivery area of the project. In conjuction with the Central South Dakota Water Supply System Study, it attempts to move forward with the Federal commitment to South Dakota in terms of today's reality. The Federal commitment to South Dakota is laid out in the 1944 Flood Control Act, but Congress is reluctant to fulfill this commitment in the form of Oahe. It is hoped that the Central South Dakota Water Supply System can utilize the existing Oahe facilities and deliver irrigation water to a different area, an area that wants water.

Mr. COLEMAN. Further reserving the right to object, Mr. Speaker, is it the intent of the gentlemen that these feasibility investigations study coal slurry pipeline development?

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

Mr. COLEMAN. I yield to the gentleman from South Dakota.

Mr. DASCHLE. I thank the gentleman for yielding.

Mr. Speaker, it is my intent that none of these feasibility studies shall investigate coal slurry pipelines.

Mr. COLEMAN. Further reserving the right to object, I yield to the gentleman from South Dakota (Mr. ROBERTS).

Mr. ROBERTS of South Dakota. Mr. Speaker, there is no provision for studies of coal slurry pipelines in H.R. 4347, and it is my belief no study can be done under this bill, nor is it my intent.

Mr. COLEMAN. I thank the gentlemen.

Mr. Speaker, my last question that I would propound in this colloquy, further reserving the right to object, is: What energy or industrial developments will be included in these investigations?

Mr. DASCHLE. Mr. Speaker, will the gentleman yield further?

Mr. COLEMAN. I yield to the gentleman from South Dakota.

Mr. DASCHLE. I thank the gentleman for yielding.

Mr. Speaker, no energy or industrial developments will be included in these investigations whatsoever.

Mr. ROBERTS of South Dakota. Mr. Speaker, will the gentleman yield further to me?

Mr. COLEMAN. I yield to the gentleman from South Dakota, further reserving the right to object.

Mr. ROBERTS of South Dakota. I thank the gentleman for yielding.

Mr. Speaker, I know of no energy use plans foreseen for the studies, and any industrial use would be in conjunction with municipal water supplies, such as for meat processing plants. As the gentleman knows, there are no mineral deposits in the eastern part of South Dakota, and our industry is cattle and grains.

Mr. COLEMAN. Mr. Speaker, in view of the responses that I have received to my questions, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas (Mr. DE LA GARZA)?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendment just concurred in.

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

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following titles:

H.R. 6454. An act to amend title 18, United States Code, to clarify the applicability of offenses involving explosives and fire.

REPORT ON DEFERRAL FOR DEPARTMENT OF COMMERCE AND REVISION TO EXISTING DEFERRAL FOR U.S. INFORMATION AGENCY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 97-241)

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 Appropriations and ordered to be printed.

(For message, see proceedings of the Senate of today, September 23, 1982.)

DEFENSE INDUSTRIAL BASE REVITALIZATION ACT

Mr. BLANCHARD. 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. 5540) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States.

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

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

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

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 298, nays 51, answered "present" 1, not voting 82, as follows:

[Roll No. 367]

YEAS—298

Akaka
Albosta
Alexander
Andrews
Annunzio
Anthony
Aspin
Atkinson
AuCoin
Bailey (MO)
Bailey (PA)
Barnes
Bedell
Bennett
Bereuter
Bevill
Bingham
Blanchard
Bliley
Boggs
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Broyhill
Butler
Byron
Campbell
Carman
Carney
Chappie
Clausen
Clay
Clinger
Coats
Coleman
Conte
Corcoran
Coyne, William
Crane, Daniel
D'Amours
Daschle
Davis
de la Garza
Deckard
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Dougherty
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdahl
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fountain
Fowler
Frenzel
Fuqua
Gaydos
Gejdenson
Gephardt
Gilman
Ginn
Glickman
Gonzalez
Gore
Green
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Sam
Hamilton
Hammerschmidt
Harkin
Hatcher
Hawkins
Heckler
Hefner
Hendon
Hertel
Hightower
Holland
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
Kramer
Lantos
Latta
Leach
Leath
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lundine
Madigan
Markey
Marks
Marlenee
Marriott
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McClory
McDade
McEwen
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murtha
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Regula
Reuss
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Rodino
Roe
Roemer
Rogers
Rosenthal
Rostenkowski
Roth
Roukema
Roybal
Russo
Sabo
Santini
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Shamansky
Sharp
Shelby
Shuster
Simon
Skeen
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Solomon
Spence
St Germain
Stangeland
Staton
Stenholm
Stokes
Studds
Swift
Synar
Tauzin
Taylor
Thomas
Traxler
Tribie
Udall
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wright
Wyden
Wylie
Yatron
Young (FL)
Zablocki

NAYS—51

Archer
Ashbrook
Bethune
Brown (CO)
Conable
Courter
Craig
Crane, Philip
Daniel, R. W.
Daub
Dickinson
Dreier
Erlenborn
Gingrich
Goodling
Gradison
Gramm
Gregg
Hall, Ralph
Hansen (ID)
Hansen (UT)
Hiler
Hillis
Hollenbeck
Jeffries
Johnston
Kemp
Kindness
Lagomarsino
LeBoutillier
Lujan
Lungren
Martin (NC)
McCollum
McDonald
McGrath
Myers
Paul
Robinson
Rudd
Sensenbrenner
Shaw
Shumway
Siljander
Smith (AL)
Smith (OR)
Snyder
Stump
Tauke
Walker
Young (AK)

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—82

Addabbo
Anderson
Applegate
Badham
Bafalis
Barnard
Beard
Beilenson
Benedict
Biaggi
Boland
Bolling
Boner
Bonior
Brown (OH)
Burgener
Burton, John
Burton, Phillip
Chappell
Cheney
Chisholm
Coelho
Collins (IL)
Collins (TX)
Conyers
Coughlin
Coyne, James
Crockett
Daniel, Dan
Dannemeyer
DeNardis
Derwinski
Early
Emery
Ertel
Evans (GA)
Fascell
Fithian
Forsythe
Frank
Frost
Garcia
Gibbons
Goldwater
Gray
Grisham
Hance
Hartnett
Heftel
Huckaby
Ireland
LaFalce
Lee
Lehman
Luken
Mattox
McCloskey
McCurdy
Moffett
Murphy
Napier
O'Brien
Porter
Rangel
Ratchford
Rhodes
Rose
Rousselot
Savage
Shannon
Skelton
Smith (PA)

Solarz	Weiss	Young (MO)
Stanton	Williams (MT)	Zeferetti
Stark	Wortley	
Stratton	Yates	

□ 1640

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. 5540, with Mr. FOWLER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, August 18, 1982, section 2 was open to amendment at any point.

Are there any other amendments to section 2?

Mr. ST GERMAIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, H.R. 5540, the Defense Industrial Base Revitalization Act is aimed at the most critical segment of the American economy in need of help today. There are, at present, about 25,000 prime contractors engaged in defense-related production. These are the Rockwells, the Boeings, the United Technologies, and the TRW's. They rest their case for completion of their commitments to production very heavily on the nearly 50,000 second and third level suppliers that make up the support network so integral to that production.

Many of these smaller companies are in trouble.

Their machinery is antiquated in many instances, and a large number of their skilled operators are getting ready for retirement. The average age of a machine-tool operator today, in the United States, is 58, and he works on a machine that has been in place on the average 27 years. The system's ability to produce in quantity, in quality, and most important—in time—is a matter of debate and doubt.

That is what H.R. 5540 is all about.

It is an answer to the plaguing question: If the United States has to expand its capacities rapidly in order to accelerate national production buildup—can that system deliver, in quantity, in quality, and in time?

Mr. Chairman, next month we will observe the 25th anniversary of Sputnik.

The meaning of Sputnik's message passing overhead with its "beep, beep, beep" galvanized this country into undertaking a crash program to upgrade and expand our production of scientists and engineers. Our sense of apprehension resulting from Sputnik did not end until we had landed on the Moon, and reasserted our claim to be recognized as a nation with a first-rate industrial base.

Today, the health of that industrial base again is being questioned and challenged.

We will need 223,000 tool and diemakers by 1987.

Can we produce 360,000 electrical engineers, 60,000 metal molders, 547,000 computer specialists, and 1.8 million mechanics—all by 1987?

That is what H.R. 5540 is all about.

It is an important first step in the direction of targeting a nationwide effort to overcome the implications of these figures.

It confronts the need we have for highly trained, well-educated people to operate increasingly complicated production systems.

It offsets the problems of blue collar workers being displaced from their traditional jobs by offering them retraining opportunities.

It is a safety net, to be placed beneath those critical sectors of our industrial system that show every indication of eventual collapse due to a lack of adequately trained and skilled manpower, and modern equipment.

Passage of this legislation can lead to new national emphasis on matching what we know how to do with the work that must be done.

AMENDMENTS OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer four amendments, and I ask unanimous consent that they be considered en bloc.

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

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. ERLENBORN: On page 34, strike lines 22-24 and insert in lieu thereof the following:

"(ii) Health and safety standards established under State or Federal law, otherwise applicable to working conditions of employees, shall be equally applicable to working conditions of participants."

On page 35, strike lines 1-3 and insert in lieu thereof the following:

"(iii) To the extent that a State workers' compensation law is applicable, workers' compensation benefits in accordance with such law shall be available with respect to injuries suffered by participants. To the extent that such law is not applicable, each recipient or subrecipient of funds under this Act shall secure insurance coverage for injuries suffered by such participants, in accordance with regulations prescribed by the Secretary of Labor."

On page 35, strike lines 22-25 and, on page 36, lines 1-5.

On page 36, strike lines 6-8 and insert in lieu thereof the following:

"(viii) Recipients of funds available under this Act have given assurances that such funds shall not be used to assist, promote, or deter union organizing."

Mr. ERLENBORN. Mr. Chairman, I offer en bloc four amendments to section 303A(h)(3)(J) relating to a State's certification of labor training standards in its plan for skills training required under section 303A(h)(2)(A).

The thrust of these amendments which were worked out by the minority and majority staffs of the Education and Labor Committee is to more closely conform language in H.R. 5540 to language relating to labor standards agreed upon in H.R. 5320, the Job Training Partnership Act, passed by the House August 4 and approved by the conference committee. I understand those amendments are also acceptable to the Banking committee.

Two of these amendments concerning safety and health standards and workers' compensation coverage relate to amendments which I offered before the Education and Labor Committee and which were adopted by the committee. The language I propose today tracks the health and safety language precisely and is a modification of the workers' compensation language.

The health and safety amendment provides that where Federal and State safety and health standards apply, they shall be applicable to working conditions of participants. The Banking Committee bill speaks of "appropriate" standards for health and safety and other standards but does not define them. This amendment makes clear that standards already law apply and that this bill is not preempting or expanding them in any way.

As I just mentioned, the health and safety amendment is that which was adopted by our committee, not that which was adopted in H.R. 5320. Let me explain why.

In H.R. 5320 there might be instances where participants could be State employees within a State which does not have a State plan under OSHA. In such a case, the amendment in H.R. 5320 provides that the Secretary of Labor shall prescribe health and safety standards as may be necessary to protect participants.

In H.R. 5540, however, all participants fall into the private sector; none will be State employees. Therefore, the additional protections afforded in the job training bill are not relevant here.

The first part of the workers' compensation amendment I propose today—that when State workers' compensation laws are applicable, they shall be available to participants if in accordance with such law—is identical to my committee-adopted amendment and to the first part of my amendment to the job training bill.

However, there might be participants—unlikely, but possible—in a State with a voluntary workers' compensation law—there are three—and whose employer does not subscribe to workers' compensation coverage. To assure coverage of participants in this narrow category, the second part of my workers' compensation amendment states that, where State workers' com-

pensation laws do not apply, the Secretary shall prescribe regulations requiring recipients or subrecipients of funds to secure insurance to cover injury to participants.

It is questionable whether Congress could constitutionally mandate State workers' compensation on recipients where State workers' compensation laws do not cover participants. To the extent those State laws cover recipients, the amendment recognizes those State laws. Where participants are not covered by State laws, the amendment offers protection through requiring insurance coverage, consequently, no interference with State workers' compensation laws.

The third amendment strikes subsection (J)(vii) involving union security which we agreed to strike in the job training bill. Union security should not be a concern of a training bill. Union security is already covered in labor law in the National Labor Relations Act administered by the NLRB. One agency and one law is sufficient to govern the issue and it should not be a training law. At very least, requiring a State to certify union security conditions is superfluous.

The fourth amendment provides that recipients of funds available under this act have given assurances to the State that such funds have not been used to assist, promote, or deter union organizing, an improper use of funds under this bill, or under current law.

Although the language in the Banking Committee's bill does not suffer the same defects as did the job training bill prior to my amendments, the language is still imprecise and does not comport with the amended language in the job training bill to which the majority and minority of my committee agreed.

The job training bill originally provided as a matter of law that no funds could be used for such purposes. This created a separate cause of action. Rather than create a separate Federal cause of action apart from the National Labor Relations Act's prohibitions and permissions, the Erlenborn amendment confined such prohibitions to contractual requirements and assurances. In this manner, the Secretary can determine contractual language, but no longer may conflict in his rulings with possible decisions of the NLRB.

The prohibitions in H.R. 5540 are similarly cast as contractual requirements and assurances, but the two bills differ as to who gives those assurances. In the job training bill recipients of funds provided those assurances, while in H.R. 5540, the State provides the assurances. My amendment would conform the bill to the job training bill. To require a State to give such assurances rather than a recipient, places an unnecessary and inappropriate burden on the State agency submitting the plan. The responsibility for giving any necessary assurances in a certification process should rest with the party to whom the prohibition is directed—in this instance, the recipient.

Mr. Chairman, I move the adoption of my amendment.

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

Mr. ERLENBORN. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I would like to state that the gentleman is correct; the minority side of the Committee on Banking, Finance and Urban Affairs accepts the gentleman's amendments and thinks they are a very good correction to the bill.

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

Mr. ERLENBORN. I am happy to yield to the gentleman from Michigan.

Mr. BLANCHARD. Mr. Chairman, I want to thank the gentleman from Illinois (Mr. ERLENBORN) for his conscientious handling of this issue, and I support the labor standards amendments. I thank the gentleman.

□ 1650

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. ERLENBORN).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California: Page 37, after line 6, insert the following:

"(5) Each training program under the State plan shall include contributions and other types of active participation during the course of training from industry or labor organizations or both, except that the President, upon written request from a State, may exempt training programs in economically depressed communities from the contribution required in this paragraph."

Mr. Chairman, this is an amendment to attempt to make sure that the training programs in fact have local support and participation from industry and labor organizations. The amendment simply requires that the programs include a contribution or other types of active participation. It is envisioned that this amendment will require that local programs designed for training will include the contributions and the participations of those individuals for the purpose which the training is approved.

As we know from service on the Education and Labor Committee, from time to time that has not necessarily happened. But one of the reasons we have found that it has not happened in the past is because of the fact that very often these training programs are designed without the input or the contribution or the participation of these local entities, and they are the ones that eventually are going to be responsible for hiring the people who have been involved in the training. It involves no threshold. There is no minimal level. It is simply that the program as a component will require a contribution or active participation in terms of assistance or personnel to help do that.

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

Mr. MILLER of California. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I just want to make legislative history here, to see if I understand the gentleman completely.

In no way is the gentleman decreeing that they should have so much power. What the gentleman is saying is simply that they be consulted for contributions; in other words, that industry and/or labor groups be consulted, say, if the vocational training groups were running the program, that they simply consult to see what the needs are in that area. We are in no way saying that they have to be a part of the management of this program.

Mr. MILLER of California. No. And after consulting them, obviously, to the extent that we could, if possible, encourage their participation in that program by either lending or contributing resources and advice or help, technical help in that effort.

Mr. McKINNEY. If this is simply on a contribution/consultation basis, I would have no objection.

Mr. MILLER of California. I am not seeking to make them part of the management of these programs.

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

Mr. MILLER of California. I yield to the gentleman from Michigan.

Mr. BLANCHARD. Will the gentleman again clarify what he means by "active participation"?

Mr. MILLER of California. "Active participation," I think is, hopefully, to get the people out of labor or out of the business community involved, in terms of giving advice, where they have expertise in program planning, implementation or evaluation, assistance in some cases in curricula development, assistance in finding jobs for graduates of these programs, so that there is a coordination between the local community, the business entities and the labor entities. What your bill attempts to do is provide a skilled pool of labor for that local community.

Mr. BLANCHARD. I am grateful for the clarification, and I want to commend the gentleman. I support his amendment.

Mr. MILLER of California. I thank the gentleman.

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

The amendment was agreed to.

AMENDMENT OFFERED BY MR. VENTO

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

The Clerk read as follows:

Amendment offered by Mr. VENTO:

Page 41, line 24, strike out ", or the installation of equipment,".

Page 42, beginning on line 15, strike out ", or the installation of equipment,".

Mr. VENTO. Mr. Chairman, this is a very simple amendment. It deals with the provision in the bill with regards to the Davis-Bacon, and it limits the applicability. This amendment has the support, I believe, of the subcommittee and the committee members both the majority and the minority. It will eliminate any type of confusion that exists with regards to the concern that is in this DPA legislation, and specifically in the area of construction, that we were expanding the definition of Davis-Bacon.

As Members know, many of the provisions we have with regard to public construction contain Davis-Bacon requirement. It is not our intent to extend Davis-Bacon but to clarify it. But confusion prevailed with respect to that initial effort. So in order to avoid that confusion, this amendment will cause this Davis-Bacon language to conform exactly to the applicability of the Davis-Bacon language today.

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

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

Mr. MILLER of California. I would like to know whether this amendment will exempt all installation of equipment from coverage by the Davis-Bacon provision in section 303A(m) of the bill?

Mr. VENTO. No. The Davis-Bacon Act applies to jobsite installation of equipment under a contract in an amount exceeding $2,000 for construction, repair, or alteration of a public building or public work of the United States. It does not, however, apply to all installation work. Delivery and incidental installation has always been considered an integral part of manufacturing and furnishing the equipment to the purchaser. Where manufacturing and furnishing equipment involves no more than a minimal amount of jobsite activity, the Davis-Bacon Act has not and should not be applied. On the other hand, where jobsite installation of equipment involves more than an incidental amount of erection or installation work it is subject to the Davis-Bacon Act. Examples of such work are those for manufacture or furnishing and installation of elevators or of generators requiring prepared foundations or housing. This amendment simply provides that section 303A(m) of the bill will be interpreted and administered in a manner consistent with the Davis-Bacon Act.

Mr. MILLER of California. So what you are saying is that if the House adopts this amendment the traditional historical coverage of the Davis-Bacon Act will be maintained.

Mr. VENTO. Yes.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman very much.

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

Mr. VENTO. I yield to the gentleman from Michigan.

Mr. BLANCHARD. I want to support the gentleman's amendment. I think there has been a good deal of confusion over exactly what projects subsection (m) of H.R. 5540 would cover and a concern, I think, that the provision, as written, would expand Davis-Bacon into new areas of work. I think it is the committee's intent that Davis-Bacon prevailing wages should be paid for the same kind of work to which Davis-Bacon now applies in over 50 statutes, and I think the amendment of my colleague will make that clear.

Mr. VENTO. I thank the chairman for his support.

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

Mr. VENTO. I yield to the gentleman from Connecticut, the ranking minority member on the committee.

Mr. McKINNEY. As I understand it, this is the amendment that the gentleman and I discussed which would remove the objections that many people in industry and in our colleges had of taking Davis-Bacon into areas where it has never been before. This amendment would thereby bring it back so that those objections are handled.

Mr. VENTO. It addresses that concern, yes.

Mr. McKINNEY. I would urge support for the amendment.

Mr. VENTO. I appreciate the gentleman's support.

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

Mr. VENTO. I yield to the gentleman from Michigan.

□ 1700

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

Davis-Bacon coverage will extend to those projects assisted by direct loans, loan guarantees, and grants. It will not—and I should repeat—not extend to projects assisted by purchase agreements and price guarantees.

I think this amendment should clear up any confusion which has previously surrounded this provision.

I would urge the Members to support it.

Mr. VENTO. I thank the gentlemen for their support.

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

AMENDMENT OFFERED BY MR. ERLENBORN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. VENTO

Mr. ERLENBORN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN as a substitute for the amendment offered by Mr. VENTO: Beginning on page 41, line 22, strike all of subsection (m) through page 43, line 2.

POINT OF ORDER

Mr. VENTO. Mr. Chairman, I make a point of order against the amendment offered as a substitute by the gentleman from Illinois (Mr. ERLENBORN).

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

Mr. VENTO. Mr. Chairman, the substitute offered by the gentleman is clearly not in order. Under rule 19, Cannon's Procedure VIII, section 2879, the precedents provide that "to qualify as a substitute an amendment must treat in the same manner the same subject carried by the amendment for which it is offered."

My amendment would remove language from the committee bill and limit the applicability of the Davis-Bacon Act in terms of one type of activity. The gentleman's substitute would strike the entire section of the committee bill which my amendment seeks to perfect and thereby eliminate the Davis-Bacon provisions of this legislation.

In this case, the amendment offered by the gentleman clearly does not treat the subject in the same manner which my amendment does. Also, under Deschler's Procedure, chapter 27, section 14.1, decisions made by the Chair on August 12, 1963, December 16, 1963, and June 5, 1974, a motion to strike out a section of paragraph is not in order while a perfecting amendment is pending. In addition, the decisions of the Chair of December 16, 1963, and June 5, 1974, and contained in Deschler's Procedure, chapter 27, section 14.4, provides that a provision must be perfected before the question is put on striking it out. A motion to strike out a paragraph or section may not be offered as a substitute for pending motion to perfect a paragraph or section by a motion to strike and insert. The gentleman's amendment attempts to accomplish indirectly something that he is precluded from doing directly.

The CHAIRMAN. Does the gentleman from Illinois (Mr. ERLENBORN) desire to be heard on the point of order raised by the gentleman from Minnesota?

Mr. ERLENBORN. I do, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois.

Mr. ERLENBORN. First of all, Mr. Chairman, let me say that I am caught by surprise by this point of order. I was not aware that it was going to be offered. Therefore, I cannot claim to have done any thorough research.

It does appear to me from what the gentleman has said in support of his point of order that he is claiming that my substitute would treat a different matter or in a different manner the same matter as the amendment offered by the gentleman.

The language to which both amendments are directed is language in the bill that is applying the Davis-Bacon Act to activities under the bill in question. The amendment offered by the gentleman is reducing the extent of that coverage by taking out the installation of equipment.

My substitute also reduces that by eliminating the language so there would be no extension of Davis-Bacon to the activities beyond the present coverage of Davis-Bacon.

So the amendment that has been offered by the gentleman from Minnesota (Mr. VENTO) is affecting Davis-Bacon by reducing its coverage. Mine also would affect the reduction of Davis-Bacon, only in a broader manner; and I, therefore, believe the amendment is in order.

The CHAIRMAN (Mr. FOWLER). The Chair is prepared to rule.

The Chair sustains the point of order of the gentleman from Minnesota (Mr. VENTO) for the reasons advocated by the gentleman from Minnesota that the substitute is too broad in its scope in its striking the whole of subsection (m).

The Chair would say to the gentleman from Illinois (Mr. ERLENBORN) it would be appropriate as a separate amendment but it is not in order as a substitute because of the scope of the amendment.

The point of order of the gentleman from Minnesota is sustained.

The question is on the amendment offered by the gentleman from Minnesota (Mr. VENTO).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ERLENBORN

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

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Beginning on page 41, line 22, strike all of subsection (m) through page 43, line 2.

Mr. Chairman, the effect of the adoption of the Vento amendment is to remove part of the extension of Davis-Bacon as is was being applied to this act by the terminology of these sections that are being amended.

The Vento amendment removed the extension to the installation of equipment, so that its extension will not be as broad as originally contemplated by the bill.

It has been said in support of the amendment that this, therefore, means Davis-Bacon is not being extended. That is not true. Davis-Bacon in its application is being extended to areas that it has never historically covered, either under Davis-Bacon itself or other applications of Davis-Bacon contained in various pieces of legislation passed over the years.

Mr. Chairman, what more can be said about the Davis-Bacon Act? In recent years study after study had concluded that if grossly inflates construction wages, is impossible to administer, and should be repealed.

Here we have not only an extension of the act but an extension in scope of coverage, as my "Dear Colleague" letters in the past have pointed out.

My amendment would strike this extension of Davis-Bacon. If Congress will not seriously consider repealing or modifying the act this year—as I know we will not—at the very least we should not rush headlong into further expansion of this depression-era relic.

My amendment is not a cutback in Davis-Bacon coverage. It does not affect current Davis-Bacon application to the synthetic fuels program which is located in another part of title III of the Defense Production Act. Adoption of my amendment will simply preserve the status quo in current Davis-Bacon coverage.

After asking what more can be said about Davis-Bacon, I have a few general comments. The criticism of the act has escalated over the past few years. As respected studies have concluded, the act has outlived its usefulness or should at least undergo extensive revision.

The General Accounting Office in 1979 recommended that it be repealed. The Carter administration's confidential review of Federal contract wage laws concluded that adoption of administrative reforms lowering prevailing wage determinations by 10 percent would produce Davis-Bacon savings of $1 billion and reduce inflation by two-tenths of 1 percent.

Adoption of merely four changes was estimated by CBO to save $239 million in outlays in fiscal year 1983.

Against this backdrop, the House is asked to extend Davis-Bacon even further, to the strategic minerals mining industry. I believe it is past time Congress drew the line and said no further.

As my "Dear Colleague" letter pointed out, this provision would extend Davis-Bacon beyond traditionally covered activities. Not only would construction, alteration, or repair of projects be covered—which are traditional Davis-Bacon coverage—but before the adoption of the Vento amendment, installation of equipment would have been as well.

Moreover, coverage is not limited to laborers and mechanics whose employers are Federal contractors—again the traditional Davis-Bacon language—but extends to employees of grantees and loan or aid recipients, and this remains true in spite of the adoption of the Vento amendment.

Thus if a grantee or loan aid recipient decides to do his own construction using his own employees, Davis-Bacon would apply. No contractual relationship is necessary.

Not only would this cover employees of colleges and universities, for example, but as the GAO has suggested, the employees of State and local governments as well through grants to State boards of vocational education for purchase of equipment, facilities, personnel, or services provided under the new section 303A(h)(5).

Furthermore, because the language applies to employees on any project, not just to those employed directly at the site of the work, again traditional Davis-Bacon language might apply to activities conducted off site such as to other construction projects of the contractor which otherwise would not be covered by Davis-Bacon.

□ 1710

Mr. Chairman, this provision has been represented as simply boilerplate. It is nothing so innocuous; rather, it is a blatant attempt to saddle the Federal Government, academia and small- and medium-sized businesses who the proponents of this bill contend are so crucial to our defense industrial base with excessive construction costs and administrative headaches imposed by an outdated law, whose sole clearly remaining purpose appears to be protection of one special interest.

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

(By unanimous consent, Mr. ERLENBORN was allowed to proceed for 5 additional minutes.)

Mr. ERLENBORN. Mr. Chairman, I hope everyone here will seriously consider the astounding economic and budgetary impact imposed by Davis-Bacon and consider as well how much further the dollars for this new program could stretch without wage costs 30 percent higher than would otherwise apply.

If you honestly believe that H.R. 5540 will improve our defense industrial base, then such a law without the Davis-Bacon language would mean a program that would be even more responsive to those needs. If you do not believe that H.R. 5540 is the answer, then you cannot accept either the rationale given for including Davis-Bacon. Either way, Davis-Bacon coverage is inappropriate. The law remains an engine of inflation which swells the Federal deficit.

Now, Mr. Chairman, let me reiterate that the Vento amendment has reduced the scope of coverage of Davis-Bacon only in the area of the installation of equipment. That is a step forward and I certainly understand some of these large electronic manufacturing companies that install computers and so forth are probably very happy now that the Vento amendment has been adopted, some of the very firms who will profit the most from the application of this $6¾ billion being authorized under this act.

Mr. Chairman, the language remaining which I would strike extends Davis-Bacon into areas never covered before. If the amendment is adopted, Davis-Bacon will not be diminished one iota. Its application will not be restricted at all.

If my amendment is adopted, we will just stop this unwarranted expansion of the Davis-Bacon act.

I hope it will be adopted.

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

Mr. ERLENBORN. I would be happy to yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I thank the gentleman for yielding. I want to be associated with the gentleman's remarks and to thank him for his leadership in our efforts over the years to try to do something about Davis-Bacon.

With the difficulty we have had in the past in restraining it, here is an opportunity, it seems to me, to at least keep Davis-Bacon from being extended to another activity. I want to be associated with the gentleman's remarks and thank him for his leadership and urge our colleagues to vote with us.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for his contribution.

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

Mr. ERLENBORN. I would be happy to yield to my colleague, the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I would suggest the gentleman's remarks should be slightly reinterpreted. It certainly is not going to stop Davis-Bacon where it exists, but it is going to stop Davis-Bacon from being applied to this program.

Mr. ERLENBORN. It might be applied to this program under current law. This amendment will not expand the coverage of Davis-Bacon.

Mr. McKINNEY. Well, how would the gentleman suggest that the coverage of Davis-Bacon is going to be expanded?

Mr. ERLENBORN. Well, as I said in my statement, it will apply Davis-Bacon to grantees never covered before. It always has been a contractual situation where the grantee contracts. It is the employees of contractors and subcontractors who are traditionally covered by Davis-Bacon.

The language in the bill that I would strike will cover employees of grantees as well, which could be State or local governments or universities or others who have never been covered by it before, and there are other coverages, as I explained in my statement.

Mr. McKINNEY. I have difficulty in agreeing with the gentleman's interpretation of how far it would extend it, but I guess that is what this deliberative body is all about.

I would just simply suggest that, if in fact, in the Defense Production Act, Davis-Bacon is applicable and right for the synthetic fuels program, it should be right for this, so long as it does not go into categories such as the installation of computers and equipment where it never was.

Mr. ERLENBORN. Well, I would say one of the reasons that this bill was sequentially referred to the Committee on Education and Labor is that we have the expertise in some of the programs, like Davis-Bacon.

I would say to the gentleman that if it had been the purpose of the committee on which the gentleman serves to merely apply Davis-Bacon in the same fashion it had been applied in the past to other programs, more artful language could have been adopted.

This will be an expansion of Davis-Bacon beyond that which has been applied in the past.

I would just respectfully suggest that those on our committee who live with the program are better able to make that judgment.

Mr. FORD of Michigan. Mr. Speaker, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am pained to observe to my dear friend, with whom I have served from our very first day here, "Oh, John, there you go again."

For years the gentleman has been picking on poor old President Hoover and probably the most outstanding bill that gets discussed in this Chamber for which his administration was responsible.

No one knows the history of the Davis-Bacon Act better than the gentleman from Illinois, but I am compelled to remind him that both Senator Davis and Representative Bacon were Republicans. The authors of the Davis-Bacon Act did not set out to inflate wages; they set out to prevent the Federal Government from depressing wages, and that is exactly what the act does.

Kansas passed a prevailing wage law in 1891, long before the Hoover administration pushed Davis-Bacon through in 1931. Idaho, Arizona, and Oklahoma—bastions of conservatism—were among a half dozen States to pass Davis-Bacon style laws before the Federal Government. Those States did not act to protect the special interests of labor unions. They acted to protect local construction companies and their workers from wage busting by companies with no tie to the community, wage busting which could seriously disrupt a local economy.

What would happen if the Government were required to take the lowest bid on a contract, as most governments are, if there were no prevailing wage protections? Contractors would no longer compete for bids on the basis of superior management, lower material costs, or the productivity of experienced workers. They would compete by cutting the easiest cost to manipulate—wages.

The Davis-Bacon Act is as necessary today as it was 50 years ago. And that is why the Congress has defeated every attempt to repeal or weaken the act and will continue to do so.

I wish sometime, JOHN, that you would take a good look at how you describe these Davis-Bacon provisions as they go through here, which have been repeatedly acted upon by the Congress, because if indeed they were as broad as the gentleman describes, they probably would be even too broad for me, and the gentleman knows that is really going a long way.

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

Mr. FORD of Michigan. I yield to the gentleman.

Mr. ERLENBORN. Mr. Chairman, I will just ask the gentleman, is he aware of any other extension of Davis-Bacon to grantees, rather than merely to contractors and subcontractors?

Mr. FORD of Michigan. No. As a matter of fact, I was troubled by that and I have satisfied myself in an examination of the bill and also a legal opinion which the gentleman from Virginia (Mr. BUTLER) who has just joined the gentleman obtained from the Congressional Research Service that, indeed, that is not the proper interpretation of the language of the bill at all.

The authors of the bill have complied, it seems, almost verbatim with a case that has already been decided and I do not believe it is as broad as the gentleman describes it; hence my remark that once Davis-Bacon got as broad as the gentleman tends to describe it, it would, indeed, go too far.

I just really think that since President Reagan has indicated that he does not want Davis-Bacon repealed, we should not be doing it a piece at a time over here.

This is one time that I rise to my full diminutive height to defend our President in his support of the principle of Davis-Bacon.

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

Mr. FORD of Michigan. I yield to the gentleman.

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

I am very intrigued with the comments of the gentleman about repealing by piecemeal; but there does not seem to be any restriction to adding on by piecemeal.

This is piecemeal application, also, and the gentleman is attempting to extend it to a piece of legislation once again, now I think the 84th time, in which this will appear in our Federal Code.

I think it is an example again of special interests "Made in Congress" stamped all over it.

I think it is unfortunate. I am amazed that last week we passed a billion dollar bill out of this body to put people to work doing everything that is not allowed to be done under our highway laws and others, unless we pay Davis-Bacon wages and just last week this body went on strong record in voting to fill the potholes and to work on all the water projects and in the parks and in virtually every area that was mentioned that we were going to rehabilitate the infrastructure of this Nation was going to be hit, and yet here today we are trying to pass another costly piece of legislation mandating the highest wages at a time when we have the worst unemployment problems since the Great Depression and here we are taxing the hardworking people that are still lucky enough to have a job, to turn around and tax them to pay this.

The whole bill is a turkey. This thing makes it a gobbler. It is gobbling up the taxpayers, the American people, in which every significant newspaper in the Nation has editorialized, and every significant economist has been coming out for repeal or major reform and change.

It is so disheartening in the final hours of this Congress to see a piece of legislation like this up again, to stick it to the taxpayers and take care of your very special interest friends.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Illinois.

Since coming to Congress 8 years ago, I have found it very difficult to understand why this body continues to support the archaic Davis-Bacon Act despite the overwhelming evidence against this law.

I find it absolutely unbelievable that we are now considering an extension of Davis-Bacon into new Federal programs and areas not presently covered by the act.

I am also amazed that some of the very same arguments which we heard on the floor last month, in opposition to another Davis-Bacon amendment, now seem to be totally forgotten by the supporters of this depression-era relic. Perhaps I need to refresh my colleagues' memories.

To those who were so indignant about what they claimed was back door approach to repeal of Davis-Bacon, I can only ask why can we suddenly rationalize a back door effort to extend the scope of this law? Because that is exactly what we have here. The extension of Davis-Bacon in H.R. 5540, to include the installation of equipment and to workers not in a contractual relationship with the Federal Government, is a backhanded attempt, and it has "special interest" written all over it.

To those who argued that now is not the proper time to make a move on Davis-Bacon, with the administration's new regulations in limbo, I ask what happened since last month to make the time opportune for action on this law?

We heard some Members acknowledge that indeed, a thorough review of Davis-Bacon was probably needed in view of strong evidence that the act adds significantly and unnecessarily to the cost of Federal construction and that it is impossible to administer. How can we justify to the American taxpayers an extension of Davis-Bacon when these serious issues have not been resolved?

When opponents of Davis-Bacon try to remove Davis-Bacon coverage from particular authorization bills, they are hounded by shouts of "piecemeal repeal." But when its supporters try to include it in every new piece of legislation they possibly can, this is not considered piecemeal extension. When it comes to Davis-Bacon, apparently anything goes.

Just how much evidence do we need before we move to get rid of this costly and unnecessary law? Support for repeal of Davis-Bacon is broad and well documented. Our major economists oppose it; the GAO, the U.S. Chamber of Commerce, and the Council of Economic Advisors have called for its repeal; the Washington Post, the Christian Science Monitor and the New York Times, to name but a few, have all editorialized against Davis-Bacon. We have studies coming out our ears that point to the inflationary impact on construction costs and the administrative nightmares that result from Davis-Bacon. But nothing seems to be enough to convince the act's supporters that Davis-Bacon is not sacrosanct.

As Members of the House, we have to justify our right to serve in this body at the polls every 2 years. It is not enough to say that "we had good intentions when we started, so we deserve to stay here without question." I do not know of one Member who would suggest such a thing. Yet, a 50-year-old law never has to justify its existence. Is the fact that it was a good idea in 1931 enough reason to keep it on the books indefinitely?

Supporters of Davis-Bacon argue that the Government should not be in the business of using Federal funds to drive down wages. I agree, but neither should the Government use taxpayers' dollars to inflate wages, and this is exactly the effect that Davis-Bacon has, regardless of the original purpose of the law.

The Davis-Bacon Act does not protect American construction workers. It protects only big labor union workers. And it protects them at the expense of those who work for and own small, nonunion construction companies. It does not protect jobs. By forcing the Government to pay high wages, it reduces the amount of work, and therefore the number of jobs, that the Government can fund.

Davis-Bacon discriminates against rural construction companies to the advantage of big, urban union shops. Should the Federal Government be in the business of using taxpayers' dollars to favor one kind of business and worker over another? Certainly not.

In conclusion, I can only say that if the House allows this extension of Davis-Bacon to yet another Federal program and to areas where the law has never applied, it won't be just a shame, it will be a scandal and I think the American people will once again vote their opposition to the scandal of excessive spending this November.

I commend the gentleman from Illinois for taking action against the continued waste of taxpayers' money through extensions of Davis-Bacon and I urge my colleagues to support the Erlenborn amendment and to oppose all other Davis-Bacon amendments to this bill.

Mr. FORD of Michigan. Mr. Chairman, I thank the gentleman for his contribution and simply would like to close by observing that apropos of the gentleman's comments, this Congress has never knowingly passed legislation or adopted any position that I am aware of that encourages the use of any Federal agency, much less the Defense Department, to depress business operations or to depress wages in any part of the country. I do not think this is the place to start it.

With respect to the gentleman's eloquent discourse on the cost of the bill: This is coming out of the Defense budget. It does not represent any new spending authorization.

I am perfectly confident that the House will be more than willing to provide enough money in the Defense appropriations to take care of it.

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

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

Mr. Chairman, I simply indicate that the issue of Davis-Bacon, of course, is debated frequently on the floor of the House and in committee and in public debates. It is nothing new.

I rise in opposition to the amendment offered by the gentleman from Illinois. I think the prevailing wage standard is an important provision in this legislation. It is, as I said, not new. It is included in over 50 existing statutes, including the Energy Security Act.

I think the Members of this chamber have been called upon to vote on this issue many, many times.

I respect the gentleman's position on this, but I also would note that recently we did defeat a similar amendment deleting Davis-Bacon, or attempting to, from the National Development Investment Act.

□ 1720

The amendment was defeated by a vote of 240 to 137.

While I respect the gentleman's position, I hope that we will not dwell on this issue becasue we do so far too often and the central thrust of this bill, I think, is going to receive a lot more debate. I think it is an important piece of legislation, but I do anticipate very active debate and I would hate to see us get diverted on an issue on which we vote so frequently.

I urge my colleagues to oppose the amendment.

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

Mr. BLANCHARD. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

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

I want to point out that this is not an attempt to expand Davis-Bacon beyond the traditional sense in which it has been used. The language may not be model perfect, but the fact is, in essence we have not expanded it; that indeed, grants or projects for construction for solid waste disposal, as an example, are covered in the same manner. The same is true of the Synthetic Fuel Act, the National Endowment for the Arts, and so forth and so on.

The record is replete with consistency with regard to what we are doing.

I might just add that I think the unique posture of the National Government in terms of seeking bids on projects puts us as a unique risk of liability with regard to various wage rates and undercutting the quality of service that we might achieve. Indeed, in the private sector one can pick and choose the contractors that one chooses to work with, but the public sector does not have that particular benefit.

As such, I think there is a need for additional qualifications with respect to the contractors, the quality of work that we might receive. I think it is important to recognize, and I think we all recognize it as a dilemma, but we also, of course, fall down differently on basically how we should insure quality construction.

Many of us believe that these labor standards, prevailing wage rates are a significant factor in terms of achieving that quality.

One further fact I might add in passing this afternoon and that is the point the gentleman from Illinois raised with respect to not receiving notification with regard to a point of order that was going to be raised against this amendment, if it were offered, to my perfecting amendment. The gentleman knows full well he had the opportunity to offer his amendment at the conclusion of the perfection, so I did not feel it was necessary in this instance to alert the gentleman, since the basic thrust of what he is trying to do is represented on the floor here this afternoon.

Mr. ERLENBORN. Mr. Chairman, will the gentleman from Michigan yield to me?

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

Mr. ERLENBORN. I thank the gentleman from Minnesota for making that observation. I would certainly agree with him that I was in no way prejudiced.

Mr. VENTO. I thank the gentleman.

Mr. Chairman, when we are in the full House, I will make a request to put Mr. BUTLER's letter response from CRS in the RECORD with his concurrence so that will be part of our formal proceeding this afternoon.

I yield back the time to the gentleman from Michigan.

The CHAIRMAN. The Chair will state that the time belongs to the gentleman from Michigan.

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

Mr. RUDD. Mr. Chairman, I support the gentleman's amendment to strike the Davis-Bacon provision from this bill. The Davis-Bacon law is over 50 years old and has far outlived its purpose if we turn down the amendment. We give it a new lease on life, and can be assured that the Government will pay a 5-percent higher price for each construction contract funded by this bill.

The purpose of the bill is supposedly to support and encourage businesses which make up our defense base, but by tacking on the Davis-Bacon provision, we are eliminating many contractors who will refuse to participate in projects because they know that real competition is stifled by the preset wage restrictions mandated by the Davis-Bacon law.

Some Members have said they support this bill because it means jobs. My district also is suffering from an inflated unemployment level. But the Davis-Bacon provision works against any job-creating aspects of this bill by keeping wages artifically high, and thus cutting down the efficiency of the dollars spent for projects.

The statistics on the inflationary affects of the Davis-Bacon law are astounding. Tens of billions are spent each year in higher labor costs. The evidence for repeal of the Davis-Bacon Act is compelling. I hope that this same evidence will compel us to vote to accept this amendment and prevent further entrenchment of this expensive and inflationary law.

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

Mr. Chairman, I would associate myself with the remarks made by the gentleman from Illinois (Mr. ERLENBORN).

Then I would like to address my comments to the remark made by the gentleman from Michigan (Mr. FORD) when he said that this bill is not going to cost any additional money because it is going to come out of the defense budget.

The fact of the matter is, the defense authorization which was before us here at the request of the Armed Services Committee, some $176 billion, was debated for 7 days. There were over 100 amendments offered to the bill; only one succeeded. That happened to be the amendment that I offered to delete the provisions for nerve gas funding.

So the fact of the matter is, there is no room in the defense budget to fund this particular program. What we are going to see is that if this bill is passed and this authorization takes effect, then there are going to be $6.75 billion in new authorizations lying out there and we cannot find any room for it in the 050 function, which is the defense function.

So this is either new spending or we have to declare which part of the armed services bill is going to be stricken to make room for this spending. It is just not there. It is not in the budget.

So that is one of the myths that has been perpetuated about this bill as it has run its course here in the House. Members have been told that this is not new spending, that it is going to come out of defense. There is nothing to come out of defense. If there was something to come out of defense, we would have taken it out of defense when we had the defense bill here on the floor.

So this is new spending, $6.75 billion in new spending on the eve of an election to create some $30 billion to $50 billion of new credit assistance programs for those hard-pressed defense-related industries who are just not going to be able to make it on the $176

billion that we have already set aside for defense in this country.

Now, I call this corporate welfare. This money is going to find its way into the pockets of some of the richest corporations in America, and I am really surprised to find my colleagues on the other side of the aisle so desirous of advancing this type of legislation.

We just passed a tax bill, and in that tax bill were all kinds of provisions to encourage investment, to encourage businesses to expand, and we have heard speech after speech about how those provisions that we passed in the tax bill were to favor——

POINT OF ORDER

Mr. BLANCHARD. Mr. Chairman, a point of order.

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

Mr. BLANCHARD. I believe the gentleman from Arkansas is out of order, Mr. Chairman, in the fact that he is not speaking on the amendment or anything related to the amendment.

I respect his views and we will fully air those, but this amendment is the Davis-Bacon amendment; it is not related to the debate.

Mr. BETHUNE. Mr. Chairman, may I respond?

The CHAIRMAN. The gentleman may respond.

The Chair will say that the gentleman should address the amendment.

Mr. BETHUNE. The gentleman would be glad to address the amendment except that the subject that the gentleman is now treating was raised by the gentleman from Michigan (Mr. FORD), not the gentleman from Arkansas.

It seems to me only fair that I be permitted to take some of my time to rebut the statements made.

The CHAIRMAN. The Chair will simply observe that the debate should relate to the amendment. The gentleman will continue with his time.

PARLIAMENTARY INQUIRY

Mr. BETHUNE. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. BETHUNE. Mr. Chairman, when a subject is raised by another Member and then a Member is subsequently recognized under the 5-minute rule, may the Member use whatever portion of his 5 minutes he desires to rebut the statements made in the course of the proceeding of the debate?

The CHAIRMAN. The Chair will state that if extraneous debate occurred at a previous time, then a point of order would lie to object to that at that time. Since the point of order was not raised, the gentleman from Arkansas is under obligation to confine his remarks to the amendment.

Mr. BETHUNE. How much time do I have remaining, Mr. Chairman?

The CHAIRMAN. The gentleman from Arkansas has 1 minute remaining.

Mr. BETHUNE. Mr. Chairman, I yield back my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 189, not voting 81, as follows:

[Roll No. 368]

AYES—162

Andrews	Gregg	Montgomery
Anthony	Gunderson	Moore
Archer	Hagedorn	Moorhead
Ashbrook	Hall, Ralph	Morrison
Bailey (MO)	Hall, Sam	Myers
Bereuter	Hammerschmidt	Nelson
Bethune	Hansen (ID)	Oxley
Bliley	Hansen (UT)	Parris
Bowen	Hartnett	Patman
Brinkley	Hatcher	Paul
Broomfield	Hefner	Petri
Brown (CO)	Hendon	Pritchard
Broyhill	Hightower	Railsback
Butler	Hiler	Roberts (KS)
Byron	Holt	Roberts (SD)
Campbell	Hopkins	Robinson
Carman	Huckaby	Roemer
Chappie	Hunter	Rogers
Coats	Hutto	Roth
Coleman	Hyde	Roukema
Conable	Jeffries	Rudd
Corcoran	Jenkins	Sensenbrenner
Coughlin	Johnston	Shaw
Crane, Daniel	Jones (NC)	Shumway
Crane, Philip	Kazen	Shuster
Daniel, Dan	Kindness	Siljander
Daniel, R. W.	Kramer	Skeen
Dannemeyer	Lagomarsino	Smith (AL)
Daub	Latta	Smith (NE)
Deckard	Leach	Smith (OR)
Derrick	Leath	Snowe
Dornan	Lewis	Snyder
Duncan	Livingston	Solomon
Dunn	Loeffler	Spence
Edwards (AL)	Long (MD)	Stangeland
Edwards (OK)	Lowery (CA)	Stenholm
Emerson	Lujan	Stump
English	Lungren	Tauke
Erdahl	Madigan	Thomas
Erlenborn	Marlenee	Trible
Evans (DE)	Marriott	Vander Jagt
Evans (IA)	Martin (IL)	Walker
Fenwick	Martin (NC)	Wampler
Fiedler	Martin (NY)	Watkins
Fields	McClory	Weber (MN)
Fountain	McCloskey	Weber (OH)
Frenzel	McCollum	White
Fuqua	McDonald	Whitehurst
Gibbons	McEwen	Whitley
Gingrich	Mica	Whittaker
Goldwater	Michel	Whitten
Goodling	Miller (OH)	Winn
Gradison	Mitchell (NY)	Wolf
Gramm	Molinari	Young (FL)

NOES—189

Akaka	Bevill	Conte
Albosta	Bingham	Courter
Alexander	Blanchard	Coyne, James
Anderson	Boggs	Coyne, William
Annunzio	Bonior	Crockett
Applegate	Bonker	D'Amours
Aspin	Bouquard	Daschle
Atkinson	Breaux	Davis
AuCoin	Brodhead	de la Garza
Bailey (PA)	Brooks	Dellums
Barnes	Clausen	DeNardis
Bedell	Clay	Dicks
Bennett	Clinger	Dingell
Donnelly	Jeffords	Pursell
Dorgan	Jones (OK)	Quillen
Dougherty	Jones (TN)	Rahall
Dowdy	Kastenmeier	Regula
Downey	Kennelly	Reuss
Dwyer	Kildee	Rinaldo
Dymally	Kogovsek	Ritter
Dyson	Lantos	Rodino
Eckart	LeBoutillier	Roe
Edgar	Leland	Rostenkowski
Edwards (CA)	Lent	Roybal
Evans (IN)	Levitas	Russo
Fary	Long (LA)	Sabo
Fazio	Lowry (WA)	Sawyer
Ferraro	Lundine	Scheuer
Findley	Martinez	Schneider
Fish	Matsui	Schroeder
Flippo	Mavroules	Schumer
Florio	Mazzoli	Seiberling
Foglietta	McDade	Shamansky
Foley	McGrath	Sharp
Ford (MI)	McHugh	Shelby
Ford (TN)	McKinney	Simon
Fowler	Mikulski	Smith (IA)
Frost	Miller (CA)	Smith (NJ)
Gaydos	Mineta	St Germain
Gejdenson	Minish	Stark
Gephardt	Mitchell (MD)	Staton
Gilman	Moakley	Stokes
Ginn	Mollohan	Studds
Glickman	Mottl	Swift
Gonzalez	Murphy	Tauzin
Gore	Murtha	Traxler
Green	Natcher	Udall
Guarini	Nelligan	Vento
Hall (OH)	Nichols	Volkmer
Hamilton	Nowak	Walgren
Harkin	Oakar	Washington
Hawkins	Oberstar	Waxman
Heckler	Obey	Weaver
Hertel	Ottinger	Williams (MT)
Hillis	Panetta	Williams (OH)
Holland	Pashayan	Wilson
Hollenbeck	Patterson	Wolpe
Horton	Pease	Wright
Howard	Pepper	Wyden
Hoyer	Perkins	Wylie
Hubbard	Peyser	Yatron
Hughes	Pickle	Young (AK)
Jacobs	Price	Zablocki

NOT VOTING—81

Addabbo	Dixon	Napier
Badham	Dreier	Neal
Bafalis	Early	O'Brien
Barnard	Emery	Porter
Beard	Ertel	Rangel
Beilenson	Evans (GA)	Ratchford
Benedict	Fascell	Rhodes
Biaggi	Fithian	Rose
Boland	Forsythe	Rosenthal
Bolling	Frank	Rousselot
Boner	Garcia	Santini
Brown (CA)	Gray	Savage
Brown (OH)	Grisham	Schulze
Burgener	Hance	Shannon
Burton, John	Heftel	Skelton
Burton, Phillip	Ireland	Smith (PA)
Carney	Kemp	Solarz
Chappell	LaFalce	Stanton
Cheney	Lee	Stratton
Chisholm	Lehman	Synar
Coelho	Lott	Taylor
Collins (IL)	Luken	Weiss
Collins (TX)	Markey	Wirth
Conyers	Marks	Wortley
Craig	Mattox	Yates
Derwinski	McCurdy	Young (MO)
Dickinson	Moffett	Zeferetti

□ 1740

The Clerk announced the following pairs:

On this vote:

Mr. Emery for, with Mr. Phillip Burton against.

Mr. Cheney for, with Mr. Addabbo against.

Mr. Beard for, with Mr. Zeferetti against.

Mr. Burgener for, with Mr. Forsythe against.

Messrs. HILLIS, ALBOSTA, and PURSELL changed their votes from "aye" to "no."

Messers. CARMAN, DORNAN of California, and NELSON changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1750

AMENDMENT OFFERED BY MR. WILLIAM J. COYNE

Mr. WILIAM J. COYNE. Mr. Chairman, I offer a technical amendment.

The Clerk read as follows:

Amendment offered by Mr. WILLIAM J. COYNE: On page 41, strike out line 13 and all that follows through line 21 and insert in lieu thereof the following:

"(1) In order to carry out the provisions of this section, the Office of Technology Assessment shall, subject to approval of the Technology Assessment Board and in a manner prescribed by 2 U.S.C. 472(d), undertake a study of the public facilities or infrastructure essential to the defense industrial base and provide Congress with appropriate recommendations for infrastructure measures designed to avoid serious impediments to the production and distribution of materiel.".

Mr. WILLIAM J. COYNE. Mr. Chairman, I offer a technical amendment to subsection (1) that calls for an infrastructure study by the Office of Technology Assessment (OTA).

Mr. UDALL and Mr. DINGELL, both of whom serve on OTA's governing body, the Technology Assessment Board, kindly advised me that our original language does not accord with OTA's usual way of initiating studies.

Our aim is certainly not to circumvent standard procedures. Rather, because OTA's expertise is so well suited to our purpose, we simply want to set in motion the machinery that can lead toward this important study.

Mr. UDALL, as Vice Chairman of the Technology Assessment Board, assures me in writing that the new language is now "consistent with the standard procedure * * *." He further assures us that the infrastructure study proposal will be well received by his Board. I will enter a copy of Mr. UDALL's letter in the RECORD.

In sum, I believe the technical amendment strengthens what we intended to achieve and I urge its adoption.

OFFICE OF TECHNOLOGY ASSESSMENT,
Washington, D.C., September 23, 1982.

Hon. WILLIAM J. COYNE,
House of Representatives,
Washington, D.C.

DEAR BILL: I appreciate your interest in the possibility of the Office of Technology Assessment conducting a study of ". . . public facilities or infrastructure essential to the defense industrial base. . . ."

The technical amendment you are offering today to H.R. 5540, the Defense Industrial Base Revitalization Act, is consistent with the standard procedure set up by the Technology Assessment Act of 1972.

Understanding the urgency with which many view the infrastructure problem, I am sure the Technology Assessment Board would be pleased to receive this proposal through prescribed channels. I assure you that the study proposal will be judged fairly and on its merits.

With best wishes,
Sincerely,

MORRIS K. UDALL.

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

Mr. WILLIAM J. COYNE. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I have examined the gentleman's amendment, and the minority side is delighted to accept it.

Mr. WILLIAM J. COYNE. I thank the gentleman.

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

Mr. WILLIAM J. COYNE. I yield to the gentleman from Michigan.

Mr. BLANCHARD. Mr. Chairman, I support the amendment offered by the gentleman from Pennsylvania, and I applaud his action here in working out this conforming amendment.

Mr. WILLIAM J. COYNE. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WILLIAM J. COYNE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. M'DADE

Mr. McDADE. Mr. Chairman, I offer an amendment, and I ask unanimous consent that the reading of the amendment be dispensed with and that it be printed in the RECORD.

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

There was no objection.

The amendment reads as follows:

Amendment offered by Mr. McDADE: Page 26, after line 9, insert the following:

"(3) Such financial assistance under this subsection shall, to the greatest extent possible, be made available to small independently owned and operated businesses."

Mr. McDADE. Mr. Chairman, the amendment I am offering today is designed to channel the vital assistance created by this bill to small businesses whenever possible. It is a sound amendment. It recognizes the continuing crucial role small businesses play in our Nation's defense efforts.

This amendment has as its historical base the Small Defense Plants Corporation Act of 1942. Since that time, this Congress has recognized the importance of small business subcontractors and suppliers to our Nation's ability to respond to a crisis. Study after study has shown that without these small businesses, large prime contractors cannot function. During the Second World War, the Korean conflict and the Vietnam war, small businesses proved to be a linchpin of our industrial supply line.

The amendment will make the bill more sensitive to the needs of small businesses and improve their ability to react with a steady stream of critical defense production when called upon. As the ranking minority member of the Small Business Committee, I believe this amendment will help the small business community. I urge your support.

Small businesses, as differentiated from those businesses owned or controlled by big business, have an especially difficult time securing financial assistance. Businesses that are subsidiaries, or are controlled by large businesses, have not shown a similar need for assistance nearly as often, or in such degree, as the independent small business. The amendment reflects this fact by its wording, which is derived from the Small Business Act. This amendment is intended to direct assistance to small businesses and not to those businesses either large in size or those owned or controlled by other than small businesses.

Mr. Chairman, my amendment will further strengthen this vitally important legislation. In addition to the assistance for small and medium businesses, the bill contains important support for vocational education. In the past decade, little or no investment has been made to graduate our youth and adults with the technological skills required in our information-oriented society. Small businesses are having increasing difficulty finding employees with necessary skills. This bill presents a practical, workable way to expand the Nation's supply of workers with skills that are in such critically short supply. Because of the proven effectiveness of this bill's approach to skills training, I am cosponsoring this title of the bill in addition to offering my amendment. I urge the adoption of my amendment and the prompt enactment of H.R. 5540.

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

Mr. McDADE. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, the minority is delighted with the gentleman's amendment.

Mr. McDADE. I thank the gentleman.

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

Mr. McDADE. I yield to the gentleman from Michigan.

Mr. BLANCHARD. Mr. Chairman, I rise in support of the amendment. I want to commend the gentleman from Pennsylvania and the gentleman from New York (Mr. ADDABBO). This amendment gives priority edge in our legislation where it properly belongs and it is fully consistent with our intent. We would be happy to accept this amendment and fully support it.

Mr. McDADE. I thank my colleague.

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

Mr. Chairman, I have requested this time so that I may engage the gentleman in colloquy. The gentleman stated that the purpose of his amendment was to be certain that the small business community is folded into this process and into the benefits that will be bestowed by this bill. Having studied the bill very carefully, I notice that just about everybody else is folded into the bill, but particularly is folded into the bill those corporations who are involved in defense-related work, who are now going to get, as well as the tax benefits that we voted for them over the last year, cheap credit to go along with it. So I would ask the gentleman just exactly how is small business folded in and exactly what does the gentleman's amendment do?

Mr. McDADE. If the gentleman will yield, I am sure my friend, the gentleman from Arkansas, will recall that in every war in which this Nation has been engaged no contractor could function without the small business community of this Nation. No prime contractor can operate without being able to subcontract to the small businesses and the small independently owned organizations. In every single conflict it has been essential that small business be positioned to try to support the defense pace of the Nation. That, as my friend knows, is the historical precedent that exists in this Nation.

The amendment is available, and I will read it:

Page 26, after line 9, insert the following: "(3) such financial assistance under this subsection shall, to the greatest extent possible, be made available to small independently owned and operated businesses."

Now, what we are doing is attempting to say to the small business community, "We recognize your historic role. All of you out there who are small, independently owned, we know what you did during World War I and World War II, in the Korean war and in the Vietnam intervention, all of them, we want you to be, as part of this bill, prepared to continue your historic role, together with anyone else who is involved in supplying."

Mr. BETHUNE. What are the kinds of things that they are going to be doing, if the gentleman would state, that they are not already doing, and how is it that this expenditure of money is going to somehow revitalize the defense industrial base through small business?

Mr. McDADE. If the gentleman will yield, I am sure that my friend knows that the small business community accounts today for 60 percent of the GNP of this Nation. Is my friend aware of that?

Mr. BETHUNE. Sure.

Mr. McDADE. In the last 10 years 66 percent of all of the jobs created have come through the small business community. Now, if they are going to perform in a national emergency, they may need to be facilitized to do something. If an individual is a small, hard-hitting entrepreneur with a small machine shop, he may be able to bid on a Government contract, but he may need to be facilitized to do so. He may have to get some kind to a loan or guarantee, may I say to my friend, that would enable him to perform under a contract, otherwise he risks his entire business should he bid on a defense contract. We need to make sure that he is willing to bid and not risk pledging his entire assets and collateral and everything he has worked for his entire life to aid the country in its defense against a foreign aggressor.

Mr. BETHUNE. Under the gentleman's amendment, does it matter how much of his business is related to the defense industrial base?

Mr. McDADE. It, of course, has to be a part of the defense industrial base, or they would not be eligible.

Mr. BETHUNE. How much a part of the defense industrial base?

Mr. McDADE. Whatever fits in a national emergency. If you happen to be a very large corporation and you can say to a small, well-performing, profit-making organization, "We need your help, but we do not expect you, of course, to go out and remortgage your entire plant in order to perform under a contract where we might need a specific type of gear or a specific type of machining project," this lets him perform in a way, by getting access to credits, so that he would not have to go back and remortgage his investment.

And may I say to my colleague, otherwise he would not perform. Otherwise he would just say, "There is no reason I want to get involved in remortgaging my business. I will stay on the private side and I will not be involved in Government business."

Let me give my friend an example. I had a small business in my district, may I say to my colleague, that for years had been doing a great deal of work on the private side. They were asked by a large corporation to come in as a subcontractor. And they did so. And they did very, very well. As a matter of fact, success spoiled them and they got to be a very large Government contractor. When I say "large," I mean 400 people—I do not mean 1,000 people—but by their standards, a large growth in that area. They were in it for just a short period of time, until one of the giant corporations of this Nation saw them doing well, delivering a heck of a product at a super price, and they came in and bought out the contract and the man ended up in bankruptcy.

□ 1800

He said never again; never will I touch a Government contract. His whole business was forced into bankruptcy because one of the giants saw what he was doing and picked him off.

May I say to my colleague what we are trying to do is say if this bill becomes law, we want to recognize that 60 percent of the GNP comes from the small business community and their historic role in helping us meet an external threat and not require them to go through remortgaging of their entire business that someone may have spent their entire life building.

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. BETHUNE) has expired.

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

Mr. BETHUNE. Under this bill, if the gentleman would listen just a moment, as I understand this bill, if one is involved in some defense-related activity, then one could—assuming the bureaucrats saw fit to go along with it—qualify for a loan guarantee or some direct loan which would come from the money we are appropriating here and the authority granted herein.

So the point I am concerned about is how much would a small business have to be involved in defense-related matters before it would qualify for a loan guarantee and a lower rate of interest under the provisions of this bill, because I am worried about all those other small businesses out there who might not be involved in this kind of activity. They are going to get crowded out of the credit market. They are going to pay a higher rate of interest because they cannot go in and convince the bureaucrats who are in charge of this kind of program that they are entitled to a favored position in the credit market and that they are entitled to a lower interest rate.

That is what troubles me. That is what troubles me about the gentleman's amendment and about the whole bill.

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

Mr. BETHUNE. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I thank the gentleman for yielding.

The bill rather specifically states these loan guarantees, purchase agreements, and/or loans will be given for an application that is asked for by the Defense Department to supply a major supplier; so, therefore, I would suggest that the question the gentleman asks would be answered that they would get as much as they need for that particular project which has been requested by the Defense Department because a prime contractor asked.

To give the gentleman an example, a prime contractor would say, "We cannot get titanium fan blades for the jet engine. We need them. Such and such a company is our only supplier." That company then says, "We are not

going to make them, we do not know how many you are going to need, we are not going to build up our plant and equipment to do it."

So the Defense Department would ask for a loan, a loan guarantee, or a purchase agreement which would then go just to set up the equipment on the part of that small business that would be making those fan blades which they presently do not make.

Mr. BETHUNE. If I could reclaim my time I would observe if that is the case, why is the NFIB so violently opposed to the bill?

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. McDADE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SOLOMON

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

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: Page 38, after line 24, insert the following:

"(12) The President shall insure that each individual receiving training in any program established under this subsection has not violated section 3 of the Military Selective Service Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section. The Director of the Selective Service System shall cooperate with the President in carrying out this section."

Mr. SOLOMON (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 New York.

There was no objection.

Mr. SOLOMON. Mr. Chairman, I will not take but a minute. This is not a controversial amendment. It is the draft registration amendment I have offered to several pieces of legislation. It simply insures that anyone who is in violation of the Draft Registration Act shall not be eligible for any of the programs contained in this subsection, namely, job training.

I think it is particularly important that we have it on this piece of legislation, since it does deal with defense production.

I would ask the amendment be accepted.

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

Mr. SOLOMON. I yield to the gentleman from Michigan.

Mr. BLANCHARD. I thank the gentleman for yielding.

Mr. Chairman, we would like to accept this amendment offered by the gentleman from New York. I think the language of the amendment in assigning specific responsibilities to the President and to the Director of the Selective Service also makes it clear any compliance costs would not come from the funds authorized for the critical skills training program under this section but would indeed be carried out as the gentleman so mandates in the amendment.

Mr. SOLOMON. I thank the gentleman.

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

Mr. SOLOMON. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, the minority is delighted to accept the gentleman's amendment.

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

The amendment was agreed to.

AMENDMENT OFFERED BY MR. M'COLLUM

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

The Clerk read as follows:

Amendment offered by Mr. McCOLLUM: Page 30, after line 10, insert the following:

"(h) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of the Treasury determines that such loan, loan guarantee, or commitment for a loan guarantee will not tend to increase interest rates in the credit markets and will not adversely affect the thrift industry."

Redesignate the following subsections accordingly.

Mr. McCOLLUM. Mr. Chairman, this amendment would prohibit the extension of a federally assisted loan if that loan would tend to increase the overall interest rate level in this country. Federal demands on the credit markets are an important factor in explaining the high interest rates that we have in slowing our economy for the last many months.

In 1980 and 1981, over a third of all credit available in the domestic markets was absorbed by the Federal Government. In 1982, it has been estimated that the Federal Government will take over one-half of all of the available credit. In fact, one of the leading business magazines in our country recently estimated it would take over 70 percent of all available credit this year.

The problem is not just deficit spending. Most of the credit absorption comes from borrowing to support Federal and federally assisted loans, lending of the same sort that is found in this bill.

This bill would authorize that same type of lending that we are talking about. The problem of absorption of credit has several components. For example, in 1981 our deficit from overspending—although it is much larger projected for this year and next year—was $55 billion. At the same time, direct loans by the Federal Government, loan guarantees, and loans by Government-sponsored enterprises such as FNMA cost us $86 billion in total absorption from the entire credit market.

So as opposed to $55 billion in deficits in 1981, we had $86 billion more taken out of the credit marketplace by loans, loan guarantees, and loans by Government-sponsored businesses.

The interest rates we now experience will not fall to acceptable levels even though they have fallen to a great extent right now. They will not fall to an acceptable level and stay there until we get out of this enormous credit market crunch we are in at the present time on the availability of dollars in this country.

There is a great need not only for reductions in the deficit, the absorption of money in this fashion, but also for the stopping of any increases in the Federal Government getting into the loan and credit market through that method or through the method of loan guarantees which are found in this bill.

Now is not the time for an expansion of Federal credit. Reducing interest rates will do more for national security than a credit program like this could ever do.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, could the gentleman tell me how the Secretary of the Treasury will determine that such loan, loan guarantee, or commitment for loan guarantee will not tend to increase interest rates in the credit markets and will not adversely affect the thrift industry?

Mr. McCOLLUM. I think the gentleman from Rhode Island is aware, as I have just said in my statement, that commonsense says that any additional loans at this particular period of time or loan guarantees are going to adversely affect the interest rates. I suspect that the Secretary of the Treasury can see that just as well as I can.

Mr. ST GERMAIN. If the gentleman will yield further, the gentleman is stating that an estimate or determination of a specific loan or loan guarantee will have that effect. Frankly, I think that requires the wisdom of Job. I think it is impossible of administration, and it places on the Secretary of the Treasury—I do not know the religion of the gentleman, but the Holy Ghost could not come up with this one under my Catholic religion.

Mr. McCOLLUM. I would submit to the gentleman from Rhode Island there is no question that right now a further loan guarantee would not, in fact, increase the interest rates in this country; but at such point in the future time—which the Secretary of Treasury could easily determine that we are not in fact continuing this expansion of the deficit on the Federal ledger from our borrowing and at such period of time when we begin to see interest rates coming down—it is obvious we do not have such period at this point in time.

Mr. ST GERMAIN. If the gentleman will yield further, does the gentleman support and has the gentleman supported the administration's request in the area of defense spending?

Mr. McCOLLUM. I have certainly supported some of the administration's requests but certainly not all of them. In fact, recently I was on the other side of that question in this very body.

Mr. ST GERMAIN. Does the gentleman mean he voted to override?

Mr. McCOLLUM. I did.

Mr. ST GERMAIN. A lot of people have gotten religion since it is getting close to November 2. After November 2, if the gentleman is reelected, I wonder if the gentleman will continue to vote for a large defense budget as the gentleman did last year.

□ 1810

Mr. McCOLLUM. The gentleman from Rhode Island knows full well that our problem over the last 20 years has been the fact that we have cut defense spending in half as a portion of our Federal spending and doubled social welfare spending.

The great debate in this Congress is the gaining of a consensus on where to reduce the spending in order to reduce the deficit.

All the gentleman from Florida is suggesting is that we do not at this time in our history need to be extending credit further.

The CHAIRMAN pro tempore (Mr. ROEMER). The time of the gentleman from Florida has expired.

(At the request of Mr. McKINNEY, and by unanimous consent, Mr. McCOLLUM was allowed to proceed for 5 additional minutes.)

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

Mr. McCOLLUM. I will be glad to yield to the gentleman.

Mr. McKINNEY. Mr. Chairman, as a member of the Banking Committee, no one is interested more than I am in lower interest rates and I am also, as is my friend, concerned with the forced credit market.

This bill clearly follows the precedent set in the Korean War Powers Act where most of the forms put out were purchase contracts which were, quite frankly, never in the ultimate end authorized or paid out because the market had caught up with the purchase contract guarantee.

Now, the gentleman can tell me the purchase contract is a forced credit, but this seems to be the only way that we had to get the aluminum business going and so on and so forth; but the real problem I have got with the gentleman's amendment is simply this. I do much like the President's right to veto something, but that is part of our basic Constitution. The gentleman's amendment, I would suggest, gives the Secretary of the Treasury a clear veto. In fact, it guts the basic bill by simply saying that the Secretary of the Treasury can make a determination. Can he make it on facts? Can he make it on anything that is concrete? No. He can make it on values. He can make it on assumptions and he can say, "I think it is going to tend to"—and I do not really want to have a Cabinet member have a veto over the desires and the actions of the Congress on the basis that something can tend to.

My God, we have not had a Secretary of the Treasury who could tell us whether it is morning or night through two administrations and if, in fact, the Secretary of the Treasury knew what interest rates were going to be or where they were going to go or how they were going to get there, he would do something about it.

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

Mr. McCOLLUM. I yield to the gentleman from Arkansas.

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

The problem with this bill is that we do not know how the money will be spent. We do not know whether we will have loan guarantees, purchase agreements, interest rate subsidies; we do not know. That will be left to the bureaucrats, not in the Treasury, but in Defense and Commerce. They get to make the judgment about where this money is going to go.

Now, if it is OK for Defense and Commerce to have a say where the money goes, then why should not the Treasury have a say as to whether or not it is going to foul up that careful balance that we have out there among our financial institutions?

Now, the thrift industry is on the ropes. One of the reasons it is on the ropes is that this Congress has screwed up the delicate balance that exists between the commercial banks and the thrift industry and the securities industry and everybody else that is trying to make a living out there in the free market.

Now, this kind of bill when you keep adding credit program on top of credit program and offering interest subsidies with no rhyme or reason, no scheme, no order to things, you tend to confound and compound the problem that we already have. That is why the gentleman, I think, has offered the amendment and it is a good one to offer.

Now, with respect to the question about whether defense spending will cause interest rates to go up, one thing about the gentleman's votes on defense spending is that they are consistent with the budget that we adopted.

One thing about this bill that is before us here is that it is not even contained in the budget. If we pass this bill here, $6.75 billion over the next 5 years, we are going to bust the budget by that much, because there is no room to take it out of defense, as some of the big spenders around would have us believe.

Then I wonder also about this allegation that during the Korean war this kind of program worked. During the Korean war, we did not have the credit problem that we have got in this country today. I am going to be talking in a moment from the charts that I have down in the well of the House. In 1950, when we had the Korean war, we did not have the Government involved in the credit market to the extent we do now. The charts in the well show that now we have over $600 billion in Federal credit assistance programs outstanding out there right now and the Federal credit assistance programs, Federal lending programs, are growing at a rate faster, believe it or not, than Federal spending programs.

Let me say that again. Federal lending is growing at a rate faster than Federal spending.

This Federal lending busts the credit budget that we have in the budget this year. It busts the spending budget that we have in the budget this year.

I will tell you, we do not know what we are doing in the area of Federal lending programs. We have added one after another after another to the point that we have crowded people out of the credit market. We are running interest rates up and I think we do need somebody with the right to have a veto in this instance, so that they can protect the people from us, because the people are wanting lower interest rates and the people are needing credit so that they can invest in their businesses and create real jobs. That is the problem in the country.

I am glad that the gentleman offered the amendment, because it is an important amendment and it is the first chance that we have had to discuss the runaway lending that would be generated by this bill.

I hope Members will focus attention on this bill, because they will see that it is required.

The CHAIRMAN pro tempore. The time of the gentleman from Florida has again expired.

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

Mr. McCOLLUM. Mr. Chairman, I would like to continue the comments of the gentleman from Arkansas and talk for just a moment about the enormous problem that we have in considering interest rates in this country. We have interest rates which are the price of money. The price of money, just like any other good or commodity, is determined by the laws of supply and demand. When you have a limited supply of money and you are not creating more of it, and right now fortunately the Federal Reserve Board is

not creating more, it is allowing for hopefully a moderate increase, but not a great increase in the supply of money. We have a limited supply of that money available.

Then the question is, who gets what portion of that pie? When the Federal Government is absorbing, taking out of the marketplace 50 percent or better of all the money available, and some estimates say as much as 70 percent, there comes the crunch, the real reason why we have high interest rates today.

We need to get out of the money business. We need to reduce that pressure. One of the ways, of course, is by getting some commonsense in reducing our deficits far more than we have today. A hundred billion dollar deficit, or whatever, regardless of whose deficit it is, is too great; but the other way and the really big way we are talking about is by at least not expanding, and hopefully reducing, the results of pulling in money through this credit system, through the loans, the loan commitments, and the loan guarantees. That is what the heart of this bill is about and that is what the heart of this amendment is about.

We do not need at this time to continue doing that in a time of high interest rates. There may be a time for these loans and loan guarantees and loan programs.

We are not asking in this amendment that we reduce anything that already exists. All we are asking is that the Secretary of the Treasury be given the power to consider the factors that I have just laid forth in his wisdom and determination, just as he does in many other discretionary roles over in his department in estimating this, that, or the other, in order that we do not have a further extension of credit, in order that we do not have a further taking away from the American people of the money that right now ought to be in the marketplace so the interest rates will come down.

Mr. WEBER of Ohio. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the gentleman's amendment.

Mr. Chairman, I do not think the people of this country want this bill if it is going to drive up interest rates for the purchase of a home or the construction of a home.

I think we badly need this amendment to protect the people who are not the favored borrowers under this bill from being crowded out of the credit markets. I am talking about the homebuilder that depends on thrift institutions and local savings and loan institutions for his financing.

I am talking about the family that is trying to purchase a home or to sell their present home, that depend on a local bank or a thrift institution for financing.

I do not know whether it is possible for this bill to function without driving up interest rates. I am willing to defer that question to the Secretary of the Treasury, because I think that the people of this country want that assurance.

Let me just discuss some of the dangers that this bill presents and that this amendment addresses.

This bill contains up to $50 billion in Federal credit, which might be provided over 5 years. The increase in Federal credit demand would raise interest rates and crowd out the vast majority of businesses that the bill does not help.

This bill would set the Government up as a privileged competitor to private financial institutions.

The Government credit allocation through direct loans and loan guarantees would result in an unsound examination of the relative risks and the returns of projects and would lower the productivity of financial capital, as is bound to happen whenever capital is directed into markets that the market otherwise would not attract.

Funds that are not used for loan guarantees would be available for price guarantees. These guarantees could result in billions of dollars in unanticipated budget outlays, since many of the guarantee prices are likely to be considerably above what would prevail otherwise in the market.

Homebuilders and small businesses currently have a very serious credit problem. That problem is not one of credit availability; it is a problem of credit price. The price problem eventually creates an availability problem for some small businesses as a practical matter. Credit is available if the small owner is willing to pay for it.

□ 1820

This bill must not be allowed to exacerbate this problem and make credit even more expensive for some while providing subsidies for others.

Loan guarantees reduce the risk premiums charged by lenders. Presumably, guaranteed borrowers are marginal at best, or else the guarantees would not have been required to provide the loan in the first place. A guarantee as provided by this bill effectively moves the marginal borrower to the top and pushes an otherwise acceptable borrower out of the credit market.

Given the size of the defense outlays that we are now expending under the budget, billions of dollars, I fail to understand how any reasonably well-run firm cannot get capital to fulfill a defense contract in the private market.

Now, it may be, and I do not dispute the fact that our defense industrial base has weaknesses, but it does not suffer from weakness for the reasons that are addressed by this bill. Our defense industries do not suffer from lack of spending on defense. Our defense industries do not suffer from a defense budget that is too small.

It is hard for me to believe that our Defense Establishment suffers from not having enough job training or vocational schooling.

Our defense industry is going to be helped most by a healthy economy. That means controlling inflation; and Government spending certainly has been a factor in inflation. That means getting interest down; and Government borrowing, necessitated by Government spending, has certainly been a cause, a major factor, in today's high interest rates.

To help our defense industrial establishment means tax incentives, and as Government deficits go up, Congress comes under increasing pressure to repeal the tax incentives that were voted in last year and have already been modified by this Congress in the tax reform bill that was passed last August.

This bill spends $1.35 billion a year. It is going to come out of either the defense budget or new borrowing, one or the other; $6.75 billion in total authority over the next 5 years that could leverage $10 billion a year in new loan guarantees, $50 billion in 5 years.

The gentleman's amendment is needed to protect against what that might do to the ability to build a house or purchase a home.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio (Mr. WEBER) has expired.

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

Mr. McKINNEY. Mr. Chairman, will the gentleman yield to me?

Mr. WEBER of Ohio. I would be happy to yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I could not agree with the gentleman more on the subject of Government spending; $38 million an hour is what we are going to spend on defense. This bill, over the lifetime of our defense projections, will take seven-tenths of 1 percent of the defense budget.

Now, let us look at where we really are. Lag time, the time between order and production, has gone up threefold, for instance, on landing gears, to over 3 years because we do not have the proper amount of presses and the people running them.

From December to March of this 1 year defense spending through cost overruns has gone $114 billion higher, 33 percent higher. I do not see how anyone can say that taking seven-tenths of 1 percent of $38 million an hour to get the businesses going that can produce these items and bring down the lag time and bring down the cost overruns. I do not know how

anyone can really say that is not going to help the Government's expenditures and lower the Government's borrowing and lower this incursion into the credit markets.

To me, it is basically simple: We are paying far too much for our defense goods. Our cost overruns are an obscenity; they are an obscenity because of lag time for a product, and if we do not have lag time, guess what the second biggest obscenity is of that $38 million an hour? We buy it in Europe; we buy it in Japan. There is not a single aircraft being made in this country with an American fastener on it. Think about that, ladies and gentlemen.

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

(By unanimous consent, Mr. WEBER of Ohio was allowed to proceed for 5 additional minutes.)

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield to me?

Mr. WEBER of Ohio. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I would like to make the point that the gentleman from Connecticut was making for me, and that is, I think if, in fact, this bill does what he says, that is, it helps the economy, does not increase our interest rates, then the Secretary of the Treasury under this amendment undoubtedly would certify any loans that are to be made available to be perfectly legitimate and OK.

On the other hand, as I suspect the fact is, this bill will result in a tremendous pressure on interest rates, driving them much higher—that is my belief—then the Secretary of the Treasury under my amendment would simply say no to the expenditure and the loan guarantee.

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

Mr. WEBER of Ohio. I yield to the gentleman from Arkansas.

Mr. BETHUNE. I thank the gentleman for yielding.

Mr. Chairman, I just want to address once again this subject that keeps cropping up about the fact that we need not worry about the fact that this bill has $6.7 billion in spending, it is going to come out of the defense budget.

We spent a full week here on this very same floor discussing the defense budget. Over 100 amendments were offered to that bill, and none of them carried except the one that I mentioned about nerve gas, which took a little bit of money out of the defense budget.

The committee brought a carefully crafted bill to the Hill, and it held up to all of that debate.

Now, the idea that this bill be discussed here with little or no attention is going to have priority over all of that that we debated so carefully in the course of that long week on the armed services bill is just ludicrous. The fact of the matter is, this is new spending. We are either going to have to appropriate money to fund this bill or we are going to bust the budget, because there is no room in the budget for it and the Defense Committee will be here fighting tooth and toenail.

Now, if we want to take it out of defense, fine; let us take it out of the defense bill here on the floor and debate it and see if we want to take it out. But I think it is incumbent on us to say what we are going to take out of the defense bill if that is where we are going to get it. Nobody is willing to say that because we cannot, because we had the 7 days of debate.

This is new spending which busts the budget. It is that simple. Anybody who votes for this bill is voting for $6.7 billion in new spending which will leverage up to $50 billion in new loans and loan guarantees which, in turn, will run up interest rates and crowd people out of the market. It is a bad bill, and the gentleman's amendment brings it home to all of us, just exactly why the bill is fatally flawed, in my view.

Mr. WEBER of Ohio. I thank the gentleman from Arkansas.

Mr. Chairman, with all due respect to the gentleman from Connecticut, I fail to see how this bill guards against cost overruns in the Defense Establishment. I do not see that that is going to happen from this bill.

I seems to me that what we are going to have is less cost-effectiveness for the dollars that are being spent in the defense budget. We are going to be paying more for our defense goods under this bill, not less.

Mr. Chairman, I do not see anything that controls the cost overruns. We are going to be getting less quantity or less quality for the same amount of defense dollars. I do not see any other way that that can happen.

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

Mr. WEBER of Ohio. I will be happy to yield to the gentleman from Connecticut to clarify that.

Mr. McKINNEY. I thank the gentleman for yielding.

Mr. Chairman, I would suggest to the gentleman from Ohio, since I represent the second most defense-oriented State in the United States of America, Connecticut, per capita, I tried to question my people on why something that costs 33 percent more than they told us it was going to cost, and they say lag time, lag time; we cannot get this part, nobody is making it.

This bill is designed to have people make it, to have purchase guarantees so it is there. The lag time on landing gear is well over 3 years from startup to getting it delivered. That is holding the whole project up because the plane cannot fly without a landing gear. Why can it not fly without a landing gear? Because we only have four places in the United States of America where we can make a forging for landing gear out of titanium, and some of them are so utterly obsolete right now it is ridiculous. Will they update them? No, they are not going to update them because they are not going to crank up their money to do it unless they know they are going to be guaranteed x number of purchases and x number of landing gears over x period of time.

□ 1830

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

Mr. Chairman, this is the first of a series of amendments designed with the best of intentions, but with the intentions of gutting the bill. It is no different than about 40 other of the so-called "killer" amendments which will be offered this evening or tomorrow. They are all virtually the same, and they have the same destructive theme, that is, giving someone in some agency veto power over making this bill work—by administrative decree, give someome the ability to kill the bill.

All these different amendments, including this one, would give someone in the executive branch the ability to thwart the will of Congress by a simple finding, a subjective, highly subjective finding, by endless feasibility studies, but in this case, simply a finding that somehow the credit markets, somehow the commitment for a loan or loan guarantee would not tend, as we heard earlier, tend to increase interest rates in the credit markets, or not adversely affect the credit industry.

The fact is, one could argue under any circumstances, including speeches by the President or Members of Congress, that that act tended to adversely affect the credit markets. I would suggest, quite frankly, that the size of the Federal deficit determined by the fiscal policy prevailing in the land right now has done far more to affect credit markets than anything this bill might possibly do. In fact, I think the legislation quite possibly will allow us to utilize our defense expenditures much more productively and efficiently not only by an increasing number of competing bidders for defense contracts, but by modernizing the process and machinery and skilled workers who work on defense items.

In not only think we get more efficient defense spending, but I think that we would tend to keep the increase in defense spending at a minimum, and without, a doubt result ultimately in lower deficits and lower interest rates.

This particular amendment, as so many we are going to hear, do nothing more or less than gut the bill by giving somebody, in this case the Secretary of the Treasury, veto power over the legislation. I think we are going to hear this as a redundant theme all night and probably tomorrow, and we will oppose every single amendment. We respect the right of the gentleman from Arkansas and others to oppose the bill on its merits, as some of them did in committee. Respecting that right, we still oppose the attempt to, through the back door, give someone veto power over our legislation.

I urge our colleagues—my colleagues—to soundly defeat this amendment and all of the 40 after it.

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

Mr. BLANCHARD. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I want to commend the chairman for his statement. This really, I think, begs the question. The President in this legislation is given the authority to move ahead with the programs over a period of 5 years, and indeed the authority is some $6 billion-plus, but I think it is essential. I think in fact we will save that and more if we build up the industrial base to the point where it can accept some of the demands that are being put on it by a very heavy procurement budget indeed which was begun last year and which persists this year.

I think we have to address the basic infrastructure. This measure does it, but to render that authority, after the President has made a decision to go forward with this program, to the Secretary of the Treasury I think is a contradiction, to say the very least, and I think not a useful addition to this bill.

Although we all share the concern of the gentleman when indeed we make appropriations or allocations or authorizations with regard to what the effect is on the marketplace, I think the decision here has to be made that this is a positive effect in terms of the type of programs, the demands to be put on the industrial base to indeed achieve the goals we have in terms of delivering with appropriate capability, in terms of the equipment, in terms of the skills, in terms of the other functions that are carried out by this bill.

Really, the gentleman is begging the question with it and I think, in fact, if the gentleman is serious about this particular type of provision, it ought to be added to almost all the appropriation and authorization bills put forward in this particular Congress. Really, we cannot delegate away that particular responsibility. It is one that we have to make here today or tomorrow in the final passage of this bill, but I think it does more harm than good. Obviously, it is the gentleman's prerogative to vote the bill down.

The CHAIRMAN pro tempore (Mr. ROEMER). The time of the gentleman from Michigan has expired.

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

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

Mr. BLANCHARD. I yield.

Mr. BETHUNE. Mr. Chairman, I thank the gentleman for yielding. The gentleman has characterized this particular amendment as one which is very much like others which are yet to come, and that they are "killer" amendments. I wanted to address that question.

First, the bill under consideration is so vague, there are no criteria by which we can judge the discretion that will be exercised by the Secretary of Defense and the Secretary of Commerce as they dispense these favors under this bill. The language of this bill simply says that they shall make a determination based on the proposal that offers the greatest prospect for improving productivity and quality, and for providing materials which will reduce the Nation's reliance on imports. If we are going to give the Secretary of Defense and the Secretary of Commerce such carte blanche authority to make decisions, then I wonder if it is not a good idea to give the Secretary of Treasury some authority to veto their judgment, because we are creating a bureaucratic boondoggle here whereby the corporate welfare created under this bill is going to be dispensed by those Department heads who are really not responsive to this Congress when they have no standard in the bill.

So, I think it is important that we do have these types of amendments. They are important amendments that address these flaws.

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

Mr. BLANCHARD. I will be happy to yield my time to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I think the gentleman has stated twice that we are going to give this kind of power to the Secretary of Defense and Secretary of Commerce, but we will give them that kind of power only if the President of the United States says, "Use it." We are not giving them that power without the President of the United States telling them to do it.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan has again expired.

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

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

Mr. BLANCHARD. I yield.

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding. I think the gentleman from Arkansas repeatedly has raised this question of corporate welfare. That is really a red herring, I think, for him to drag out in this particular case considering the fact that measures have been put in place that are supposedly attempting to address the industrial base of this country in an area where there is really a testified deficiency in terms of our defense capability to meet the demands that really many in this Chamber have put on it in terms of the procurement budget.

The fact of the matter is, there are all sorts of initiatives that have been tried, to say the least. The tax measure passed last year, which I might characterize with similar adjectives with regard to its characteristics, but I think this is a far tighter, a far more clear basis on which to target the scarce resources we have available to achieve the goals than was that measure last year.

So, I hope we can look positively at this, and certainly I trust that the administration would utilize it for the goals and objectives that have been set up in this particular legislation. I am not offended. I think that we need, indeed, to accomplish that, and I think the rhetoric really which we are hearing here with regard to welfare is really inappropriate in this measure.

Mr. BLANCHARD. The gentleman's point is well taken. The fact is, if we were to throw around such terms, they are more applicable to the current situation where we have a dwindling number of defense contractors competing for jobs, but in this bill we are going to increase the number. This would economically be a corporate competition bill, although I hate slogans, but that is more accurate.

Mr. WEBER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Ohio.

Mr. WEBER of Ohio. Mr. Chairman, I thank the gentleman for yielding. I find this bill to be anticompetitive and not procompetitive for the reason that is contained in section (f)(2).

The CHAIRMAN pro tempore. The time of the gentleman from Michigan has again expired.

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

Mr. WEBER of Ohio. Financial assistance is denied to businesses "whose economic success is dependent upon divesting other persons and contracts theretofore customarily performed by them."

Now that language, to me, sets up a wall of protection against competition. I do not find that to be procompetitive at all.

□ 1840

To me that is anticompetitive in the extreme. It is protecting those businesses by its very language "that customarily have performed these contracts." That is not competition; that is anticompetition.

I welcome your explanation.

Mr. BLANCHARD. It would simply prevent a firm from using our Federal money which, as you know, is limited, to move a plant from Toledo to Hawaii, instead of providing an efficient, productive process to produce items necessary for defense, and again, expand our pool of small businesses which are the backbone of our defense production facilities.

Mr. WEBER of Ohio. If the gentleman will yield again, I have no objection to the provisions of the bill which prevent regionalism and regional dislocation.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. BLANCHARD) has again expired.

(At the request of Mr. WEBER of Ohio and by unanimous consent Mr. BLANCHARD was allowed to proceed for 1 additional minute.)

Mr. WEBER of Ohio. Will the gentleman continue to yield?

Mr. BLANCHARD. I am pleased to yield to the gentleman from Ohio.

Mr. WEBER of Ohio. I thank the gentleman for yielding.

I have no objection whatsoever to the prohibitions against regional relocation of businesses through financial assistance under this bill.

What I was citing is the language that denies financial aid to businesses "whose economic success is dependent upon divesting other persons of contracts theretofore customarily performed by them."

That does not speak to regionalism or dislocation. That speaks to preventing competition.

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

It is obvious that a concerted effort is being made to try to delay the bill. We already have had an extended debate. I should like to say that we plan to be here tonight until final action is taken on the bill.

I do not want to characterize the amendment as mischievous or not serious because I think the gentleman from Arkansas is serious in his contention that the Government ought not to do anything to try to create a climate conducive to investment of private money in those things that are in the public interest.

I recognize the view that the gentleman from Arkansas has, let the free market do it, just like the free market has handled interest rates.

I do not think that is the way we want to do it. It isn't the way we ought to do it. I think we have some really serious problems. We should not ignore them.

Our military strength is not just a question of how sophisticated our weapons are or how many weapons we have or how many men we have under arms. We are not going to be first in military strength, nor the defense of our Nation secure, unless first of all we have trained and educated manpower and womanpower capable of designing those weapons and maintaining those weapons and operating those weapons. That is where we Americans have always been best.

We are not as strong in that measurement as we should be right now. At this present time we have some very critical shortages in job skills.

At the very moment when there are hundreds of thousands, perhaps millions of people in midcareer who have lost their jobs due to the recession and can find no employment because their skills are no longer needed in the marketplace, there are a lot of jobs for which these people could be trained. These jobs, essential to the defense of this United States, go begging. I am talking about all kinds of jobs from computer operators to tool and die makers, to structural engineers, to electrical engineers. All of those needed skills have shortages in the work force.

Unfortunately we just are not graduating nearly as many people trained in mathematical, scientific and engineering skills as some other countries are, and that is tragic. That is going to harm our defense capability any way you want to look at it.

Last year this Nation unfortunately graduated only about 54,000 people with degrees in the kinds of skills such as mathematics, engineering, and scientific studies that are very highly demanded by our defense industry. Japan, with a population only half ours, graduated 77,000. It is reported that the Soviet Union graduated some 300,000, or almost six times as many as we did. I do not know anything about the comparability of skills in the Soviet Union but it appalls me. It concerns me. It alarms me.

Now this bill is an attempt to do something about that. Here is an attempt to make it possible for private industry to provide skills, and for States to provide training and retraining programs that will take this educable, indeed already educated pool of manpower and womanpower, now unemployed for want of a market for the skills for which they were trained, and let them be trained to these new skills.

Can you think of anything more useful to the defense and to the economy of the United States than that?

The second problem this bill helps is that of critical minerals. We have become appallingly dependent upon foreign sources for some of the very critical minerals that are essential in the production of our most sophisticated defense commodities. Cobalt and titanium and many such minerals are very short in our stockpiles as against the goals that we officially establish.

Yet it is believed that there exists, in fact geologists tell us there exists in our United States, at places noted on this map, quantities of these minerals that need to be mined. We need to develop new techniques for mining them, for discovering them, and for developing them. This bill would help to do that.

It seems to me anything that would make us less dependent upon other countries for these critical minerals is just as important as making us less dependent on other countries for our oil and energy supplies.

So it strikes me that what we really need to do is to improve the productivity in our defense plants, and to broaden the base of our defense capabilities.

We have a relative few large prime contractors but there are about 4,000 subcontractors, first-tier subcontractors throughout the United States, who contribute to building our most sophisticated defense weapons systems. This bill would allow many of them to tool up, to get up to speed, to make themselves competitive in every sense.

It is not as though we are giving them the money.

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

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

Mr. WRIGHT. The gentleman from Arkansas seems to find it very objectionable that we follow the historic pattern that has been so successful in this country in creating a nation of homeowners and has not cost us anything, has helped us in the development of our skills and of our industry in the past: Loan guarantees and guaranteed purchases for people who will expend the necessary time and effort and energy investing and making themselves more responsive to the needs of our Nation. It has not cost us in the past.

The objection was lodged a moment ago by the gentleman from Arkansas that what is wrong with this bill is that it somehow spends—I think it loans, it gets return for what it spends, it is not as though it is given away—but he says it spends about $5 billion and in so doing it leverages the private expenditure of another $50 billion.

I think that is the best argument you could make for the bill. By investing $5 billion in loan guarantees we can stimulate in the private sector the investment in those things that are in the public interest of some $50 billion, and in making us more competitive and improving and broadening the base of our defense-industrial complex, by training people, American

people, so that they can do these jobs, then it seems to me that would be the very best investment that we can make of a defense dollar or of any other kind of dollar.

So I ask you to vote "no" on the amendment and to vote for the bill.

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

The gentleman mentioned my name.

Mr. WRIGHT. Surely I yield to my friend since I mentioned his name. I said the gentleman from Arkansas but that is close enough. He is the one I had reference to so I yield to him, our friend Mr. BETHUNE.

Mr. BETHUNE. The amendment is not an amendment offered by the gentleman from Arkansas. It is an amendment offered by the gentleman from Florida.

Mr. WRIGHT. Well, I am sorry if I left the wrong impression.

Mr. BETHUNE. Nevertheless I am in support of the gentleman from Florida's amendment.

□ 1850

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

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

Mr. BETHUNE. But inasmuch as the majority leader has endeavored to characterize my position, I would want to correct the record in the gentleman's presence. That is, it is not my position, nor is it the position of most of the right-thinking people on this side of the aisle that we should have no credit assistance programs. Our position is and has been that we need to make sense out of what we have got before we start adding more to it. And we have not done that yet.

Just this year we have started developing the credit budget. It was begun under President Carter, to his great credit. He recognized the problem. It has been continued under President Reagan. We are trying to gain an understanding of what we are doing to our credit market with this panoply of credit programs which no one here truly understands.

So it is not my position or the position of others that we should not have credit assistance programs. We must understand and make sense out of what we do have before we add more.

Now, the problem with the bill that we have before us is that not only does it bust the spending budget by $6.75 billion over the next 5 years, but it busts the credit budget that the Budget Committee worked hard to develop, because there is no provision for this kind of credit activity in the credit budget. So it busts both budgets.

Mr. WRIGHT. I do not believe I yield further because the gentleman has fully expostulated his position. I think it is a legitimate position. But if I may have 1 additional minute in which to respond, I just want to say that his is the kind of logic that was used against almost every advance we have made in this country, that same kind of logic that says, "Oh, let us make sense out of what we have got before we try anything new." That same kind of logic would have inveighed against the very idea of an FHA, in the first place. It would have opposed student loans.

I do not think there is a single soul, except maybe David Stockman, who argues that we ought to curtail FHA loan guarantees. It does not cost us a penny, but what it has done is to create a market that has made this Nation a nation of homeowners. I cannot think of anything that has produced greater wealth or greater stability.

There were people, when it began, who said, in effect, "Well, let us make sense out of what we have got before we encourage any additional credit." But that credit has been good. I believe in the future of American industry, and I believe its credit will be good, too.

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

Mr. WRIGHT. I yield to my friend, the gentleman from Michigan (Mr. BLANCHARD), the author of the bill.

Mr. BLANCHARD. The point is well taken. I think it should be clarified that this is the amendment of the gentleman from Florida, but it is similar to anywhere between 30 and 40 related amendments that the gentleman from Arkansas, as the leader of the loyal opposition here, is offering. So we really are talking about whether we are going to have this legislation or not, and I think the debate on this particular amendment is going to be similar to the debate on almost all of the succeeding amendments. I am delighted that our distinguished majority leader is opposing this amendment.

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

Mr. Chairman, I know there is a desire here on the part of those who are advancing this bill to characterize my position and the amendments which I have filed in the record to this bill. But I think it is only fair, then, that I characterize my position, since I may be in a better position to do that.

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

Mr. BETHUNE. I yield to the gentleman from Michigan.

Mr. BLANCHARD. How many amendments did the gentleman file, for the record? I am not sure, myself.

Mr. BETHUNE. I really cannot say. Probably 25 or so. But I will say this to the gentleman: It should be noticed that we have debated this bill in general debate for some 2 hours and, under the 5-minute rule nearly a month ago, for another 3 hours, a total of 5 hours a month ago, and now we have been debating the bill since about 4 o'clock this afternoon. The gentleman from Arkansas has yet to offer a single amendment to the bill. I have not offered any amendments to the bill. Amendments have been offered by other members from the Education and Labor Committee, from the Banking Committee. So I think that before we rush to judgment that somehow the gentleman from Arkansas has a series of amendments which are holding this bill up, we should realize that I have not offered any, in the first place.

Second, I would say this: The amendments, obviously, have not been read by those who are proponents of this bill, because had you read the amendments carefully you would have noticed that there are some substantial differences in the amendments. And I think that will be shown as we begin to get into the debate. So I would hope that the chairman of the subcommittee and other Members would permit those of us who have strong feelings about this bill to make our case in a free and open debate. I mean after all, that is what we are here for, I understand. And when you consider that this bill might be the first step for something as grand as the Reconstruction Finance Corporation, or something of that nature, it seems to me that we ought to give attention to it.

I think also, when you look at the great amount of Federal lending that has taken place, we ought to ask ourselves whether or not we truly understand what we are doing in the area of Federal credit assistance programs. I have a chart with me which I would like to ask the Members to view. This shows the great increase in Federal lending programs over the last few years.

Now, it was made mention of by the majority leader here that the FHA program was a great program and it was a good thing that someone like myself did not stand up and say we ought to make sense out of everything we have got before we enact a program like FHA. Well, at the time we enacted FHA we did not have a problem in the area of Federal lending. We were not preempting those who were seeking credit in the credit market, as we are today. This problem that we are trying to focus on tonight just began in the last few years.

If the Members will look at this chart, in the year 1974 we only had $200 billion in Federal lending outstanding. Those are loans, loan guarantees, and other credit assistance programs of one description or another, whereby this Government stimulates activity and encourages people and

favors particular borrowers in the credit market.

Now, in the year 1982 we have $623 billion in Federal lending programs outstanding, and Federal lending programs are growing at a rate faster than Federal spending programs. Let me say that again: Federal lending programs are growing at a rate faster than Federal spending programs.

Only last year did we devise a means by which we could begin to sort out this mess and try to make sense out of it. It impacts our financial institutions. It confounds monetary policy. It does a number of things, like crowd people out of the credit market and run interest rates up. We have not the faintest idea what we are doing. But I can tell you this: We are knocking out $623 billion worth of credit that would have been distributed otherwise through the more efficient mechanism of the marketplace.

The CHAIRMAN pro tempore. The time of the gentleman from Arkansas (Mr. BETHUNE) has expired.

(By unanimous consent, Mr. BETHUNE was allowed to proceed for 5 additional minutes.)

Mr. BETHUNE. I think that, before we add $50 billion to that number, which is what you are going to do if you pass this bill, it is high time that we do make sense out of what we have around this place before we start passing additional legislation. I think that is the cause of the problem we have today, because people were not asking hard questions about the legislation that we had on the books before we enacted new spending and lending programs. Old remedies have been offered here. It is said that the Government can get involved in this and do a better job than the marketplace. That is what was said when we passed the synfuels legislation which, by the way, was an amendment to the very same act that is before you today. The Defense Production Act is the bill that is before you today. And it was 2 years ago that many Members were persuaded that the Government needed to get involved and develop a synfuels program. And so we did. And we created all kinds of loans and loan guarantees in that program. That was the same year, you will recall, that it was urged upon us in order to solve the gas problem that we had, where people were sitting in lines trying to get gas for their cars, that we put in the gas rationing program which would have cost $1½ or $2 billion.

□ 1900

Always we are urged to get Government into the business; it can do a better job than the marketplace. Fortunately, we had the good judgment, after some prodding by our constituents, to kill that kind of legislation.

Now we have gas prices coming down, we do not have gas lines, and we have OPEC on the ropes.

What I think we ought to do is I think we ought to defeat this bill, and I think we ought to extend the Defense Production Act—which will expire September 30—for a year or 2 years or 5 years, whatever is the pleasure of this body; and then we ought to ask the Defense Department to get involved in the shaping of any legislation of that nature.

We ought to let our defense committees, our Armed Services Committee get involved. They were bypassed completely in this. They never took a look at it at all.

I think, by the way, we ought to get to the point where the President and where the Secretary of the Department of Defense would support the legislation instead of opposing it, which they now do.

The Secretary of Defense is absolutely opposed to this legislation and so is the President, and they do not want it. It has been said here that this bill will not be triggered unless the President wants it. So we can pass it and not worry about it; but the language of the bill is mandatory.

Section (2)(c), page 26 of the bill, "The Secretary of Defense, in consultation with the Secretary of Commerce, shall—(2) determine the type and extent of financial assistance," and under page 27, subsection (d)(1), "The President shall extend assistance under section 301, 302, and 303,".

I ask where is the money coming from? It is not in the budget. It is not in the regular budget of spending. It is not in the credit budget. This is a budget buster on two counts, aside from the fact that it is a terrible bill.

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

Mr. BETHUNE. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Did I understand the gentleman to say that the Secretary of Defense is opposed to this legislation?

Mr. BETHUNE. Absolutely.

Mr. WALKER. In other words, after all these statistics have been propounded here today about the state of the defense industry, the Secretary of Defense—who is going to have all the authority under this bill—says that it is a bad bill?

Mr. BETHUNE. The Secretary of Defense wants a simple extension of the existing Defense Production Act. He says the authorities therein are quite satisfactory. That is the position of the Office of Management and Budget. I believe it to be the position of the President.

Mr. WALKER. If the gentleman will yield further, if that is the case, is this an instance where, much like the synthetic fuels program, the people who are supporting this bill are basically the Beltway Bandits that have been living off corporate welfare for a long time and one more hand in the trough? Is that where the main support from this thing is coming from?

Mr. BETHUNE. I think that is an eminently fair characterization of the legislation.

Mr. WALKER. I thank the gentleman.

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

Mr. BETHUNE. I yield to the gentleman from Ohio.

Mr. REGULA. I thank the gentleman for yielding.

The gentleman in the well made a point, let us look at what we have and not duplicate programs. If I recall correctly, on August 4, we passed the Jobs Training Partnership Act. If I recall, there were many speeches about how this would provide the necessary training facilities, it would equip people with the skills needed to fit into the job market.

As I read the language in this bill, it seems to me that it is duplicating something that we have just recently done in this body and that is presently in conference.

I would like the gentleman's reaction to that observation.

Mr. BETHUNE. I am not an expert on education and labor matters, but members of that committee have made statements to that effect, that this is duplicative. We just went through the jobs training issue.

The CHAIRMAN pro tempore. The time of the gentleman from Arkansas (Mr. BETHUNE) has expired.

Mr. REGULA. Mr. Chairman, I ask unanimous consent that the gentleman from Arkansas (Mr. BETHUNE) may be allowed to proceed for 2 additional minutes.

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

Mr. WRIGHT. Reserving the right to object, Mr. Chairman, and I am not going to object, but this bill has been on the floor for hours. It was on the floor once before. The same arguments were debated then, a great many of them. I will not object to this request, but I will be constrained to object to any other requests for extending time because we intend to finish the bill tonight.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio (Mr. REGULA)?

There was no objection.

Mr. BETHUNE. The gentleman makes a good point. I think it has been addressed by the members from the Education and Labor Committees. I wish that this bill had been referred to the Armed Services Committee, because I really do not think we would be here tonight. I think the Armed

Services Committee would have pointed out that they do not believe that they can fit this into the budget that we debated here for 7 days on the floor. So they would have told us if the Members want to pass this bill, then we ought to have the Budget Committee increase the amount of spending and increase the deficit so as to accommodate the bill.

Mr. REGULA. If the gentleman would yield further, I find nothing in the bill that mandates that the cost of this bill must come out of the Defense budget. Is that the case? There is no requirement that necessarily funding come from the defense numbers, is there?

Mr. BETHUNE. No. There is nothing in the bill to that effect, although I think the chairman is in possession of a letter which would say that this would come out of the 050 function. That is a ruling from the chairman of the Budget Committee.

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

Mr. BETHUNE. I yield to the gentleman from Michigan.

Mr. BLANCHARD. I thank the gentleman for yielding.

That is the understanding. It would come out of the defense category. The Appropriations Committee will make that decision.

Mr. REGULA. If the gentleman will continue to yield, the gentleman says it is the understanding but it is not mandated that it necessarily be handled in that way.

Mr. BLANCHARD. In all honesty I think the regular procedures under the Budget Act would suggest that, as well as a clarifying amendment adopted in mid-August during the earlier floor consideration of the bill.

Mr. BETHUNE. But the gentleman puts his hand on a good point. There is no money in the budget for this bill. It is a budget buster, if we have ever seen one on the floor.

As I pointed out, it not only busts the spending budget $6.75 billion over the next 5 years, it busts the credit budget.

The Congress and this House have not decided that this is something we need to do. It does not fit into the macroeconomic scheme that we are directed to fashion each year in connection with the budget process.

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

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

This amendment and all others are deliberately intended to gut the bill. So if one votes for this amendment, one is really not for a bill that says we want defense contracts to go to American contractors; as most people know—or maybe it is a well-kept secret—lots of our contracts go to foreign countries. Parts are manufactured in foreign countries that are used in our tanks and planes and so on.

What we are really trying to do very, very simply is give priority to the modernization of our own industrial base, to convert our own industrial base and revitalize our productivity in the areas of defense and to give our people—particularly people in small businesses like those in northern Ohio—that is why I am a little amazed that my friends from northern Ohio object to this bill—because we are the ones who do not get our fair share of defense contracts because our industries are somewhat older and we have to retool and innovate and convert, and we need some people to get a little more training.

In addition to that, I am amazed at some of these amendments that deal with credits. I have a report here that talks about outstanding long-term principal indebtedness of foreign countries to the U.S. Government in terms of credits.

Just to give the Members a small idea—and I understand there is some objection about the idea that this bill has $6.7 billion in terms of a budget for the bill which relates to credits—for Western Europe alone, we have credits extended of $7.1 billion; for the Middle East, we have $17.5 billion in credits, but no, we cannot give credits to our own small businesses.

As a matter of fact, within the last 3 years, we forgave $5.9 billion in debts for those countries that owed us money.

But, no, we cannot give credits to our own American businesses so that we can produce our own defense equipment in this country. Where is the money going to come from?

Well, we could have these credits transferred to our own people. Would that not be new and refreshing? Or we could take the 14 feet of cost overruns in the Defense Department—and here is the computerized list if anybody wants to see it—it is 14 feet long—this is only one list. It came out of a computer—in terms of the cost overruns.

The price of one helicopter in terms of a cost overrun is more than the expense of this bill. More than the expense of this bill.

This computerized list contains billions and billions and billions and billions of dollars in cost overruns for contracts we give out to certain corporations that sometimes are friends of God only knows whom.

So what we are talking about is a very, very meager bill that says we want our own defense produced in this country, not foreign countries. We want our people to be able to be trained properly for our own needs. We want our own industries to be revitalized. We believe in the American industrial base. We believe in the industrial base in Ohio.

□ 1910

We want some of those contracts for our people. That is what this bill is all about. It believes in the people of the United States. It believes in our own Government producing our own defense and it is a very creative approach.

Frankly, we are a little behind the times. We should have done this years ago.

Mr. VENTO. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I would be happy to yield.

Mr. VENTO. Mr. Chairman, I want to commend the gentlewoman for her statement. She makes the point very well.

On page 29 of the committee report, we have an inflation impact statement under rule IX, clause 2(1)(4).

The first line of that reads:

> There should be no inflationary impact of this legislation from its direct effect on budget outlays and the deficit.

It goes on to say:

> If the legislation is implemented according to the full extent of its congressional mandate, industrial modernization should strengthen the subcontractor and supplier base, encouraging a strong competition among domestic firms for defense business and, indeed, in many civilian markets. Increases in production and worker productivity should dampen costs.
>
> Improved quality and the reduction in reject parts also should bring cost savings.

And it goes on. I think for those that have been here long and hard speaking about 6-year credit budgets, and I am not aware that we have a 6-year credit budget, I think it may be a little shorter duration than that; but I think they should at least read the committee report.

I thank the gentlewoman for yielding.

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

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

It has been stated that this amendment may gut the bill. I think that is a pretty good idea. I am not sure the amendment will gut the bill completely, but it should do it completely. The bill should be defeated. We should not even waste the amount of time that we seem to be spending on it already, but it is an important bill in one sense. As I sit and listen, I just reflect on what we are doing here and when you think back to the last 30, 40, or 50 years, of all the Government planning and all the inflation and all the desperation that we express here about solving our problems, and then we come up with just the same old baloney. Really, it is the same old stuff over and over again.

It was mentioned about the wonderful program of the FHA. Well, I am one who happens to even challenge that because, yes, it is true, the FHA program was a wonderful thing, even for myself. I can remember receiving an FHA loan, $700 down, a low-interest loan, and yet that is the precise reason that my kids cannot get a house today, because we have blown it. We have ruined the currency. We have destroyed the value of the money. We now have these huge interest rates and all we have to offer, because we destroyed the industrial base, because we have destroyed our currency, we have nothing left but another Government program of $6½ billion, $50 billion of guaranteed loans, and what is that? That is guaranteed loan money, which means you have to create credit someplace.

More deficits, more monetization of debt, more inflation, more distortion of the market, more malinvestment, more tragedy, as far as I am concerned. It is nothing more than just the same thing that we have been living with for so long.

I think a bill like this does something in a very precise way. I think it demonstrates so clearly the difference between philosphies. If you happen to believe that a free market works, if you believe in a free system where people can make decisions, that individuals should be free from the burden of Government regulations, if you believe in this system and you believe that you ought to have sound money and the Government should not create money out of thin air; it is one thing but if you happen to believe and endorse the system of Government planning, central planning, and have this notion that bureaucrats and politicians know what is best for the economy, yes, you are going to come up with a bill like this. It is based on this precise notion that politicians somehow or another have some unique insight into what is good for the economy.

The plain truth is that we do not. The marketplace tells us this. There is such an ignorance that prevails around here that we know something more than the market knows, that we know how much money to create out of thin air, how many houses to build, how to create jobs, and yet for all this activity that we follow around here, what do we end up with? We end up with inflation, high interest rates, unemployment rates sky high, and what do we have to offer? The same old solution. Come back with a Government program to spend more money and tell business what to do, because we need to rebuild the industrial base. Certainly, we need to rebuild the industrial base, but first you have got to understand why it was destroyed. What happened to the industrial base?

□ 1920

How does an industrial base get destroyed? When was it built? It was built in the age of capitalism, when people could make profits, when they could retain their earnings and reinvest them and put them into capital goods, when a reasonably sound currency existed and capital formation was feasible.

What do we have today? We have capital destruction. We have destroyed the capital industrial base, but we have done it because we have overtaxed, we have overregulated, and we printed so much money we destroyed the value of the money and, therefore, we have high interest rates.

What have we done in the last 10 or 15 years? We have done nothing but consume capital. I think the process is going to continue as long as we come up with legislation like this. Until we really look at this in a more fundamental way and challenge the very system that says, "Do we have the authority, let alone the knowledge, to plan an economy?" That is what I challenge; I say we do not have the knowledge, we do not have the authority, and we have nothing but tragedy in our efforts in the past 50 years in trying to do that.

But as long as we do not face up to those questions and ask why we are in the situation, what is wrong with monetary policy that has allowed us to get to this point, I believe until then we will continue down the road of more inflation, more spending, more Government regulation, and never questioning the very fundamentals that we would officially have to question.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

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

Mr. Chairman, a number of points have been made with regard to this legislation, and also on the amendment which is turning into a vehicle for broader debate. Some of the points, I think, are extremely valuable and deserve emphasis.

First of all, of course, the bill itself is billed as one to help small- and medium-sized businesses throughout the country, particularly those that are intricately tied in with the defense industrial base. Also, there was an amendment that did pass that skewed the emphasis away from apparently medium sized—whatever the bill would define as "medium sized"—to small, but it is very curious to note, and I emphasize the fact, that the National Federation of Independent Businessmen are totally against this legislation.

They are against it for a reason. They know best the small businesses. They know that nothing is more harmful for small businesses in this country than an attempt by the elite, by the politicians, by the Members of Congress, to allocate credit.

Second, it has been mentioned that this bill is a budget buster. There is no doubt about the fact that the bill is busting the budget itself, and also credit guarantees.

Third, and I am not sure whether this point has been mentioned, is the fact that when it comes to the credit extension that flows out of the authorization of $6.75 billion, of approximately $11.5 billion, to $50 billion, it is important to note that the bill does not put any ceiling whatsoever on loan guarantees, price guarantees or direct loans. When you examine where loan guarantees have gone, where the credit extensions have gone and mushroomed, particularly during the last 8 years and mostly during the past 4 years, to write a bill just a few days before election time that has absolutely no ceiling whatsoever on the type of credit that is out there is totally preposterous.

It was also mentioned, I believe, by the gentleman from Arkansas that the Committee on Armed Services was bypassed entirely in this process. I do not know the history of that. I am not sure why. I particularly do not know why, when certainly the members of the Banking Committee and the other committees that had jurisdiction over this bill recognized the fact that the chairman of the Research and Development Subcommittee of the Committee on Armed Services just last term held extensive hearings on revitalization of the defense industrial base. We had piles of testimony and hearings and a substantial report by the staff of the Committee on Armed Services going back a number of months about how that particular committee feels is the proper method for revitalizing the defense industrial base.

I think it would be extremely important to have had and given the Committee on Armed Services a chance to have their significant input into a bill that is sold as one that revitalizes the defense industrial base, as it concerns the defense of this country.

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

Mr. COURTER. I yield on that point to the sponsor, the gentleman from Michigan.

Mr. BLANCHARD. Mr. Chairman, I merely indicate that this bill is based on that study, a very thick, comprehensive study on the dilapidated state of our military and defense industrial base.

So, among other things, that study was a take-off point for our legislation.

I should add that the Banking Committee does, in all fairness, have jurisdiction over the Defense Production Act, which is kind of like the economic war powers of the President.

But we believe this is very much consistent with what the Committee on Armed Services has done.

Mr. COURTER. Mr. Chairman, I appreciate the gentleman's input.

Mr. Chairman, I have read the report. I attended most of the hearings, and when the gentleman says that it was a take-off point, I may agree with the gentleman, but he really flew a long distance. He may have taken off from there, but he flew around the world three or four times before he landed.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey has expired.

Mr. COURTER. Mr. Chairman, I ask unanimous consent that I be allowed to proceed for 3 additional minutes.

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

Mr. CLAY. I object, Mr. Chairman.

The CHAIRMAN pro tempore. Objection is heard.

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

Mr. Chairman, I rise in support of the amendment. Like probably most Members of this body, I was in my office signing mail and doing the things you normally do at 6:30 in the evening, trying to keep one ear on the television to understand what the amendment was about, and I must confess that although I was well aware of the amendment that was before us, I had not followed Mr. McCollum's amendment too closely.

Then my interest was sparked by a couple of things that were said, so I gathered my materials and came over, trying to find out what all the hubbub was about, what everybody was getting so worked up about. I listened to some of the arguments, and suddenly I decided it might be good to grab the amendment and read it word for word and see whether or not we were talking about substance or whether we were just talking about dilatory tactics.

So I read the amendment, and the amendment is very simple and very plain and very clear:

> No loan, loan guarantee, or commitment for a loan guarantee may be made unless the Secretary of the Treasury determines that such loan or guarantee or commitment will not increase interest rates in the credit markets or adversely affect the thrift industry.

Well, that is a substantive amendment. That is a substantive amendment because the American people are very well aware of the fact that high interest rates, borrowing by the Federal Government, have dried up the credit market to the standpoint that the industrial base of this country has not been able to borrow money at competitive rates to expand and develop.

So I think it is very important that we spend a considerable amount of time discussing what probably may be the most important amendment offered to this particular piece of legislation.

There is no question that interest rates, high interest rates, and drying up of capital has had serious negative impact on industrialization in this country. The formation of capital is critical to an industrial base; it is critical to a defense base. Any nation attempting to deal with the problems that the United States is facing, rebuilding its base, has to have credit.

□ 1930

Credit must be available through the private sector, and if it is not available through the private sector it will not be developed. The Government can pump in billions and billions of dollars as it has done, but we do not build the base we need. So, I think it is very, very critical to this particular bill that we look at this amendment, that we make a determination as to whether or not the impact of this bill will drive up interest rates, will drive up credit in our banking industry and our financial industry, and make that determination. If it does, then this is not the direction that we want to go. If it does not, then perhaps we can look at this bill as a means of stimulating some industrial development in this country and providing the base we want, but I think the answers have been clear in terms of the committee report itself, the CBO estimates, as to what will happen.

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

Mr. COATS. I will be glad to yield.

Mr. BETHUNE. Mr. Chairman, I thank the gentleman for yielding. There has been a lot of discussion about what the bill will cost, how much we are spending, how much we are lending. There is an important point that the Members should know. When we tried to put a cap on credit programs around here, we in the last few years moved into setting gross amounts of credit that could be issued by this Government. For instance, if we are going to use a dollar as interest subsidy, but that would leverage a loan of $10. Then, we will focus on the $10 amount, and so our credit budget is set up using gross amounts of credit.

So that in this case, we are advised that this bill might generate some $50 billion in gross credit. That would be the encroachment into the credit market. The fact of the matter is that in this bill they do not focus on gross credit. They talk about the net cost of the project, so that what they can do with the $6.75 billion is, they could leverage all kinds of new lending programs and it could go to a gross amount of $100 billion as far as that goes. The bill is faulty because it does not correspond with the policy that we have established in the Congress of setting gross amounts of credit.

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

Mr. Chairman, I have been reviewing this issue, the amendment that is before us presented by Mr. McCollum, and I have to ask, is this really a reindustrialization bill or a deindustrialization bill? The question which Mr. McCollum has put before us is, what effect is this bill going to have on interest rates in the marketplace?

Clearly, if we are talking about reindustrializing this country, we have to look at interest in the marketplace. Mr. McCollum has clearly focused that issue within this bill. I cannot imagine how anybody could object to the amendment language presented by Mr. McCollum for that very reason, because if the thrust of this bill is to generate a reindustrialization, especially of our small businessmen, then the small businessmen are going to have to look at private rates.

Even if you look at a subsidized loan on the Federal level, that is going to be controlled by what is happening in the long-term markets. We are all familiar with the fact that today we are finally seeing a drop in our short-term rates, and why have not seen a commensurate drop in our long-term rates, and why have we not seen a commensurate drop in our long-term rates? The essential reason we have not seen one is because our long-term lenders are anticipating that the Federal Government is going to get into the market in the outyears, absorb the money that is available, and keep rates up. They have to get a return on their money in the outyears, and they recognize that if they allow their long-term out at a lower level, and what can be anticipated as a result of Federal activity in the marketplace, they are going to end up in a situation of having a negative return on their capital investment, and therefore they have to anticipate long-term rates.

Mr. McCollum has made this point very clear in his amendment by saying essentially, "Listen, if the marketplace views this legislation as anticipating the driving up of long-term rates, then this borrowing which is proposed under this bill should not go forward."

What is wrong with that? Why should we penalize our small businessmen who are not necessarily into the defense industry, and even those who are and may not be able to take advantage of this corporate welfare proposal by giving them a bill which is going to create legislation which allows the Federal Government into the private sector and absorb the funds, and as a result of that causing an anticipation by the long-term lenders which forces up interest rates? It makes no sense to me.

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

Mr. GREGG. Certainly I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I would like to thank the gentleman from New Hampshire for the point he is making. It seems to me there is nothing wrong with this amendment. It is a good, solid amendment, one that probably will not correct the bill. The bill is basically flawed in the tremendous demands, additional demands it will put on the financing market. We already allocate credit to a very substantial extent in this country, and to start up on a new course of that sort is going to be most unfortunate.

I do think the amendment itself is perfectly acceptable. It adds a note of sanity to a bill which, in my view, is going to exacerbate the problem and not solve it.

Mr. GREGG. Mr. Chairman, I appreciate that comment because it comes from one of the most sane Members of the House, and as a result I think it should be taken seriously by all of us.

I would just point out on this chart here, if the Members are looking at this chart, which reflects the fact that the Federal Government is going to go into the marketplace for approximately $623 billion of loans in the year 1983, one just has to ask oneself, how can the marketplace take another $50 billion of loans in the years 1983, 1984, and 1985? It simply cannot.

Prior to coming to this august body I had the opportunity to represent a number of small, independent contractors who were involved in defense procurement. Those small contractors, some of them came and some of them went, but whether they came or went did not depend on whether or not they got support from the Federal Government. It depended on whether or not they were producing a good product that was competitive within the defense industry. For us to take the small competitor and put him at a disadvantage by making loans to a small competitor who may be in a weak position because he is unable to produce a marketable commodity, but yet prop up that competitor through subsidized loans, is totally out of whack and is inconsistent with our form of government.

Mr. MARTIN of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in favor of this very good amendment to this very bad bill. This good amendment makes a bad bill somewhat better. The whole bill is a throwback to an administration and a policy that got us in this mess for 21.5 percent interest rates, and without the amendment, should this bad bill ever become law, it is an assurance that we are going to have increases rather than decreases in the interest rates in this country.

Mr. Chairman, along that line I yield to the gentleman from New Jersey (Mr. COURTER) so that he might continue with the train of thought that I think was well received by the membership.

Mr. COURTER. Mr. Chairman, I thank the gentleman for yielding, and I probably will not use the balance of his time.

The point I was making at that time had to do with the fact that I am, obviously, a member of the Armed Services Committee. We not long ago here approved an appropriations bill for the 050 Department of Defense function that was quite sizable. As a matter of fact, it was sufficient, or more than sufficient, as far as I am concerned. It was plenty of money.

I just cannot imagine what we are doing now faced and interfaced with the fact that we appropriated $170 billion for the defense of this country, and we are saying to small business people, we are saying to the person who wants to go out and borrow a little money to buy a car or put an addition on his home or get a school loan or do something else, that the amount of credit that the Federal Government is using for defense is insufficient, we should really expand that by approximately $50 billion.

President Eisenhower when he left office gave a speech that I know is remembered by those people who were old enough to listen to it, and read certainly by the rest of us. He warned against a military-industrial complex and the power of that complex. What we are doing today is adding to that complex. What we are doing today is gathering an additional, between $11 and $50 billion of credit that the American people badly need, and putting it in a complex which is now large enough.

I cannot imagine that I will be able, if this passes, that I will be able to go home in the next 10 days from this body shortly before election and explain that the actual appropriations for the defense function were insufficient, and what we really had to do was reallocate an additional $50 billion of credit to those businesses involved in the defense-industrial complex. I think that is a point we should remember, and is worthwhile remembering.

I thank the gentleman for yielding.

□ 1940

Mr. MARTIN of New York. Reclaiming my time, if I can, I want to point out for the people who have not had an opportunity to read the amendment that we are not asking an awful lot here. The only thing we are asking is that we have no extension of credit assistance under the proposed new authorities created by this bill unless the Secretary of the Treasury determines that the extension of credit will not do two things. We want very much that they will not tend to increase the interest rates in the credit markets and, two, adversely affect the thrift industry.

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

Mr. MARTIN of New York. I am happy to yield to the gentleman from Indiana.

Mr. COATS. I do not see what the big problem is. The other side claims that this will not have an inflationary impact or not drive up interest rates. If that is the case they should have no problem supporting this amendment.

Mr. MARTIN of New York. That is exactly my feeling, I say to the gentleman from Indiana, and I would suggest the folks on the other side would sincerely embrace that if that is clearly their intention.

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

Mr. MARTIN of New York. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I think in all fairness to my colleagues I have to suggest about 25 Members on this side also do not think it will be inflationary.

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

Mr. Chairman, I think this amendment does a number of things. This amendment helps to focus the lending activity of the Federal Government on what impact it has on the credit markets.

Earlier this evening several charts were brought before us, one showing that the United States, I believe the chart said, had the lowest average annual increase in productivity growth from the years 1960 to 1979.

I might add that in that same time period we had the lowest average annual increase in investment of any of our Western industrialized countries. We also had the lowest average increase in savings of any of our Western industrialized allies in that period from 1969 to 1979.

We had the second lowest average annual increase in gross national product in that time period.

But what I would say is the problem was not that we did not have enough government from 1960 to 1979 but that in fact we had too much government from 1960 to 1979.

That bill is a further incursion of the Federal Government into the private credit markets.

We already have phenomenal absorption rates on the part of the Federal Government in our credit markets. Through their loans and loan guarantees and through the tremendous Federal deficit we have that has been built up over a period of the last 20 years.

So I think this amendment just put some constraints and it puts some constraints on the Federal Government.

We have to determine by this bill that it will not increase the interest rates and, as has been said several times, if as the supporters of this bill believe that it will not increase interest rates then they should have no problem at all accepting it.

I tend to think, though, that any increase in the loan guarantees of almost $50 billion over a period of 5 years will have a significant impact on interest rates and that in fact we will find that the interest rates will not come down. They will continue to remain high or go higher as they did in the period of the last administration.

So I think that it is a good amendment and I applaud the gentleman from Florida for offering it and I intend to support it and encourage my colleagues to do as well.

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

Mr. HILER. I yield to the gentleman from Florida.

Mr. McCOLLUM. I would just like to comment that I greatly appreciate what the gentleman has had to say and what a number of folks have said this evening about this amendment.

The purpose of the amendment is in no way to avoid the main purposes of this legislation, as some have suggested.

The purpose of this amendment is to let it function. If in fact interest rates are going to be driven up, as I suspect they would be, by the requirements of the loan guarantees in this bill then we should not have those loans at this time. Maybe sometime in the future we should.

But the problem is we have too long done what the gentleman suggests, we have allowed for credit absorption and for removal from the marketplace by the Federal Government of so much money that interest rates are high today and they are way too high.

People cannot have the homes, the businesses and so on they want to have and they cannot have the jobs and we cannot have the industrial base, not as strong as it may be.

So it is the very essence of this amendment to truly improve and have this bill have some hope of vitality.

I appreciate very much the gentleman coming forward because to vote for the McCollum amendment is a vote for commonsense. To vote against the McCollum amendment is a vote for higher interest.

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

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

Mr. GINGRICH. I am glad to yield to the distinguished majority leader.

Mr. WRIGHT. Mr. Chairman, I wonder if we can get some agreement as to time. We have been on this amendment now for almost 2 hours.

I wonder if we could get unanimous consent that all debate on the amendment would close at 8 o'clock.

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

Mr. GINGRICH. I yield to the gentleman from Florida.

Mr. McCOLLUM. Not from my side at this time.

I would prefer to let this discussion go on. I do not think it is going to go on much longer.

As the gentleman from Texas, the distinguished majority leader, knows, we have spent a good deal of time in discussion of this, but I do not anticipate its going on much longer.

If such be the case, then I will be glad to revisit the question with the gentleman.

Mr. WRIGHT. I would say to the gentleman I can only see one gentleman who has not spoken who is seeking recognition.

Surely it could not be that the gentleman from Pennsylvania (Mr. WALKER) has not spoken.

Has the gentleman from Pennsylvania not spoken?

In that case, how about 5 minutes after 8? Would that be agreeable? Could we get unanimous consent that the debate on this amendment conclude at 5 minutes after 8?

Mr. McCOLLUM. There appear to be a number of gentlemen who still desire to speak. I know of at least two or three who have requested to speak.

Mr. WRIGHT. It is obvious the gentlemen are attempting to deliberately stall. I implore the gentleman, please, rather, can we not move this along and get a gentlemen's agreement.

Nobody who has not already spoken is standing over there on that side or this side.

Mr. GINGRICH. Mr. Chairman, I would reclaim my time if I may.

Mr. WRIGHT. Would the gentleman yield one more time?

Mr. GINGRICH. I would if the gentleman from Texas would then yield me such time as I might need to make up my 5 minutes.

Mr. WRIGHT. Mr. Chairman, I move that all debate on this amendment or any amendments thereto——

Mr. GINGRICH. Mr. Chairman, I do not yield for that purpose.

The CHAIRMAN. Does the gentleman from Georgia yield?

Mr. GINGRICH. I yielded only for the purposes of debate.

The CHAIRMAN. The gentleman from Georgia.

Mr. WRIGHT. That being the case, I will not impose on the gentleman's time.

Mr. GINGRICH. Mr. Chairman, how much time do I have left?

The CHAIRMAN. The gentleman has 3 minutes remaining.

Mr. GINGRICH. I am always delighted to speak with the distinguished majority leader who has assured us in introducing a recent bill that he cares passionately about interest rates. I assume, therefore, that we will see him vote on his side of the aisle in favor of the McCollum amendment because, in fact, anyone who cares about interest rates has an opportunity tonight to take this step, which is simply a commonsensical step which would simply allow the Treasury to focus on the interest rate implications of this bill.

I think anyone who is concerned about small business should vote for the McCollum amendment. Anyone who cares about farming should vote for the McCollum amendment. Anyone who wants to sell automobiles and put autoworkers back to work should vote for the McCollum amendment. Anyone who cares about housing should vote for the McCollum amendment.

Since interest is such a large part of the national debt or our national deficit, because, after all, we have to pay interest on this large national debt, I would think that anyone who cares about bringing down the deficit would also want to vote for the McCollum amendment.

I cannot imagine how any commonsense, reasonable spokesman for the people would vote against an amendment which simply says we should not raise interest rates.

I would hope that anybody who intended to vote against this amendment would recognize that in many parts of the country, by many groups, this would be considered a vote for higher interest rates.

Let me repeat that so it is clear. A vote against the McCollum amendment will almost certainly be considered by many people a vote in favor of higher interest rates.

I cannot imagine in late September of an election year that anyone would want to come into Congress and vote in favor of higher interest rates.

□ 1950

So I simply wanted to take a minute or two to say to my good friends on both sides of the aisle, all of whom I would like to see have a chance to be returned, I hope when they come in they decide how to vote on the McCollum amendment, that they will recognize that a vote for it is a vote for lower interest rates, but that a vote against it will be read in many parts of the country as a vote for raising interest rates. And I do not think there is a single Member in this Congress who wants to go home this weekend and explain to his constituents why he would vote to raise interest rates.

So on that note, having, hopefully, explained clearly the distinction between the low-interest-rate McCollum vote and the high-interest-rate anti-

McCollum vote, I would yield back my time.

Mr. WRIGHT. Mr. Chairman, I move that all debate on this amendment and all amendments thereto end at 8 o'clock.

The motion was agreed to.

The CHAIRMAN pro tempore. The time will be apportioned 4 minutes on each side, controlled by the gentleman from Florida (Mr. McCOLLUM) and the gentleman from Michigan (Mr. BLANCHARD).

The Chair recognizes the gentleman from Florida (Mr. McCOLLUM).

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Pennyslvania (Mr. WALKER).

Mr. WALKER. First, I would like to say that it concerns me that this bill is so bad that we end up having to say that Members cannot have more than 5 minutes of time, that they cannot have their time extended; and second, that we have to limit debate on key amendments on it. It seems to me that that tells the American people just how bad this bill really is.

I just want to make one other point, and that is that the gentleman from Florida is doing nothing controversial here. All he is doing is saying that if the premise of the majority is correct that this bill in fact will help lower interest rates, his amendment will have no impact. However, if it would indeed raise interest rates and the Secretary of the Treasury certifies that, we would have some kind of way of stopping the raising of interest rates.

So I cannot imagine there is any controversy about this amendment. And yet there is. And the only thing I can say is that I would hope that Members who want to keep interest rates down and see the interest rates begin to fall, vote for the McCollum amendment.

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

Mr. WALKER. I yield to the gentleman from New Hampshire.

Mr. GREGG. The gentleman from Pennsylvania began his speech with a point, and I wish the gentleman would follow up on it. How bad is this bill?

Mr. WALKER. I would say to the gentleman that we have had a pretty strong indication here earlier as to how bad this bill is. For example, this bill purports to spend $6 billion, nearly $7 billion, that we really do not have. That is deficit add-on. According to some statistics that have recently been developed, that means that over 600,000 Americans will lose their jobs because of the extra deficit.

So this is really a bill also which is going to cost 600,000 people who are presently working in this country those productive jobs because we have a deficit add-on with this kind of an approach.

Mr. BLANCHARD. Mr. Chairman, I think the debate here demonstrates that most of the advocates for this amendment have not read the bill, do not know the amendment, are distracting from the facts behind the bill, and are having a lot of fun with delaying and stalling tactics. I respect each and every one of their rights to oppose this legislation. But for anyone who has been following the debate, I think it is clear that the debate has had absolutely nothing to do with this amendment, which would gut the bill. And I might add that there are 20 or 30 others in line, stacked up, to do the same thing. For any of those who have arrived late, they should know that.

The arguments against this amendment were so clear and so clear and convincingly to reject the amendment several hours ago that we have seen fit not to waste our colleagues' time in responding to foolish claims and filibustering tactics.

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

Mr. BLANCHARD. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

I think the impact of this amendment really is contradictory. The President has the power to implement this particular program. If he chooses not to implement it or chooses to implement it, it would hardly be appropriate for the Secretary of the Treasury to pull the rug out from under a President who was implementing a program to achieve what I think all of us would agree are the laudable goals of this particular legislation.

You may disagree with the attempt or the method to help support the small- and middle-size types of industries that are part of the industrial base. The point is, though, I think to pull the rug out from under the President in this particular case is indeed an interesting tactic by our friend from Florida, in terms of the Treasury's certification. I know of no other reason.

I was listening to some of the reasons for opposing this, and the economic viewpoints of our colleagues, and began to understand how we arrived at the problem in terms of the deficit this year and the years down the road. The fact is that the impact of this is $11.3 billion over the 5-year program, and it leverages money on the basis of about 9 to 1 in the direction that we all agree we ought to go. If we are willing to vote for big defense budgets, and apparently this Congress is, it only seems appropriate to put in place the infrastructure to achieve the goals that you want to achieve. That is what you are trying to undermine, and I think at your own expense, at the expense of cost overruns, at the expense of lack of skilled workers to do that job, at the expense of the lack of help for educational institutions to attain those particular objectives.

So I think you are really cutting away at one of the most effective tools that we might have in terms of targeting our resources where we have to go. The bill, according to the statement on page 29, has no inflationary impact. At least that is what the conclusion is.

I certainly want to thank the gentleman for yielding, and I think we ought to vote this amendment down.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentlewoman from Ohio.

Mrs. OAKAR. Mr. Chairman, we are owed $58 billion in guaranteed loans to foreign countries at the existing market interest rates through the Federal Financing Bank and carry the full backing and the full credit of the U.S. Government. We do not hear a peep about the loans that we give to foreign countries, but when it comes to assisting our own businesses so that we can have a strong defense, all of a sudden there are all kinds of caveats. Charity begins at home, my friends. Let us vote down this amendment.

The CHAIRMAN. All time of the gentleman from Michigan (Mr. BLANCHARD) has expired.

The Chair recognizes the gentleman from Florida (Mr. McCOLLUM), who has 2 minutes remaining.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from Arkansas (Mr. BETHUNE).

Mr. BETHUNE. I thank the gentleman for yielding.

Mr. Chairman, it is interesting to note that for every one substantive argument on that side of the aisle or in support of the bill, we have three or four substantive agreements in opposition to the bill. And these are substantive arguments. But, for the most part, the rhetoric that I hear from that side is that they keep saying our amendments are no good; we have not read the bill; we need to limit time.

The fact of the matter is this bill is a precursor of something akin to the National Industrial Recovery Act or something akin to the Reconstruction Finance Corporation. It is a significant issue, and it cannot stand the light of day. It cannot stand debate. That is why they want to shut off debate. That is why they want to allege we have not read the bill. We have read the bill. The bill is bad. The bill cannot stand debate and the light of day. That is what is happening; that is the process that is going on right now.

I urge the Members to vote this bill down.

□ 2000

Mr. McCOLLUM. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, my amendment reads as follows, very simply, very short, de-

signed to improve, not to destroy this bill:

No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of the Treasury determines that such loan, loan guarantee, or commitment for a loan guarantee will not tend to increase interest rates in the credit markets and will not adversely affect the thrift industry.

Very simply put, my amendment, a vote for the McCollum amendment, is a vote for commonsense and lower interest rates; and a vote against the McCollum amendment is a vote for higher interest rates.

I yield back the balance of my time.

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

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 173, noes 154, not voting 105, as follows:

[Roll No. 369]

AYES—173

Andrews
Anthony
Applegate
Archer
Ashbrook
Atkinson
Bailey (MO)
Bennett
Bethune
Bliley
Bouquard
Brown (CO)
Broyhill
Butler
Campbell
Carman
Carney
Chappie
Clausen
Coats
Coleman
Corcoran
Coughlin
Courter
Coyne, James
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
DeNardis
Dornan
Dowdy
Duncan
Dunn
Edwards (AL)
Edwards (OK)
Emerson
English
Erdahl
Erlenborn
Evans (DE)
Evans (IA)
Fenwick
Fiedler
Fields
Findley
Fountain
Frenzel
Fuqua
Gingrich
Glickman
Goldwater
Goodling
Gradison
Gramm
Gregg
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (ID)
Hansen (UT)
Hartnett
Heckler
Hefner
Hendon
Hiler
Hillis
Hopkins
Hunter
Hutto
Hyde
Jacobs
Jeffries
Jenkins
Jones (NC)
Kazen
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach
Leath
LeBoutillier
Lent
Levitas
Lewis
Livingston
Loeffler
Lujan
Lungren
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Mazzoli
McClory
McCollum
McDonald
McGrath
McHugh
Mica
Michel
Miller (OH)
Molinari
Montgomery
Moore
Moorhead
Morrison
Myers
Nelligan
Oxley
Parris
Pashayan
Paul
Petri
Pritchard
Pursell
Quillen
Regula
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Roemer
Rogers
Roth
Rudd
Sawyer
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Smith (AL)
Smith (NE)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solomon
Spence
Stangeland
Staton
Stenholm
Stump
Tauke
Tauzin
Thomas
Vander Jagt
Volkmer
Walker
Wampler
Watkins
Weber (MN)
Weber (OH)
White
Whitley
Whittaker
Winn
Wolf
Young (AK)
Young (FL)

NOES—154

Akaka
Albosta
Alexander
Anderson
Annunzio
Aspin
AuCoin
Bailey (PA)
Barnes
Bedell
Bereuter
Bevill
Bingham
Blanchard
Boggs
Bonior
Bonker
Bowen
Breaux
Brinkley
Brodhead
Clay
Clinger
Conte
Coyne, William
Crockett
D'Amours
Daschle
Davis
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Downey
Dwyer
Dyson
Eckart
Edgar
Edwards (CA)
Evans (IN)
Fary
Fazio
Ferraro
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frost
Gaydos
Gejdenson
Gephardt
Gilman
Ginn
Gonzalez
Gore
Green
Guarini
Hall (OH)
Harkin
Hatcher
Hertel
Hightower
Howard
Hubbard
Huckaby
Hughes
Jeffords
Jones (TN)
Kastenmeier
Kennelly
Kildee
Kogovsek
Lantos
Leland
Long (LA)
Long (MD)
Lowry (WA)
Martinez
Matsui
Mavroules
McDade
McKinney
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Moakley
Mollohan
Motti
Murphy
Murtha
Natcher
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patman
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Price
Rahall
Rinaldo
Roe
Rostenkowski
Roukema
Roybal
Russo
Sabo
Santini
Scheuer
Schneider
Schumer
Seiberling
Shamansky
Smith (IA)
St Germain
Stark
Stokes
Studds
Swift
Traxler
Udall
Vento
Walgren
Washington
Waxman
Weaver
Williams (MT)
Williams (OH)
Wirth
Wolpe
Wright
Wyden
Wylie
Yatron
Zablocki

NOT VOTING—105

Addabbo
Badham
Bafalis
Barnard
Beard
Beilenson
Benedict
Biaggi
Boland
Bolling
Boner
Brooks
Broomfield
Brown (CA)
Brown (OH)
Burgener
Burton, John
Burton, Phillip
Byron
Chappell
Cheney
Chisholm
Coelho
Collins (IL)
Collins (TX)
Conable
Conyers
Craig
Deckard
Derwinski
Dickinson
Dreier
Dymally
Early
Emery
Ertel
Evans (GA)
Fascell
Fithian
Forsythe
Frank
Garcia
Gibbons
Gray
Grisham
Hance
Hawkins
Heftel
Holland
Hollenbeck
Holt
Horton
Hoyer
Ireland
Johnston
Jones (OK)
LaFalce
Lee
Lehman
Lott
Lowery (CA)
Luken
Lundine
Markey
Marks
Mattox
McCloskey
McCurdy
McEwen
Mitchell (NY)
Moffett
Napier
Neal
O'Brien
Porter
Railsback
Rangel
Ratchford
Reuss
Rhodes
Rodino
Rose
Rosenthal
Rousselot
Savage
Schroeder
Schulze
Shannon
Simon
Skelton
Smith (PA)
Solarz
Stanton
Stratton
Synar
Taylor
Trible
Weiss
Whitehurst
Whitten
Wilson
Wortley
Yates
Young (MO)
Zeferetti

□ 2010

Mr. APPLEGATE and Mrs. HECKLER changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. BLANCHARD. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOLEY) having assumed the chair, Mr. MURTHA, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 5540) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, had come to no resolution thereon.

□ 2020

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5447, FUTURES TRADING ACT OF 1982

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 5447, as passed by the House, the Clerk be authorized to make corrections in section numbers, cross-references and other technical changes to reflect the intent of the amendments adopted by the House.

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

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO HAVE UNTIL MIDNIGHT, SUNDAY, SEPTEMBER 26, 1982, TO FILE REPORTS ON VARIOUS BILLS

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the House Committee on Agriculture may have until midnight, Sunday, September 26, to file reports on the following bills: H.R. 6142, H.R. 6679, H.R. 5455, H.R. 5456, H.R. 7005, and H.R. 6865.

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

There was no objection.

CONFERENCE REPORT ON H.R. 5930, AVIATION INSURANCE PROGRAM

Mr. MINETA submitted the following conference report and statement on the bill (H.R. 5930) to extend the aviation insurance program for 5 years:

CONFERENCE REPORT (H. REPT. No. 97-864)

The committee of conference on the disagreeing votes of the two Houses on the

amendment of the Senate to the bill (H.R. 5930) to extend the aviation insurance program for five years, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

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

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That the last sentence of section 303(b)(1) of the Independent Safety Board Act of 1974 (49 U.S.C. 1902(b)(1)) is amended to read as follows: "At any given time, no less than three members of the Board shall be individuals who have been appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation.". The amendment made by the preceding sentence shall not preclude the reappointment of any individual serving as a member of the Board on the date of enactment of this Act.

SEC. 2. Section 306 of the Independent Safety Board Act of 1974 (49 U.S.C. 1905) is amended in subsection (a) by striking out "pursuant to subsection (b)" and inserting in lieu thereof "pursuant to subsection (b) or (c)" and by adding at the end thereof the following new subsection:

"(c) COCKPIT VOICE RECORDER.—Notwithstanding any other provision of law, the Board shall withhold from public disclosure cockpit voice recorder recordings and transcriptions, in whole or in part, of oral communications by and between flight crew members and ground stations, that are associated with accidents or incidents investigated by the Board: *Provided*, That portions of a transcription of such oral communications which the Board deems relevant and pertinent to the accident or incident shall be made available to the public by the Board at the time of the Board's public hearing, and in no event later than 60 days following the accident or incidents: *And provided further*, That nothing in this section shall restrict the Board at any time from referring to cockpit voice recorder information in making safety recommendations.".

SEC. 3. Section 1312 of the Federal Aviation Act of 1958 (49 U.S.C. 1542) is amended by striking out "1982" and inserting in lieu thereof "1987".

SEC. 4. (a) Section 1601(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1551(a)) is amended by striking out paragraph (3) and by redesignating paragraph (4), and all cross references thereto, as paragraph (3).

(b) Section 1601(b)(1)(C) of the Federal Aviation Act of 1958 (49 U.S.C. 1551(b)(1)(C)) is amended by striking out "(relating to foreign air transportation)".

And the Senate agree to the same.

JAMES J. HOWARD,
GLENN M. ANDERSON,
NORMAN Y. MINETA,
JAMES L. OBERSTAR,
DON CLAUSEN,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
Managers on the Part of the House.

BOB PACKWOOD,
NANCY LANDON KASSEBAUM,
HOWARD W. CANNON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5930) to extend the aviation insurance program for five years, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

WAR RISK INSURANCE

House bill

Reauthorizes War Risk Insurance Program through September 30, 1987.

Senate amendment

Same as House bill.

Conference substitute

Same as the House bill.

COCKPIT VOICE RECORDERS

House bill

No provision.

Senate amendment

Provides that, notwithstanding any other provision of the law, the National Transportation Safety Board shall withhold from public disclosure cockpit voice recorder recordings and transcriptions involving flight crew communications that are associated with accidents investigated by the Board. The Board is required to make available to the public those portions of the transcriptions of such communications that the Board deems relevant and pertinent to the accident, at the time of the Board's public hearing on the accident, and in any event no later than 60 days following the accident. In the event that the CVR is not recovered immediately after the accident, the conferees intend that the Board have 60 days after recovery of the CVR before release. The conferees emphasize that this amendment would not affect the Board's current practice of sharing CVR information with parties to the investigation.

Conference substitute

Same as Senate amendment.

QUALIFICATIONS OF MEMBERS OF THE NATIONAL TRANSPORTATION SAFETY BOARD

House bill

No provision.

Senate amendment

Requires the President to appoint individuals to be members of the National Transportation Safety Board upon the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation.

Conference substitute

Provides that at any given time no less than three members of the National Transportation Safety Board shall have technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation. Moreover, the conferees believe it would be desirable if future Chairmen of the NTSB possessed these qualifications.

This requirement is not intended to preclude the reappointment of any persons serving as a member of the Board upon the date of enactment.

AIRLINE EMPLOYEES PROTECTION

House bill

No provisions.

Senate amendment

Amends Section 1601 of the Federal Aviation Act which transfers to the Department of Justice on January 1, 1983, the authority of the Civil Aeronautics Board under Sections 408 and 409 of the Federal Aviation Act to approve specified mergers, acquisitions, and interlocking relationships relating to interstate and overseas air transportation. The Senate amendment eliminates this transfer of authority, leaving the authority with CAB. The amendment further provides that this authority will be transferred to the Department of Justice on January 1, 1985. In the floor debate on this amendment, the sponsor of the amendment stated that in administering its authority to approve transactions under 408 the Civil Aeronautics Board was requested to continue to impose standard labor protective provisions in a manner consistent with CAB's handling of Section 408 transactions prior to enactment of the Airline Deregulation Act of 1978.

Conference substitute

Same as the Senate amendment.

JAMES J. HOWARD,
GLENN M. ANDERSON,
NORMAN Y. MINETA,
JAMES L. OBERSTAR,
DON CLAUSEN,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
Managers on the Part of the House.

BOB PACKWOOD,
NANCY LANDON KASSEBAUM,
HOWARD W. CANNON,
Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO HAVE UNTIL MIDNIGHT TO FILE REPORTS ON H.R. 7159, H.R. 6170, H.R. 2303, AND H.R. 5941

Mr. DYSON. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until midnight tonight, September 23, 1982, to file reports on the following bills:

H.R. 7159. An act to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH;

H.R. 6170. An act to amend title 23, United States Code, to encourage the establishment by States of effective alcohol traffic safety programs, as amended;

H.R. 2303. An act to designate the New York Bulk and Foreign Mail Center at Jersey City, N.J., as the "Michael McDermott Bulk and Foreign Mail Center"; and

H.R. 5941. An act to designate the building known as the Federal Building and United States Courthouse in Greenville, S.C., as the "Clement F. Haynsworth, Jr., Federal Buildings," as amended.

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

There was no objection.

LEGISLATIVE PROGRAM

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

Mr. WRIGHT. Mr. Speaker, I take this time for the purpose of announcing to the Members the scheduled plan for tomorrow, Friday.

Mr. Speaker, it is planned that the House will meet at 10 o'clock tomorrow.

We will complete consideration of H.R. 6173, the Health Planning Block Grant Act.

Then we will take up and consider House Resolution 581, to establish the Office of House Historian.

Having completed those, it would be our purpose to adjourn until Tuesday, September 28.

That being the case, we would surely get out of here by 3 o'clock tomorrow.

Tuesday, we would convene at 12 o'clock, Monday being Yom Kippur.

We would convene at noon on Tuesday and consider suspensions. There are 17 bills on suspension. We would vote on them Tuesday, but not vote on any of them until we had debated all 17.

ECONOMIC BLUEPRINT FOR PORT DEVELOPMENT AND MARINE STRUCTURAL REFORM AND REVITALIZATION

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

Mr. BIAGGI. Mr. Speaker, I call the attention of my colleagues to a most extraordinary document released this week by the Special Task Force on Long-Term Economic Policy of the House Democratic Caucus. I wish to commend the caucus chairman, the gentleman from Louisiana (Mr. LONG), and the task force chairman, the gentleman from Colorado (Mr. WIRTH), for their uncommon insight and vision in articulating a coherent economic blueprint for economic revitalization and productivity improvement in the national economy. The document is entitled "Rebuilding the Road to Opportunity: Turning Point for America's Economy."

Several aspects of this document are especially deserving of mention. One is the explicity recognition of the need for a balanced economy comprised of revitalized basic industries, expanded public investment in physical infrastructure, and encouragement of private investment in growth industries such as high technology. From this perspective, the document isolates the central issue of capital formation common to all three elements of the proposed economic program.

Another important dimension of the report is the recognition of predominant underlying trends affecting the potential for economic recovery. These include the increasing interdependency of national economies and accelerated structural reform of the domestic economy. Analyzing these trends the report identifies the central opportunity and challenge confronting the United States in developing a consistent international trade posture. Inherent in this, is the potential for an export-lead economic recovery or contraction—depending on the course of future international economic policy charted.

In particular, as we approach the end of the 97th and look ahead to the 98th Congress, I wish to emphasize two themes expressed in the document that translate into key elements of a coordinated national strategy for economic growth. These are already the subject of active implementation by the Committee on Merchant Marine and Fisheries.

The first is the need to develop our Nation's ports in order to accommodate expanded coal exports. Last March, the committee unanimously reported legislation I authored—H.R. 4627, Port Development and Navigation Improvement Act.

The report provides new impetus to the efforts of the Committee on Public Works and Transportation in addressing this national issue of critical importance to our international balance of trade, global energy security, and domestic economic and transportation infrastructure revitalization in comprehensive fashion.

The second theme expressed in the document relates to the manifest need for necessary restructuring and revitalizing of our basic industries—such as the maritime industry, including the seagoing merchant marine and commercial shipbuilding industries.

The committee intends to actively pursue this effort in the 98th Congress, building upon the resounding mandate of the House last week in passage of H.R. 4374, maritime regulatory reform legislation, which I likewise authored.

In the interim, I am encouraged by the release of this important document—placing in broader perspective with a similar focus these twin initiatives for consideration in the 98th Congress.

NUCLEAR WASTE LEGISLATION—CONGRESS MUST ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. BROYHILL) is recognized for 15 minutes.

● Mr. BROYHILL. Mr. Speaker, I commend the House leadership for moving ahead on vital nuclear waste legislation which is so important to the security of our electric utility industry and to the health of present and future generations of Americans.

The Senate passed similar legislation, S. 1662, nearly 6 months ago. Four major House committees—Energy and Commerce (H.R. 6598), Interior and Insular Affairs (H.R. 3809), Science and Technology (H.R. 5016), and Armed Services (H.R. 3809)—representing over 150 Members, have reported this legislation, with the last committee, Energy and Commerce, reporting its bill by voice vote August 4—over a month and a half ago. In addition, three other committees—Judiciary, Merchant Marine, and Budget—have been involved in reconciling this vital bill for consideration by the full House. Finally, the Committee on Rules itself has legislative jurisdiction, and I have appreciated the monumental efforts of Chairman BOLLING as well as the efforts of the subcommittee chairman, Mr. MOAKLEY, and the respective ranking minority members Mr. QUILLEN and Mr. TAYLOR and other members of that committee for their efforts to assure a consensus bill this Congress.

In short, Mr. Speaker, the efforts of the committees of jurisdiction have been nothing short of unprecedented.

I sometimes think there are so many footprints on this legislation I can no longer see the print on the title page. And yet, no bill in my memory over the last 20 years is a better example of the ability of the committee system and this great representative institution to work the will of our citizens on legislation of this magnitude, complexity, and critical need.

As my good friends JOHN DINGELL, MO UDALL, DON FUQUA, MEL PRICE, and DICK OTTINGER know, this is not a bill to write home about. This bill does not separate ourselves across the aisle. We do not seek to enact this bill for ourselves, we enact it because the American people need it.

For over 30 years, ranging from the landmark studies of the National Academy of Sciences in the 1950's to last month's Office of Technology Assessment report, the scientists have told us that the technology for the safe storage and disposal of nuclear waste is "here and now," and that all we lack is a comprehensive national blueprint to put it into action.

But, after 30 years of congressional inaction and executive branch policy

reversals, we are running out of time. The technology may still be "here and now" but for many older nuclear plants which will run out of space to store their spent fuel at their reactor sites before the Federal Government completes its first permanent waste repository, "here and now" may will be "here and gone."

Many of these older reactors are in my own southeast region of North Carolina, South Carolina, Virginia, and Florida. These reactors were built when it was assumed the Federal Government would take custody of spent fuel by the early 1970's and reprocess it for re-use. Then the Carter administration banned reprocessing in 1977, and these utilities were left holding the bag. The Carter administration promised them the Government would build a centralized storage facility, but Congress never acted. Then, the Reagan administration reversed course again, lifting the ban on reprocessing.

Twelve powerplants in the southeast region alone, according to NRC and DOE projections, will run out of spent fuel storage space by 1990—8 to 17 years before the Government projects the first repository will be available. A June 1982 NRC study projects as many as 40 plants in 19 States nationwide may run out of space by 1990.

For this reason, every Senate and House committee which has reported nuclear waste legislation has included an interim storage program to "help utilities help themselves" with a reactor site storage and limited "last resort" offsite storage.

All four House committees of jurisdiction, as well as the full Senate, have included at least four major elements in their consensus bill:

First, a firm schedule leading toward completion of a deep geologic repository for disposal of nuclear waste, with a full environmental review and NRC licensing.

Second, an interim spent fuel storage program providing licensing reforms to expedite onsite spent fuel storage and a limited, "last resort" offsite storage program at existing Federal facilities to bridge the gap before the first repository is available early next century and assure utilities they will not have to shut down useful powerplants for lack of spent fuel storage space.

Third, full State and local and public participation in the siting, construction and operation of nuclear waste facilities, through Federal-State "consultation and cooperation" to insure public confidence in the storage and disposal of waste throughout the program.

Fourth, up-front private financing of the entire program through user fees on nuclear utilities which will raise over $14 billion through the year 2000, but add an average of only 75 cents to the average family's electric bill.

As we all know, we came very close to enacting this bill last Congress. This Congress, we are equally close. However, if we fail this Congress, the need for this legislation will not go away, it will increase. And the compromises we include in this bill will not be easier, they will be more difficult. For example, last Congress, the House did not address the interim spent fuel storage problem. This Congress, all four House committees have decided to include an interim spent fuel storage program, but only in connection with a blueprint for permanent disposal. However, next Congress, we may only be able to get a consensus on interim spent fuel storage—and the congressional will and consensus to enact a permanent disposal program may be gone.

Poll after poll of American citizens has identified this legislation as a critical national need. President Reagan, in his April policy statement has made enactment a major goal of his administration. In all our negotiations over the last 2 years—JOHN DINGELL, MO UDALL, DON FUQUA, LARRY WINN, MEL PRICE, MANNY LUJAN, BILL DICKINSON, and myself—we all have agreed this bill is a "must" priority for this Congress.

Mr. Speaker, the full House may consider this critical legislation early next week. For the benefit of all Members who may be unfamiliar with every detail in the bills, I include the following informative material on the various bills for printing in the RECORD at this point:

NUCLEAR WASTE BILLS SIDE-BY-SIDE COMPARISON—INTERIOR COMMITTEE VERSUS ENERGY AND COMMERCE

Issues	Interior (H.R. 3809)	Energy and Commerce (H.R. 6598)	Sept. 21 preliminary staff discussion draft
1. State veto	State objection immediately effective unless overriden by two Houses of Congress in a joint resolution signed by the President. Expedited congressional procedures require consideration of the State objection in both Houses within 90 days.	State objection is effective only if sustained by one House of Congress. (Same as 1980 House-passed bill.) Same expedited congressional procedures are provided.	"One House sustain".
2. Environmental protections	Exemptions for preliminary decisionmaking activities. Environmental assessment required for shaft sinking. Provision for NRC adoption of DOE final EIS "where practicable".	Same, but with clarifying language. Environmental assessment strengthened by requiring certain matters to be addressed and by permitting judicial review for sufficiency. Express substantive duty to mitigate environmental impacts and impact on water rights.	Essentially the same as H.R. 6598, except environmental assessment must be completed before candidate site selection and site characterization and environmental alternatives must be considered during candidate site selection and characterization.
3. Public hearings	3 sets of public hearings to be held prior to: (1) candidate site recommendation, (2) shaft sinking during site characterization, (3) Presidential selection of repository site.	Same, except promulgation of procedures under act not subject to formal rulemaking.	Same as H.R. 3809.
4. State and Indian consultation and cooperation.	Impact assistance and Federal-State written agreement provided.	"Beefed up" Federal-State written agreement and impact assistance as recommended by National Governors Association and State of Texas; plus requirement that if Secretary fails to provide "timely information" to States, Federal Government must get out of State.	Same as H.R. 6598.
5. Expedited licensing of on-site spent fuel storage.	Exclusion of certain nongermane and frivolous issues from consideration.	Same, plus interim and hybrid licensing are provided	Hybrid, two-step licensing to "scope" issues, with certain frivolous issues excluded. No interim licensing.
6. Off-site spent fuel storage	Last resort program of 1,700 MTU, at existing Federal facilities, private powerplant sites, or licensed repository, available to utilities that DOE determines are eligible based on legislatively prescribed criteria. NRC public health and safety review required for storage at existing Federal facilities.	Last resort program of 2,800 MTU, available to utilities that NRC determines are eligible based on legislatively prescribed criteria which include the requirement for maintenance of a full core reserve capability. No NRC public health and safety review required.	Last resort program of 2,000 MTU, available to utilities that NRC determines are eligible based on legislatively prescribed criteria which insure continued orderly operation. Criteria shall take into account whether the maintenance of full core reserve capability is necessary. Transportation must be minimized. NRC public health and safety review required. Environmental impact statement and "one-House sustain" State veto provided for any facility over 300 MTU. Environmental assessment below 300 MTU.
7. Defense waste	Silent (implies inclusion)	Excluded. Incorporates Armed Services Committee amendments to H.R. 3809. State veto provision same as applicaibe to civilian repositories.	Excluded. Incorporates Armed Services Committee amendments to H.R. 3809 with a requirement for a study of the desirability of a unified repository system and a Presidential determination of whether separate civilian and defense waste repositories are desirable.
8. Site characterization and repository selection.	Secretary is required to recommend at least 3 sites in not less than 3 different geologic media within 1 yr. after enactment. Not later than February 1985, the Secretary must recommend at least 2 additional sites, 1 of which must be granite. Final repository selection by Mar. 30, 1987.	Secretary is required to recommend at least 3 sites in 2 geologic media within 14 mo. after enactment. Not later than February 1985, the Secretary must recommend at least 3 additional sites. Final repository selection by Mar. 30, 1987, with discretionary 1 yr. delay.	Secretary is required to recommend at least 5 sites in 2 different geologic media for selection of the first repository no later than July 1984. Not later than February 1985, the Secretary is required to recommend at leat 1 additional site of which not less than 1 shall be sites not previously recommended and not less than 1 site shall be in geologic medium other than a medium previously recommended. Final repository selection by Mar. 31, 1987, with discretionary 1 yr. delay.
9. Population density criteria	Sites are excluded that have both (1) a population of not less than 2,500 individuals and (2) a population density of not less than 1,000 individuals per square mile.	Sites are excluded that have either (1) a population of not less than 2,500 individuals or (2) a population within 1 square mile of such site of not less than 1,000 individuals.	Sites are disqualified if surface facilities located (1) in highly populated area, or (2) in area having population within 1 square mile of not less than 1,000 individuals.
10. Monitored retrievable storage (MRS).	Provision for MRS study is provided and is essentially identical to the provision in S. 1662.	Same, plus provisos prohibiting co-location at repository sites and requiring funding from the interim storage fund.	Same as H.R. 6598.
11. Test and evaluation facility (TEF).	No such provision	No such provision	Provision to be negotiated with the Science Committee.

PRESIDENT REAGAN'S STATEMENT ON NUCLEAR WASTE POLICY

THE WHITE HOUSE,
Washington, D.C., April 28, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: The safe and efficient disposal of nuclear waste is an issue of profound concern to all Americans. I am pleased and encouraged by the reports of bipartisan Congressional activity regarding nuclear waste legislation.

I, and all my Administration, stand ready to work with you to proceed on a bipartisan and timely basis on this most important matter, so that the Federal Government can fulfill its responsibilities for safe and efficient disposal of nuclear waste.

I believe that we all agree that first and foremost in any consideration of this issue is the fundamental need to protect the health and safety of all our citizens. We must also mitigate possible harm to our environment. With these prerequisites in mind, I urge early legislative action so that we may clear the way for continued development of peaceful uses of nuclear energy.

On October 8, 1981, I announced several policy initiatives regarding nuclear energy. My Administration is currently working to implement these initiatives. Consistent with these initiatives, and in order to take advantage of the inherent efficiency in the private sector, (benefiting the electricity ratepayer in the long run), nuclear waste legislation should be adopted soon, containing the following elements:

(1) A system of user fees to fund the construction and operation of high-level nuclear waste disposal facilities.

(2) An appropriate and effective method for State governments to participate in resolving site selection issues involved in the licensing and deployment of waste disposal facilities.

(3) A temporary storage facility, financed from user revenues, to relieve the near-term problem of exhaustion of spent fuel storage capacity at some operating plants. This facility should be subject to appropriate limitations of quantity of fuel and time of residence, perhaps 5-7 years, to ensure that it cannot be a substitute for longer term and permanent facilities.

(4) A federally owned and operated permanent repository for disposal of high-level radioactive waste to be available at the earliest practicable date. A federally owned and operated monitored retrievable storage (MRS) facility should be considered strongly for long-term storage in the interim period prior to operation of a permanent repository.

(5) Application to civilian-generated waste only, since military nuclear waste will be addressed separately.

To ensure efficiency and safety nuclear waste legislation should require title transfer to the Federal Government, at a date certain, of vitrified high-level waste at the receiving facility. Alternatively, if vitrification facilities are not yet in operation, the Federal Government will take title to encapsulated spent fuel. This will fix responsibility and provide a firm basis for construction and operation of facilities for nuclear waste storage and disposal financed from user revenues.

The federal actions are consistent with our basic effort to encourage private sector reprocessing in order to provide access to significant remaining fuel value for future generations as well as significantly reduce the volume of high-level waste.

The American people desire the safe disposal of nuclear waste. The necessary technology is available and scientific and engineering expertise exists to accomplish this goal. Federal legislation is required to assure a safe, effective solution for the disposal of nuclear waste at the earliest practicable time. I urge early consideration by both Houses of Congress and prompt enactment of legislation that will allow us to move ahead and deal with this issue in a timely and responsible manner.

Sincerely,

RONALD REAGAN.●

INTERNATIONAL ORGANIZATION SHOULD BE NAMED TO PROVIDE PROTECTION FOR PALESTINIAN REFUGEES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 5 minutes.

● Mrs. HECKLER. Mr. Speaker, we are shocked by the senseless slaughter of Palestinian refugees in the Shatila and Sabra camps in Lebanon. As a result of this slaughter, the remaining refugees fear for their lives, despite the entry of a three-nation peacekeeping force into Lebanon.

Today the women Members of Congress have joined together in urging the President to request of the Lebanese Government that it name an international organization to oversee, supervise, and provide protection to the Palestinian refugees in the camps of Lebanon.

As we view with horror the mass killing of innocent people at these camps, we are appalled—once again—that women, children, and the elderly are disproportionately bearing the brutality of conflict.

In 1980, we took the lead in depicting the plight of refugees in Cambodia, with some of us going ourselves to bear witness to it. Today, out of the same respect for human life, we draw attention to Lebanon, and call for action in the assumption of responsibility and accountability for the refugee camps in that country.●

PEOPLE MAGAZINE GIVES HIGHEST AWARD FOR PIZZA TO CHICAGO'S GINO'S EAST

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, I am delighted to call to the attention of my colleagues an article which appeared in the September 13 edition of People magazine, lauding Gino's East, of my own home city of Chicago, as producer of the best pizza in its survey.

People's Jeff Jarvis visited 39 pizzerias in nine cities, and after sampling 76 pounds of pizza, concluded that, Gino's East Pizza was tops among all those sampled. As a matter of fact, he even concurred that it is the "world's finest pizza."

I congratulate Fred Bartoli and Sam T. Levine, who founded Gino's East in 1966, on this honor, and send them my best wishes for many more years of continued success.

Excerpts from the article entitled, "In Search of the Great American Pizza," follow:

IN SEARCH OF THE GREAT AMERICAN PIZZA

(By Jeff Jarvis)

Ever since Neapolitan Gennaro Lombardi opened the first American pizzeria in New York's Little Italy in 1905, the humble confection of dough, cheese, tomato sauce, spices and assorted toppings has inspired passionate regional debates. Indeed, the only thing that inflames Americans more than insulting their hometown is demeaning their favorite pizza joint. Robust Chicagoans swear by their succulent "deep dish" pizzas; busy New Yorkers eat it by the slice on the run; sophisticated San Franciscans dote on gourmet pizza. But, somewhere in the land, is there a perfect pizza? There are, of course, as many opinions as palates. That richness of choice is what makes the quest all the more appealing. To settle the Great Debate once and for all, People dispatched Associate Editor Jeff Jarvis. A self-confessed junkfood junkie, Jarvis braved indigestion, jet lag and countless bemused looks in pizzerias across the land. He traveled 6,776 miles, visited 39 of the most popular pizzerias in nine cities, and sampled some 76 pounds of pizza. Jarvis was rigorously scientific: He ordered a plain cheese pizza everywhere as a basis for city-by-city comparison; hungry friends ordered various toppings, everything from A (anchovies) to Z (zucchini). Each pizza was weighed on a portable diet scale, then held up and subjected to the five-second slither test (if the ingredients slide off the crust like slush off a windshield, it's too greasy). Each part of the pizza was tasted separately—the cheese for flavor and stringiness, the sauce for spicing and the crust for telltale traces of cardboard or third-degree burns. Eighteen days later and eight pounds heavier, Jarvis weighed in with his admittedly subjective findings. Each city's winning pizza was rated from five tomatoes (pizza de resistance!) to none (break out the antacid). Here, saving the best for last, are the results.

And now for the *pizza de resistance*. In the Windy City, pizza is more than a meal. It is a banquet, served on a lush, amber bed of dough (light and crunchy) with tomatoes and cheese slathered on thick as a mother's love. This is knife-and-fork pizza, and the best can be consumed at Gino's East, founded by cabbies Sam T. Levine and Fred Bartoli with a chef who, says Levine, "could take a pair of your old shoes and make them taste good." Their recipe for perfect pizza grosses them $3 million a year—and it's a secret. "I don't even tell my wife," Levine says. "She'd tell the neighbors." Kate Jackson and Bruce Springsteen have dined there; so do doctors from nearby Northwestern Memorial Hospital. "And in all our years," Levine jokes, "we've never had to pump anybody's stomach." Chicagoans argue pizza more passionately than politics,

and there are many proponents of the North Side's Pizzeria Uno, self-proclaimed home of the "deep-dish" pizza. But after sampling both, we must finally concur with the sign outside Gino's. It reads simply: "World's finest pizza."●

HONORARIA AND EQUITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 20 minutes.

● Mr. LAFALCE. Mr. Speaker, as a result of a 1981 Senate amendment to a continuing appropriations resolution, Members of the Senate may receive an unlimited amount of income from honoraria. Most are able to make at least $25,000 in honoraria. Members of the U.S. House of Representatives, however, are bound by a limitation on all outside earned income which prohibits earnings above 30 percent of their congressional salaries—a present limit of approximately $18,200 and, I might add, a limit which very few Members of the House could obtain or even approach in honoraria.

So long as this discrepancy between the two Houses exists, I do not foresee a resolution of the controversial issue of compensation for Members of Congress. Instead, I foresee continued confusion and increased inequities in compensation between the two Chambers. Most Members of the House will have to rely principally on their salaries, whereas Members of the Senate may anticipate large, if not unlimited, amounts of honoraria.

Last year, the Senate amended a continuing appropriations resolution (H.J. Res. 325) (Public Law 97-51) to remove the $25,000 cap on outside earnings from such honoraria as delivering speeches, writing articles, or making appearances. The old limit, embodied in the 1976 Federal Election Campaign Act (Public Law 94-233), had applied to a Senator's total honoraria which amounted to more than $100 from any single source. Charitable donations, expenses and agents' fees were to be removed prior to that total computation.

The 1981 change did not affect the House, which continued to operate under a House rule limiting all outside earnings, including honoraria, to 15 percent of Members' salaries. On December 15, 1981, the House doubled that limit to 30 percent. That increase, with respect to honoraria at least, will help only a select few. The House has attempted to impose the 30-percent limit on Senators twice this year; both efforts have failed.

The discrepancy in rules is exacerbated by the prestige of the Senate; its Members are traditionally in greater demand than Members of the House of Representatives.

I believe that this discrepancy ought to be corrected. Members of both Chambers ought to have limits on honoraria income, for this income is received due to their positions held as public servants. The former limit, of 15 percent, would not be inappropriate for honoraria. I recognize that outside income, other than from honoraria, is a much different issue, requiring a totally different analysis. I personally do not believe that a Member of Congress who is, for example, also a physician, ought to be restricted from his practice, so long as adequate and thorough disclosure laws are obeyed and enforced. Honoraria, given on the basis of the office held, is another matter altogether.

All Members of this body share my frustration with the prolonged and convoluted debate over compensation. So long as the Members of one Chamber are capable of virtually doubling their congressional salaries through honoraria, we will be unable to deal equitably with the problem.

The issue of honoraria is, itself, a controversial issue which often receives more attention than that given to the issue of compensation. While I will not now delve into the subject of compensation, I do wish to call to the attention of my colleagues in this Chamber—and those in the Senate—the latest compilation of figures for Senators' honoraria in 1981. They are evidence of the growing inequity that poses a barrier to resolution of the issue of fairly compensating Members of Congress for their work.

The figures, from the September 11, 1982, edition of Congressional Quarterly, follow:

SENATORS' HONORARIA TOTALS FOR 1981

	Total Honoraria	Total minus donations
Abdnor	$1,900.00	$1,900.00
Andrews	17,800.00	17,800.00
Armstrong	6,705.00	0.00
Baker	54,000.00	41,000.00
Baucus	18,900.00	18,900.00
Bentsen	0.00	0.00
Biden	24,960.00	24,960.00
Boren	25,250.00	25,250.00
Boschwitz	5,600.00	2,100.00
Brady	0.00	0.00
Bradley	18,735.00	15,735.00
Bumpers	9,600.00	9,600.00
Burdick	5,000.00	5,000.00
H. Byrd	0.00	0.00
R. Byrd	10,000.00	10,000.00
Cannon	19,750.00	15,000.00
Chafee	29,600.00	25,350.00
Chiles	1,000.00	0.00
Cochran	29,000.00	29,000.00
Cohen	24,150.00	24,150.00
Cranston	30,600.00	30,600.00
D'Amato	25,250.00	25,250.00
Danforth	13,500.00	13,500.00
DeConcini	0.00	0.00
Denton	17,638.93	17,638.93
Dixon	17,000.00	17,000.00
Dodd	28,015.00	25,015.00
Dole	66,850.00	36,350.00
Domenici	29,700.00	29,700.00
Durenberger	24,750.00	24,750.00
Eagleton	9,050.00	9,050.00
East	2,250.00	2,250.00
Exon	8,350.00	8,350.00
Ford	7,600.00	7,600.00
Garn	48,000.00	48,000.00
Glenn	0.00	0.00
Goldwater	12,000.00	12,000.00
Gorton	12,750.00	12,750.00
Grassley	21,580.00	21,580.00
Hart	23,250.00	23,250.00
Hatch	29,700.00	29,700.00

SENATORS' HONORARIA TOTALS FOR 1981—Continued

	Total Honoraria	Total minus donations
Hatfield	31,691.00	30,941.00
Hawkins	23,000.00	23,000.00
Hayakawa	9,200.00	9,200.00
Heflin	650.00	650.00
Heinz	100.00	100.00
Helms	16,500.00	16,500.00
Hollings	25,150.00	25,150.00
Huddleston	22,500.00	22,500.00
Humphrey	3,500.00	0.00
Inouye	23,750.00	23,750.00
Jackson	56,250.00	0.00
Jepsen	18,250.00	18,250.00
Johnston	25,700.00	25,700.00
Kassebaum	4,500.00	4,500.00
Kasten	27,000.00	27,000.00
Kennedy	150.00	150.00
Laxalt	33,500.00	33,500.00
Leahy	13,800.00	13,800.00
Levin	0.00	0.00
Long	0.00	0.00
Lugar	40,200.00	25,000.00
Mathias	38,950.00	37,850.00
Matsunaga	22,700.00	22,700.00
Mattingly	4,500.00	4,500.00
McClure	38,450.00	31,850.00
Melcher	9,250.00	9,250.00
Metzenbaum	10,650.00	3,410.00
Mitchell	4,000.00	4,000.00
Moynihan	22,600.00	22,600.00
Murkowski	5,300.00	5,300.00
Nickles	17,500.00	13,000.00
Nunn	19,600.00	19,600.00
Packwood	29,487.00	29,487.00
Pell	6,700.00	0.00
Percy	11,900.00	11,900.00
Pressler	26,150.00	26,150.00
Proxmire	19,813.00	19,813.00
Pryor	10,730.00	10,730.00
Quayle	26,000.00	26,000.00
Randolph	12,600.00	12,600.00
Riegle	15,800.00	15,800.00
Roth	27,373.27	27,373.27
Rudman	1,000.00	0.00
Sarbanes	5,500.00	5,500.00
Sasser	22,200.00	22,200.00
Schmitt	5,000.00	5,000.00
Simpson	6,800.00	6,800.00
Specter	12,500.00	12,500.00
Stafford	25,000.00	25,000.00
Stennis	0.00	0.00
Stevens	20,250.00	20,250.00
Symmis	40,700.00	37,200.00
Thurmond	22,206.00	.....
Tower	26,450.00	26,450.00
Tsongas	20,300.00	20,300.00
Wallop	24,300.00	24,300.00
Warner	0.00	0.00
Weicker	32,150.00	32,150.00
Zorinsky	0.00	0.00

Source: Secretary of the Senate, Congressional Record. ●

PERSONAL EXPLANATION

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

● Mr. PEPPER. Mr. Speaker, the week of September 13 I was granted official leave on account of leading the House delegation to the meeting of the Inter-Parliamentary Union. Unfortunately I was forced to miss recorded votes that week, thus I would like to make my position known on all such votes.

Rollcall 320—Approval of the House Journal of Tuesday September 14; "yea."

Rollcall 321—H.R. 4374, Shipping Act of 1982; "yea."

Rollcall 322—H.R. 6444, Patent Term Extension; "nay."

Rollcall 323—H.R. 6813, Boat Safety Act; "yea."

Rollcall 324—H.R. 6580, sailing school vessel regulation; "yea."

Rollcall 325—H.R. 6355, technical corrections in health laws; "yea."

Rollcall 326—S. 923, Pretrial Services Act of 1982, conference report; "yea."

Rollcall 327—H.R. 6956, Department of HUD appropriations, fiscal year 1983, House to resolve itself into the Committee of the Whole; "yea."

Rollcall 328—H.R. 6956, Department of HUD appropriations, amendment to increase EPA R&D funding; "yea."

Rollcall 329—H.R. 6956, Department of HUD appropriations, amendment to delete money for NASA rocket space transportation system; "nay."

Rollcall 330—H.R. 6956, Department of HUD appropriations, amendment to bar use of EPA funds for mandatory inspection programs for vehicle emissions; "nay."

Rollcall 331—H.R. 6956, Department of HUD appropriations, final passage; "yea."

Rollcall 332—Approval of the House Journal of Wednesday September 16; "yea."

Rollcall 333—House Joint Resolution 562, urgent supplemental fiscal 1982 jobs program, adoption of the rule (H. Res. 582); "yea."

Rollcall 334—House Joint Resolution 562, urgent supplemental, motion that the House resolve into the Committee of the Whole; "yea."

Rollcall 335—House Joint Resolution 562, urgent supplemental, amendment to substitute for the bill's $1 billion authorization and appropriation, a $1.5 billion program to be funded by transfer of budget authority from the Synthetic Fuels Corporation; "nay."

Rollcall 336—House Joint Resolution 562, urgent supplemental, motion that the House resolve into the Committee of the Whole House on the State of the Union; "yea."

Rollcall 338—House Joint Resolution 562, urgent supplemental, amendment to substitute for the bill's $1 billion authorization and appropriation, a $1.5 billion program to be funded by transfer authority from the Synthetic Fuels Corporation; "nay."

Rollcall 339—House Joint Resolution 562, urgent supplemental, fiscal 1982 jobs program, final passage; "yea."

Rollcall 340—H.R. 5543, Ocean and Coastal Resources Management and Development Block Grant Act, adoption of the rule (H. Res. 555); "yea."●

UNEMPLOYMENT DISTRESS IS WORSENING

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

● Mr. REUSS. Mr. Speaker, last month the unemployment rate was 9.8 percent, the same as in July. Some in the administration have suggested that this is good news, because, in their view, the employment situation was no worse in August than in July.

But in one important respect the employment situation did get worse in August. The economic, personal, and psychological hardships resulting from unemployment depend on the length of unemployment, as well as the fact of being unemployed. The depth of economic distress is appropriately measured by taking account of both the unemployment rate and the average duration of employment.

The Joint Economic Committee has developed a measure of labor market distress which combines the effects of a higher level and a longer duration of unemployment. This unemployment distress index is equal to the total number of weeks of unemployment, calculated by multiplying the number of unemployed by the average length of unemployment. Here is the index for the last decade.

Period	Percentage unemployment rate	Number unemployed (millions)	Average duration (weeks)	Unemployment distress index [1] (millions)
1970	4.9	4.093	8.6	35.2
1971	5.9	5.016	11.3	56.7
1972	5.6	4.882	12.0	58.6
1973	4.9	4.365	10.0	43.6
1974	5.6	5.156	9.8	50.5
1975	8.5	7.929	14.2	112.6
1976	7.7	7.406	15.8	117.0
1977	7.1	6.991	14.3	100.0
1978	6.1	6.202	11.9	73.8
1979	5.8	6.137	10.8	66.3
1980	7.1	7.637	11.9	90.9
1981	7.6	8.273	13.7	113.3
July 1981	7.2	7.824	14.1	110.3
First quarter 1982	8.8	9.576	13.8	132.1
Second quarter 1982	9.5	10.428	15.1	157.5
July 1982	9.8	10.790	15.6	168.3
August 1982	9.8	10.805	16.2	175.0

[1] Total weeks of unemployment.

In July 1981, the beginning of this recession, the average length of unemployment for the 7.8 million unemployed was 14.1 weeks. Thus the total number of weeks of unemployment was 110 million. Last month the number unemployed was 10.8 million, and the average duration of unemployment was 16.2 weeks, yielding a total of 175 million weeks of unemployment. Since July 1981, the total number of weeks of unemployment has risen by 59 percent, the combined effect of a 38-percent increase in the number of unemployed, and a 15-percent rise in the average length of unemployment.

The unemployment rate doubled between 1970 and August 1982, rising from 4.9 to 9.8 percent. But this greatly understates the rise in labor market distress. The total number of weeks of unemployment rose by 397 percent, the combined effect of a 164-percent rise in the number of unemployed, and an 88-percent increase in the average duration of unemployment.

The length of the workweek in private industry averaged only 34.9 hours in August. At this rate, these 175 million weeks of unemployment amounted to a loss of more than 6.1 billion hours of labor.●

ELSIE B. MARSHALL: NEW PRESIDENT OF THE PORTUGUESE PROTECTIVE UNION OF CALIFORNIA

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

● Mr. PANETTA. Mr. Speaker, I would like to bring to the attention of my colleagues the recent election of a constituent of mine, Ms. Elsie B. Marshall, as supreme president of the Portuguese Protective Union of the State of California (UPPEC). Ms. Marshall has long been active in this organization, having joined the Watsonville chapter in 1939 and served as president of that chapter for two terms.

Ms. Marshall will be installed as supreme president this week, and a testimonial dinner in her honor will be held in November.

Elsie Marshall has a long record of community service in Santa Cruz County, where she has lived since she was a young girl. She has been very active in the Santa Cruz Parlor of the Native Daughters of the Golden West. In fact, she has served two terms as president of that organization. She is also a member of, and is active in, a number of other groups, such as the St. Anthony Society, the CPDES, and the I.D.E.S. No. 39.

In addition, Ms. Marshall, until her retirement to devote full attention to her new role as supreme president of UPPEC, worked for some 30 years for Shaffer's Tropical Gardens, where she became expert in the breeding, raising, and selection of flowers and helped to create many varieties of orchid, one of which has been named the "Elizabeth Marshall" in her honor.

Mr. Speaker, across our Nation there are millions of citizens devoting their time and energy to the maintenance of the culture of the homelands from which their parents and grandparents came to this country. They make a priceless contribution to the rich cultural mix which makes us unique among the nations of the world. Elsie Marshall is one of those to whom we owe a debt of thanks; she is helping to keep alive in this country the wonderful Portuguese heritage that is shared by many of my own constituents and so many people throughout this land. I want to wish her the best of luck during her tenure as president of UPPEC, and I know my colleagues join me in that sentiment.●

GOVERNMENT COMPTROLLER FOR GUAM TO BE TRANSFERRED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Guam (Mr. WON PAT) is recognized for 5 minutes.

● Mr. WON PAT. Mr. Speaker, I have been informally informed that Secretary Watt plans to transfer the Government Comptroller for Guam, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands half-way around the world to fill the vacant position of Government Comptroller for the Virgin Islands.

I say informally informed because this House has not yet been informed in the manner required by law of the transfer and the reasons for it.

When we are, I hope that Secretary Watt will adequately address several serious questions about the transfer.

First, will Comptroller Fukutome be allowed to complete his investigation of whether or not temporary employment powers are being abused by the government of Guam?

Politically sensitive audits such as this should not be interfered with by political appointees. If they are, it may appear that a politically motivated coverup is taking place.

Unfortunately, a newspaper account says that Assistant Interior Secretary Sanjuan has ordered Comptroller Fukutome off this investigation because he had not approved of it.

I cannot believe this report, quoting Mr. Sanjuan's assistant, is accurate. The law clearly gives the Comptroller the authority and the responsiblity to probe suspected improper spending.

Second, is it appropriate to decide on the transfer now?

On September 9, this House passed my bill H.R. 5139. Among other things, it would transfer the audit authority and staff of the Comptroller out from under Assistant Secretary Sanjuan's direction to that of the Inspector General.

This proposal was passed in response to a GAO audit which said that the independence of the Comptroller was being impaired by directives from the Assistant Secretary's office.

Since Senate passage of my bill is likely soon, it would seem to be prudent to delay the assignment transfer decision until authority for the Comptroller is transferred to the Inspector General.

Hasty action now suggests some motivation other than the official explanation. It encourages speculation that the Secretary is responding to the desperate pleas of Guam politicians who have been embarrassed by the Comptroller's past investigations and are afraid of his future findings.

The official explanation itself, as it has been reported to me, is that Comptroller Fukutome is being shipped to the opposite side of the globe simply because there will shortly be a vacancy there.

This, of course, is not a plausible reason to order such a transfer. And this relates to my third concern: Would such a transfer be good policy and cost-effective?

I question whether it is good policy to send the experienced Federal auditor for the Western Pacific to be the Federal auditor for the Caribbean territory involved.

Is there not anyone in the Virgin Islands who could do the job so that Guam, the Northern Marianas, and the Micronesian governments do not have to be deprived of Mr. Fukutome's exceptional abilities and unmatchable knowledge? Is there not any Federal auditor in the Virgin Islands, Puerto Rico, or even the 50 States who could be assigned to St. Thomas?

I raise the issue of cost because cost of travel was the reason given by Mr. Sanjuan for denying permission for this most senior Federal Comptroller to testify at my subcommittee's hearing last month on the sweeping changes the House has now approved in the Comptrollers' operations.

If it cost too much to have Mr. Fukutome advise the Congress on our major overhaul of all Federal auditing in the insular areas, can we afford to spend perhaps 20 times as much to move him to the Virgin Islands? Further, how could Mr. Sanjuan's budget accommodate the cost of bringing Mr. Fukutome to Washington for a meeting on a single audit last week—as it has in the past—if it could not afford the cost of a requested appearance by Mr. Fukutome at a congressional hearing on the future of Mr. Fukutome's entire office?

I must also note on this point that the Committee on Interior and Insular Affairs has expressly recommended against funding such costly personnel rotations in this time of fiscal austerity.

My fourth question is whether Mr. Fukutome is being permitted proper time for this transfer of many thousands of miles and is amenable to it?

I do not believe the reports I have heard that the transfer is to take place next month. The law requires that the Congress be informed 60 days prior to the transfer and we still have not been informed about the transfer.

In addition, the Secretary should indicate to us that Mr. Fukutome agrees with the new assignment. Otherwise, suspicions may arise that he is being forced out of his present position for reasons other than the official explanation.

Finally, is the assignment of Mr. Fukutome acceptable to the Virgin Islands? Have the Delegate, Governor, and legislative leadership been consulted about it?

I know Ben Fukutome. I do not believe there is anyone familiar with my area that does not know of his professional competence and independence. I am sure that he would perform well in the Virgin Islands. But do the people of that territory find the assignment acceptable?

Mr. Speaker, as I indicated at the outset, I hope that these questions are fully answered in Secretary Watt's explanation to us of this proposed transfer of an important Federal official. Mr. Fukutome's record as an aggressive and impartial watchdog of spending of the people's money demands that we, as the people's representatives, get no less.●

TRADITION AND EXTRADITION: H.R. 6046

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

● Mr. WEAVER. Mr. Speaker, I must join with a number of my colleagues in expressing great concern over the disturbing provisions of the unamended Extradition Reform Act (H.R. 6046).

It is obvious that our extradition system needs revision. We certainly do not want to encourage streams of international terrorists to seek asylum in the United States. We must facilitate their prompt return to justice in the countries where they have committed their heinous crimes. In our haste to get tough with those individuals who thrive on violence and injustice, however, we cannot neglect our American tradition of protecting the legitimate victims of political tyranny.

In its present form, H.R. 6046 would actually inhibit the course of democratic justice, and allow for more arbitrary Federal interference with the civil liberties of U.S. residents. For example, the power to determine whether a foreign government's extradition request might really be just a pretense for continued persecution would, under this legislation, belong not to the independent judiciary but to the Secretary of State.

This bill would also extend the list of extraditable crimes. Exiled critics of authoritarian regimes, former officials of regimes which the United States once supported, and others once protected under American law would no longer be considered "political offenders," and thus subject to extradition. Political dissidents from El Salvador or the Philippines who have already found sanctuary in America could be detained here and then returned to the oppressive government which persecuted them in the first place, potentially on the basis of any utterly insubstantial evidence.

Mr. Speaker, in the most ardent interests of the constitutional rights to freedom and due process, we must thoroughly examine the full implications of H.R. 6046. We must carefully consider proposed amendments which would bring more clarity and compassion to the bill. We cannot risk deporting a 200-year history of firm, yet compassionate, American justice.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CHAPPELL, for today, on account of business in the district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARTIN of New York) to revise and extend their remarks and include extraneous material:)

Mr. MCCLOSKEY, for 30 minutes, today.

Mr. BROYHILL, for 15 minutes, today.

Mrs. HECKLER, for 5 minutes, today.

(The following Members (at the request of Mr. DYSON) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. LAFALCE, for 20 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. GORE, for 30 minutes, today.

Mr. REUSS, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. SCHUMER, for 10 minutes, today.

Mr. WON PAT, for 5 minutes, today.

Mr. WEAVER, for 5 minutes, today.

Mr. BAILEY of Pennsylvania, for 30 minutes each, on September 28, 29, 30, and October 1.

EXTENSIONS OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mrs. COLLINS of Illinois, to revise and extend her remarks and to appear following offering of user fee amendment by Mr. CONABLE.

(The following Members (at the request of Mr. MARTIN of New York) and to include extraneous matter:)

Mr. YOUNG of Alaska.

Mr. SCHULZE.

Mr. FIELDS.

Mr. NELLIGAN.

Mr. DUNN.

Mr. LEE.

Mr. DANNEMEYER.

Mr. PORTER in four instances.

Mr. PETRI.

Mr. JAMES K. COYNE.

Mr. CLINGER.

Mr. BAILEY of Missouri.

Mrs. HECKLER.

(The following Members (at the request of Mr. DYSON) and to include extraneous matter:)

Mr. DERRICK.

Mrs. SCHROEDER.

Mr. ROE.

Mr. MCDONALD.

Mr. MAZZOLI.

Mr. PEASE.

Mr. MCHUGH.

Mr. MOFFETT in two instances.

Mr. DELLUMS in two instances.

Mr. EDWARDS of California in two instances.

Mr. SOLARZ in two instances.

Mr. BARNES.

Mr. FLORIO.

Mr. SIMON in two instances.

Mr. DONNELLY.

Mr. UDALL.

Ms. FERRARO.

Mr. FORD of Michigan.

Mr. AKAKA.

Mr. APPLEGATE.

Mr. MOTTL.

Mr. BIAGGI.

Mr. DYSON.

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled joint resolutions of the Senate of the following title:

S.J. Res. 165. Joint resolution authorizing and requesting the President to proclaim 1983 as the "Year of the Bible";

S.J. Res. 174. Joint resolution to authorize and request the President to designate October 16, 1982, as "World Food Day"; and

S.J. Res. 193. Joint resolution designating the week of November 7 through November 13, 1982, as "National Respiratory Therapy Week."

BILL PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on September 22, 1982 present to the President, for his approval a bill of the House of the following title:

H.R. 5288. An act granting the consent of Congress to the compact between the States of New Hampshire and Vermont concerning solid waste.

ADJOURNMENT

Mr. DYSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 30 minutes p.m.), the House adjourned until tomorrow, Friday, September 24, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

4824. Under clause 2 of rule XXIV, a letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting reports on political contributions by various ambassadorial nominees and by members of their families, pursuant to section 304(b)(2) of Public Law 96-465, was taken from the Speaker's table and referred to the Committee on Foreign Affairs.

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. ZABLOCKI: Committee on Foreign Affairs. H.R. 7115. A bill to authorize the transfer of nine naval vessels to certain foreign governments; with an amendment (Rept. No. 97-843, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee on House Administration. Report pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 97-856). Referred to the Committee of the Whole House on the State of the Union.

Mr. NICHOLS: Committee on Armed Services. H.R. 3278. A bill to amend title 10, United States Code, to provide additional standards for determining the amount of space to be programed for military retirees and their dependents in medical facilities of the uniformed services, and for other purposes; with an amendment (Rept. No. 97-857). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4496. A bill to clarify the citizenship status of the members of the Texas Band of Kickapoo Indians; to provide for a reservation for the Texas Band of Kickapoo; to provide to members of the Texas Band of Kickapoo those services and benefits furnished to American Indian tribes and individuals, and for other purposes; with amendments (Rept. No. 97-858). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5121. A bill to improve the collection of Federal royalties and lease payments derived from certain natural resources under the jurisdiction of the Secretary of the Interior, and for other purposes; with an amendment (Rept. No. 97-859). Referred to the Committee of the Whole House on the State of the Union.

Mr. ZABLOCKI: Committee on Foreign Affairs. Senate Concurrent Resolution 18. A concurrent resolution relating to the restoration of the free exercise of religion in Ukraine (Rept. No. 97-860). Referred to the House Calendar.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5906. A bill to amend title III of the Outer Continental Shelf Lands Act Amendments of 1978 to clarify provisions relating to claims, financial responsibility, and civil penalties; with an amendment (Rept. No. 97-861). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6588. A bill to provide for Federal recognition of the Cow Creek Band of Umpqua Tribe of Indians, to institute for such tribe those Federal services provided to Indians who are recognized by the Federal Government and who receive such services because of the Federal trust responsibility, and for other purposes. (Rept. No. 97-862). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4863. A bill to modify the maritime laws applicable to the recovery of damages by cer-

tain foreign seamen; with amendments (Rept. No. 97-863). Referred to the Committee of the Whole House on the State of the Union.

Mr. HOWARD: Committee of conference. Conference report on H.R. 5930 (Rept. No. 97-864). Ordered to be printed.

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 2303. A bill to designate the New York Bulk and Foreign Mail Center at Jersey City, N.J., as the "Michael McDermott Bulk and Foreign Mail Center" (Rept. No. 97-865). Referred to the House Calendar.

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 5941. A bill to designate the building known as the Federal building and U.S. courthouse in Greenville, S.C., as the "Clement F. Haynsworth, Jr., Federal Building"; with amendments (Rept. No. 97-866). Referred to the Committee of the Whole House on the State of the Union.

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 6170. A bill to amend title 23, United States Code, to encourage the establishment by States of effective alcohol traffic safety programs; with amendments (Rept. No. 97-867). Referred to the Committee of the Whole House on the State of the Union.

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 7159. A bill to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH; (Rept. No. 97-868). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DASCHLE:

H.R. 7170. A bill to transfer from the Administrator of Veterans' Affairs to the Secretary of Health and Human Services the responsibility to conduct an epidemiological study of the long-term health effects in humans of exposure to phenoxy herbicides (including agent orange); to the Committee on Veterans' Affairs.

By Mr. DONNELLY:

H.R. 7171. A bill to amend title 5, United States Code, to provide that the annuity or retirement pay payable to a Federal retiree may not be increased by a cost-of-living adjustment beyond a certain percentage of the basic pay currently payable to those in active service; to the Committee on Post Office and Civil Service.

By Mr. FLORIO:

H.R. 7172. A bill to amend title 11, United States Code, to give priority to claims of governmental units for costs which are incurred to abate hazardous substances and for which the debtor is liable under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, to certain claims under the Solid Waste Disposal Act, and to claims under similar State laws; to the Committee on the Judiciary.

By Mr. FOUNTAIN (for himself, Mr. BROOKS, Mr. HORTON, Mr. BROWN of Ohio, Mr. LEVITAS, Mr. NEAL, Mr. MCGRATH, Mr. FRANK, and Mr. DENARDIS):

H.R. 7173. A bill to make certain changes in the membership and operations of the Advisory Commission on Intergovernmental Relations; to the Committee on Government Operations.

By Mr. FRANK:

H.R. 7174. A bill to provide that section 402(a)(31) of the Social Security Act, which requires that certain income of a stepparent living with a dependent child be taken into account in determining such child's need under the AFDC program, shall not apply in any case where the stepparent was already living with the child at the time such section became effective; to the Committee on Ways and Means.

By Mr. HORTON:

H.R. 7175. A bill to amend the Internal Revenue Code of 1954 to allow the Secretary of Treasury to waive the interest penalty for failure to pay estimated income tax for elderly and retired persons, in certain situations; to the Committee on Ways and Means.

By Mr. HOWARD:

H.R. 7176. A bill to amend title II of the Social Security Act to provide that a beneficiary who dies shall (if otherwise qualified) be entitled to a prorated benefit for the month of his death; to the Committee on Ways and Means.

By Mr. PERKINS:

H.R. 7177. A bill to amend the Black Lung Benefits Act of 1969 to prohibit the reduction of disability benefits under the Social Security Act; to the Committee on Education and Labor.

By Mr. PETRI:

H.R. 7178. A bill to amend section 14(c)(3) of the Fair Labor Standards Act of 1938, to permit the employment of handicapped and severely handicapped individuals in common areas, to permit the employment of handicapped individuals in demonstration projects, and for other purposes; to the Committee on Education and Labor.

By Mr. SCHEUER:

H.R. 7179. A bill to provide for the reorganization of the Environmental Protection Agency by the establishment of an independent regulatory commission, and for other purposes; to the Committee on Government Operations.

By Mr. SCHUMER:

H.R. 7180. A bill to reduce the incidence of arson in urban areas by prohibiting the payment of fire insurance proceeds with respect to certain properties for which property taxes are overdue; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SOLOMON:

H.R. 7181. A bill to amend the Internal Revenue Code of 1954 to reinstate the partial exclusion of dividends and interest, and for other purposes; to the Committee on Ways and Means.

H.R. 7182. A bill to repeal the withholding on interest and dividends enacted by the Tax Equity and Fiscal Responsibility Act of 1982; to the Committee on Ways and Means.

By Mr. UDALL:

H.R. 7183. A bill to authorize appropriations for the Navajo and Hopi Indian Relocation Commission; to the Committee on Interior and Insular Affairs.

By Mr. VANDER JAGT (for himself and Mr. BLILEY):

H.R. 7184. A bill to repeal the increase in the excise tax on cigarettes; to the Committee on Ways and Means.

By Mr. WEBER of Minnesota:

H.R. 7185. A bill to amend the Agricultural Act of 1970 to prohibit restrictions on the export of certain agricultural commodities; jointly, to the Committees on Agriculture and Foreign Affairs.

By Mr. MOAKLEY (for himself, Mr. HOLLENBECK, Mr. BROWN of California, Mr. BEDELL, Mr. FRANK, Mr. MAVROULES, Mr. HORTON, Mr. DOWNEY, Mrs. SCHROEDER, Mrs. CHISHOLM, Mr. LEACH of Iowa, Mr. LAFALCE, Mr. WEISS, Mr. SEIBERLING, Mr. FORD of Tennessee, Mr. DENARDIS, Mr. LOWRY of Washington, Mr. WEAVER, Mr. WOLPE, Mr. DELLUMS, Mrs. HECKLER, Mr. BRODHEAD, Mr. EDGAR, Mr. LEHMAN, Mr. AUCOIN, Mr. CROCKETT, Mr. SCHEUER, Ms. MIKULSKI, Mr. FAUNTROY, and Mr. GREEN):

H.J. Res. 607. Joint resolution calling for immediate negotiations for a ban on weapons of any kind in space; to the Committee on Foreign Affairs.

By Mr. GOODLING:

H.J. Res. 608. Joint resolution to urge immediate reductions of strategic nuclear forces to equal and substantially reduced levels while awaiting a final outcome of the START negotiations; to the Committee on Foreign Affairs.

By Mr. DE LA GARZA (for himself and Mr. WAMPLER):

H. Con. Res. 412. Concurrent resolution extending to the Graduate School, U.S. Department of Agriculture, the appreciation of the Congress on the 60th anniversary of the founding of the school; considered and agreed to.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. HUTTO introduced a bill (H.R. 7186) to direct the Secretary of the department in which the U.S. Coast Guard is operating to cause the vessel *Tri Star* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade, which was referred; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 580: Mr. EDGAR, Mr. WAXMAN, Mr. MADIGAN, Ms. MIKULSKI, Mr. MITCHELL of New York, Mr. DE LA GARZA, and Mr. SCHEUER.

H.R. 2007: Mr. GUARINI.

H.R. 3117: Mr. DENARDIS.

H.R. 5121: Mr. UDALL, Mr. MARRIOTT, Mr. LUJAN, Mr. CHENEY, Mr. MILLER of California, Mr. YOUNG of Alaska, Mrs. BYRON, Mr. BEREUTER, Mr. RAHALL, Mr. LAGOMARSINO, Mr. CLAUSEN, Mr. MARTIN of New York, Mr. HANSEN of Utah, Mr. HANSEN of Idaho, Mr. PASHAYAN, Mr. GEJDENSON, Mr. BEDELL, Mr. BEILENSON, Mr. BEVILL, Mr. BRODHEAD, Mr. JOHN L. BURTON, Mr. CORRADA, Mr. DICKS, Mr. DONNELLY, Mr. EDGAR, Mr. EDWARDS of California, Mr. EVANS of Georgia, Mr. FISH, Mr. FLORIO, Mr. FORSYTHE, Mr. FOWLER, Mr. FRANK, Mr. GORE, Mr. JEFFORDS, Mr. MINISH, Mr. MITCHELL of Maryland, Mr. MOTTL, Mr. PEPPER, Mr. RATCHFORD, Mrs. SCHNEIDER, Mr. SKEEN, Mr. WOLPE, Mr. ECKART, and Mr. ALBOSTA.

H.R. 6142: Mr. SHARP.

H.R. 6348: Mr. BROOMFIELD, Mr. PARRIS, Mr. BINGHAM, Mr. FAZIO, Mr. DOUGHERTY, Mr. MARLENEE, Mr. TAYLOR, Mr. LELAND, Mr. PANETTA, and Mr. MATTOX.

H.R. 6373: Mr. BENNETT.

H.R. 6460: Mrs. HECKLER and Mr. SCHUMER.

H.R. 6463: Mr. WINN, Mr. GLICKMAN, and Mr. DICKINSON.

H.R. 6483: Mr. PEYSER.

H.R. 6606: Mr. FAZIO.

H.R. 6748: Mr. JEFFRIES.

H.R. 6842: Mr. WEBER of Ohio, Mr. KINDNESS, Mr. GINGRICH, and Mr. LEBOUTILLIER.

H.R. 6905: Mr. FORD of Michigan and Mr. ALBOSTA.

H.R. 6906: Mr. FORD of Michigan.

H.R. 7020: Mrs. ASHBROOK.

H.R. 7074: Mr. MATSUI.

H.R. 7075: Mr. MATSUI.

H.R. 7090: Mr. HUTTO.

H.R. 7117: Mr. DOUGHERTY.

H.R. 7128: Mr. DORNAN of California, Mr. DANNEMEYER, and Mr. ROBERTS of South Dakota.

H.J. Res. 264: Mr. JAMES K. COYNE.

H.J. Res 490: Mr. GRAMM.

H.J. Res. 493: Mr. LONG of Louisiana, Mr. HUTTO, Mr. TAUKE, and Mr. EDWARDS of Alabama.

H.J. Res. 504: Mr. MARRIOTT.

H.J. Res. 533: Mr. PETRI.

H.J. Res. 552: Mr. DIXON.

H.J. Res. 558: Mr. FORSYTHE, Mr. HOWARD, Mr. KEMP, Mr. FRENZEL, Mr. RATCHFORD, Mrs. SNOWE, Mr. EDGAR, Mr. BROOKS, Mr. MOLINARI, Mr. SABO, Mr. ROE, Mr. BROOMFIELD, Mr. ERDAHL, Mrs. FENWICK, Mr. SHAMANSKY, Mr. LOWRY of Washington, Mr. VENTO, Mr. WHITTAKER, Mr. DANNEMEYER, Mr. KASTENMEIER, Mr. FISH, and Mr. LONG of Louisiana.

H.J. Res. 563: Mrs. KENNELLY, Mr. LOTT, Mr. STANGELAND, Mr. STENHLOM, Mr. BRINKLEY, Mr. MITCHELL of New York, Mr. WALKER, Mr. EVANS of Iowa, Mr. RATCHFORD, Mr. KASTENMEIER, Mr. NATCHER, Mr. HEFNER, Mr. DYSON, Mr. BROOKS, Mr. DOWDY, Mr. BOWEN, Mr. KEMP, Mr. BENEDICT, Mr. JONES of North Carolina, Mr. YOUNG of Alaska, Mr. APPLEGATE, Mr. TAUKE, Mr. ROBERTS of South Dakota, Mr. LEACH of Iowa, Mr. BEREUTER, Mr. MCDADE, Mr. ST GERMAIN, Mr. ADDABBO, Mr. MCDONALD, Mr. MOLINARI, Mr. ROE, Mr. LANTOS, Mr. PEPPER, Mr. DANIEL B. CRANE, Mrs. HOLT, Mr. WINN, Mr. WYLIE, Mr. MARRIOTT, Mr. SCHEUER, Mr. FAZIO, Mr. WOLF, Mr. CHENEY, Mr. HATCHER, Mr. SHELBY, Mr. HANSEN of Idaho, Mr. LAGOMARSINO, Mr. BEDELL, Mr. SUNIA, Mr. BROWN of Colorado, Mr. DE LA GARZA, Mr. FLORIO, Mr. LOWERY of California, Mr. ANDREWS, Mr. SHARP, Mr. FAUNTROY, Mr. RAHALL, Mr. FRENZEL, Mr. BEVILL, Mr. HORTON, Mr. FROST, Mr. MINISH, Mr. WAXMAN, Mr. BEARD, Mr. HUGHES, Mr. SPENCE, Mr. FISH, Mr. DAUB, Mr. EDWARDS of Alabama, Mr. MADIGAN, Mr. COATS, Mr. ROSE, Mr. FORD of Michigan, Mr. GORE, Mr. SYNAR, Mr. GREGG, Mr. FOWLER, and Mr. MINETA.

H.J. Res. 570: Mr. DORGAN of North Dakota.

H.J. Res. 576: Mr. MOLINARI, Mr. RINALDO, Mr. RAHALL, Mr. WOLF, Mr. HORTON, Mr. LANTOS, Mr. LAGOMARSINO, Mr. BROOMFIELD, Mr. NATCHER, Mr. HYDE, Mr. FRENZEL, Mr. SUNIA, Mr. QUILLEN, Mr. FORSYTHE, Mr. ROE, and Mr. DAUB.

H.J. Res. 591: Mr. JOHN L. BURTON, Mr. CRAIG, Mr. ROBERT W. DANIEL, JR., Mr. KAZEN, Mr. LAGOMARSINO, and Mr. MITCHELL of New York.

H. Con. Res. 236: Mr. JOHN L. BURTON, Mr. RODINO, Mrs. HECKLER, Mr. ROSE, Mr. WOLF, Mr. HORTON, Mr. MAVROULES, Mr. EDGAR, Mr. LOWERY of California, Mr. FORD of Tennessee, Mrs. MARTIN of Illinois, Mr. WYDEN, Mr. DORNAN of California, and Mr. WAXMAN.

H. Con. Res. 336: Mr. OBERSTAR, Ms. FIEDLER, and Mr. RITTER.

H. Con. Res. 406: Mr. LAGOMARSINO, Mr. WINN, Mr. MARRIOTT, Mr. AUCOIN, Mr. EDGAR, Mr. ROE, Mr. LEACH of Iowa, Mr. CORRADA, and Mr. WHITEHURST.

H. Res. 532: Mr. WOLF, Mr. GUARINI, Mr. WIRTH, Mr. MARTIN of North Carolina, Mrs. HOLT, Mr. EDGAR, Mr. UDALL, Mr. BUTLER, Mr. DE LUGO, Mr. COELHO, Mr. MITCHELL of Maryland, Mr. MICHEL, Mr. FORD of Michigan, Mr. ANDERSON, Mr. ST GERMAIN, Mr. MAZZOLI, and Mr. CONABLE.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

622. By the SPEAKER: Petition of Evangelical Covenant Church of America, Chicago, Ill., relative to defense spending; to the Committee on Armed Services.

623. Also, petition of Concepcion Marrero Santos, Bayamon, Puerto Rico, relative to taxes; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 rule XXIII, proposed amendments were submitted as follows:

H.R. 3809

By Mr. LOTT:

(An amendment to H.R. 3809 or any amendment in the nature of a substitute made in order in lieu thereof, or any amendments thereto.)

—Strike section 112 in its entirety and insert in lieu thereof the following:

RECOMMENDATION OF CANDIDATE SITES FOR SITE CHARACTERIZATION

SEC. 112. (a) GUIDELINES.—Not later than 180 days after the date of the enactment of this Act, the Secretary, following consultation with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Commission, the Director of the Geological Survey, and interested Governors, shall issue general guidelines for the recommendation of sites for repositories. Such guidelines shall specify detailed geologic considerations that shall be primary criteria for the selection of sites in various geologic media. Such guidelines shall specify factors that qualify or disqualify any site from development as a repository, including factors pertaining to the location of valuable natural resources, hydrogeophysics, seismic activity, and atomic energy defense activities, proximity to populations, the effect upon the rights of users of water, and proximity to components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, or National Forest Lands. Such guidelines shall provide that any site shall be disqualified from development as a repository if the proposed location of the repository site in such site is, according to the most recent applicable data collected by the Bureau of the Census before the date such site is considered for site characterization located in, or within 3 miles of, any standard metropolitan statistical area, county, urbanized area, or place, as delineated by the Bureau of the Census, having both a population of not less than 1,000 individuals and a population density of not less than 1,000 individuals per square mile. Such guidelines shall require the Secretary to consider the various geologic media in which sites for repositories may be located and, to the extent practicable, to recent sites in different geologic media. The Secretary shall use guidelines established under this subsection in considering candidate sites for recommendations under subsection (b). The Secretary may revise such guidelines from time to time, consistent with the provisions of this subsection.

(b) RECOMMENDATION BY SECRETARY TO THE PRESIDENT.—(1)(A) Following the issuance of guidelines under subsection (a) and consultation with the Governors of affected States, the Secretary shall recommend to the President at least 5 candidate sites in not less than 2 different geologic media that he determines suitable for site characterization for selection of the first repository site. Such sites shall be recommended by the Secretary not later than July 1, 1984. Not later than February 1, 1985, the Secretary shall recommend to the President at least 1 additional candidate site the Secretary determines is suitable for site characterization, at least 1 of which shall be a site that has not been recommended previously under this subsection. At least 1 of such additional sites shall be in a geologic medium other than the geologic medium of any site previously recommended under this subsection. Each recommendation of a candidate site under this subsection shall be accompanied by an environmental assessment, which shall include a detailed statement of the basis for such recommendation and of the probable impacts of the site characterization activities planned for such candidate site, and a discussion of alternative activities relating to site characterization that may be undertaken to avoid such impacts. Such environmental assessment shall include—

(i) an evaluation by the Secretary as to whether such candidate site is suitable for site characterization under the guidelines established under subsection (a);

(ii) an evaluation by the Secretary as to whether such candidate site is suitable for development as a repository under each such guideline that does not require site characterization as a prerequisite for application of such guideline;

(iii) an evaluation by the Secretary of the effects of the site characterization activities at such candidate site on the public health and safety and the environment;

(iv) a reasonable comparative evaluation by the Secretary of such candidate site with other sites and locations that have been considered;

(v) a description of the decision process by which such candidate site was recommended; and

(vi) an assessment of the regional and local impacts of locating the proposed repository at such candidate site.

(B)(i) The issuance of any environmental assessment under this paragraph shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code, and section 119. Such judicial review shall be limited to the sufficiency of such environmental assessment with respect to the items described in clauses (i) through (vi) of subparagraph (A).

(ii) Each environmental assessment prepared under this paragraph shall be made available to the public.

(C) Upon recommending a candidate site to the President, the Secretary shall notify the Governor and legislature of the State in which such candidate site is located, or the governing body of the Indian tribe on whose reservation such candidate site is located, as

the case may be, of such recommendation and the basis for such recommendation.

(2) Before recommending to the President any candidate site for site characterization, the Secretary shall hold public hearings in the vicinity of such candidate site to inform the residents of the area in which such candidate site is located of the proposed recommendation of such candidate site and to receive their comments. At such hearings, the Secretary shall also solicit and receive any recommendations of such residents with respect to issues that should be addressed in the environmental assessment described in paragraph (1) and the site characterization plan described in section 113(b)(1).

(c) PRESIDENTIAL REVIEW OF RECOMMENDED CANDIDATE SITES.—(1) The President shall review each candidate site recommendation made by the Secretary under subsection (b). Not later than 60 days after the submission by the Secretary of a recommendation of a candidate site, the President, in his discretion, may either approve or disapprove such candidate site, and shall transmit any such decision to the Secretary and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the Indian tribe on whose reservation such candidate site is located, as the case may be. If, during such 60-day period, the President fails to approve or disapprove such candidate site, or fails to invoke his authority under paragraph (2) to delay his decision, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(2) The President may delay for not more than 6 months his decision under paragraph (1) to approve or disapprove a candidate site, upon determining that the information provided with the recommendation of the Secretary is insufficient to permit a decision within the 60-day period referred to in paragraph (1). The President may invoke his authority under this paragraph by submitting written notice to the Congress, within such 60-day period, of his intent to invoke such authority. If the President invokes such authority, but fails to approve or disapprove the candidate site involved by the end of such 6-month period, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(d) CONTINUATION OF CANDIDATE SITE SCREENING.—After the required recommendation of candidate sites under subsection (b), the Secretary may continue, as he determines necessary, to identify and study other sites to determine their suitability for recommendation for site characterization, in accordance with the procedures described in this section.

(e) PRELIMINARY ACTIVITIES.—Except as otherwise provided in this subsection, each activity of the President or the Secretary under this section shall be considered to be a preliminary decisionmaking activity. No such activity shall be considered to be a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

(f) TIMELY SITE CHARACTERIZATION.—Nothing in this section may be construed as prohibiting the Secretary from continuing ongoing or presently planned site characterization at any site on Department of Energy land for which the location of the principal borehole has been approved by the Secretary by August 1, 1982, except that (1) the environmental assessment described in subsection (b)(1) shall be prepared and made available to the public before proceeding to sink shafts at any such site; and (2) the Secretary shall not continue site characterization at any such site unless such site is among the candidate sites recommended by the Secretary under the first sentence of subsection (b) for site characterization and approved by the President under subsection (c). If site characterization is discontinued at any site under the second clause of the first sentence of this subsection, site characterization at such site may be continued by the Secretary if such site is subsequently approved by the President under subsection (c).

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By Mr. BETHUNE:

—Page 43, after line 10 insert the following:

"(o) No assistance shall be extended under this section unless the Secretary of Defense determines that the purposes of this Act cannot be otherwise achieved."

—Page 43, after line 10, add the following:

"(o) Whenever the President determines that such action is necessary or appropriate to prevent or control high interest rates, or reduce unemployment in any sector of the economy, or to prevent or control inflation or recession, the President may authorize the Board of Governors of the Federal Reserve System or the Secretary of the Treasury to regulate or control any or all extensions of credit (loans, loan guarantees or commitments for loan guarantees) authorized under this Act."

—Page 43, after line 10 insert the following:

"(o) No assistance shall be extended under this section unless the Secretary of Commerce determines that the purposes of this Act cannot be otherwise achieved."