

panion bill, after agreeing to a committee amendment in the nature of a substitute.

S. 1858, Senate companion bill, was then indefinitely postponed.

Page S10884

Budget Act Waiver: Senate agreed to S. Res. 440, waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 4347, listed below.

Page S10886

South Dakota Water Resource Development: Senate passed H.R. 4347, providing for the development of the WEB Rural Water Development Project in South Dakota, and for studies within the Pick-Sloan Missouri River Basin, after agreeing to a committee amendment in the nature of a substitute and an amendment proposed thereto, as follows:

Robert C. Byrd (for Exon) unprinted amendment No. 1255, to include the Omaha Indian Reservation Irrigation Development within the authorization to receive Pick-Sloan Missouri Basin program pumping power.

Page S10886

Budget Act Waiver: Senate agreed to S. Res. 448, waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6409, listed below.

Page S10892

1984 Louisiana World Exposition: Senate passed with an amendment H.R. 6409, providing for U.S. participation in the 1984 Louisiana World Exposition to be held in New Orleans.

Page S10892

Transfer of Certain Federal Property: Senate passed with amendments H.R. 3620, providing for the transfer of certain Federal property to the city of Hoboken, New Jersey.

Page S10894

Corrections in Enrollment: Senate agreed to H. Con. Res. 398, directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 4961, making miscellaneous changes in the tax laws.

Page S10895

Federal Communications Act Amendments: Senate insisted on its amendments to H.R. 3239, amending the Communications Act of 1934, agreed to a conference with the House, and appointed as conferees Senators Goldwater, Stevens, and Cannon.

Page S10829

Federal Communications Act Amendments—Conference Report: Senate agreed to the conference report on H.R. 3239, amending the Communications Act of 1934.

Page S10844

Crater Lake National Park: Senate concurred in the amendment of the House to S. 1119, revising the boundary of Crater Lake National Park, in Oregon.

Page S10885

Motor Carriers Regulation: Senate insisted on its amendments to H.R. 3663, revising the regulation of motor carriers of passengers, agreed to a conference requested by the House thereon, and appointed as conferees Senators Packwood, Danforth, and Cannon.

Page S10880

Tax Court and Fiscal Responsibility Act—Conference Report: By 52 yeas to 47 nays, Senate agreed to the conference report on H.R. 4961, making miscellaneous changes in the tax laws.

By 68 yeas to 27 nays, Senate earlier sustained the Chair in rejecting a point of order that the conference report contained certain matter not germane and was thus not in order.

Page S10897

Confirmations: Senate confirmed the following nominations:

William Schneider, Jr., of New York, to be Under Secretary of State for Coordinating Security Assistance Programs.

James C. Treadway, Jr., of the District of Columbia, to be a Member of the Securities and Exchange Commission.

Oliver G. Richard, III, of Louisiana, to be a Member of the Federal Energy Regulatory Commission.

Major General Emmett H. Walker, Jr., Army National Guard, to be Chief, National Guard Bureau.

6 Army nominations in the rank of General.

1 Navy nomination in the rank of Admiral.

3 Air Force nominations in the rank of General.

Routine lists of Army, Navy, Air Force, and Marine Corps nominations.

(See next issue.)

Messages From the House:

(See next issue.)

Measures Referred:

(See next issue.)

Measures Ordered Placed on Calendar:

(See next issue.)

Communications:

(See next issue.)

Statements on Introduced Bills:

(See next issue.)

Amendments Submitted for Printing:

(See next issue.)

Notices of Hearings:

(See next issue.)

Committee Authority To Meet:

(See next issue.)

Additional Statements:

(See next issue.)

Confirmations:

(See next issue.)

Record Votes: Two record votes were taken today. (Total—337)

Page S10901 (see next issue.)

Recess: Senate convened at 10 a.m., and recessed at 10:17 p.m., until 9 a.m., on Friday, August 20, 1982. (For Senate's program, see remarks of Senator Baker in today's Record on page (see next issue).)

Committee Meetings

(Committees not listed did not meet)

MILITARY PAY

Committee on Armed Services: Committee approved for full committee consideration an original bill authorizing funds for fiscal year 1983 for pay allowances for military personnel.

THRIFT INDUSTRY

Committee on Banking, Housing, and Urban Affairs: Committee ordered favorably reported an original bill to assist the thrift industry by providing net worth assistance to savings institutions and additional flexibility to their Federal regulatory agencies. As approved by the committee, the bill incorporates certain provisions of S. 1720, S. 2531, and S. 2532.

NOMINATION

Committee on Banking, Housing, and Urban Affairs: Committee approved for reporting the nomination of Bevis Longstreth, of New York, to be a Member of the Securities and Exchange Commission.

ACID RAIN

Committee on Energy and Natural Resources: Committee concluded oversight hearings on acid deposition as it may affect the use of fossil fuels, after receiving testimony from Senators Robert C. Byrd, Lugar, and Mitchell; A. Alan Hill, Chairman, Council on Environmental Quality; Jan W. Mares, Acting Under Secretary of Energy; Kathleen M. Bennett, Assistant Administrator for Air, Noise and Radiation, Environmental Protection Agency; Philip Cohen, Chief Hydrologist, and Ranard J. Pickering, Chief of the Branch of Water Quality, both of the U.S. Geological Survey, Department of the Interior; Donald Z. Forcier, Senior Group Director, Energy and Mineral Division, General Accounting Office; Alan W. Gertler, Desert Research Institute, University of Nevada, Reno; Richard G. Semonin, Illinois State Water Survey, Champaign, Illinois; Paul W. Spaite, Paul W. Spaite Company, Cincinnati, Ohio; John Kearney, Edison Electric Institute, and Kenneth S. Kamlet, Pollution and Toxic Substances Division, National Wildlife Federation, both of Washington, D.C.; Joseph Dowd, American Electric Power, and Neal Tostenson, Ohio Mining and Reclamation Association, both of Columbus, Ohio; John F. Kaslow, New England Power Company, Westborough, Massachusetts; Jack Taylor, Virginia Electric Power Company, Richmond, Virginia; William B. Marx,

Council of Industrial Boiler Owners, Fairfax Station, Virginia; Michael Oppenheimer, Environmental Defense Fund, representing the National Clean Air Coalition, New York City; and Roy R. Gould, Harvard School of Public Health, Harvard University, Boston, Massachusetts.

CLEAN AIR ACT

Committee on Environment and Public Works: Committee ordered favorably reported an original bill authorizing funds through fiscal year 1987 for, and extending certain programs of the Clean Air Act (P.L. 95-95).

DIPLOMATIC PROTECTION

Committee on Environment and Public Works: Committee concluded hearings on S. 2235, providing improved protection for the diplomatic community in New York City, after receiving testimony from J. Robert McBrien, Special Assistant, Office of Assistant Secretary of the Treasury for Enforcement and Operations; Roger Robinson, Acting Deputy Assistant Secretary of State for Security; and Kenneth Conboy, New York City Police Department, New York City.

NOMINATION

Committee on Foreign Relations: Committee approved for reporting the nomination of James L. Buckley, of Connecticut, to be Counselor, Department of State.

Prior to this action, the committee concluded hearings on the nomination of Mr. Buckley, after the nominee testified and answered questions in his own behalf.

BROADCASTING TO CUBA

Committee on Foreign Relations: Committee concluded hearings on H.R. 5427, authorizing funds for fiscal year 1983 for the Board for International Broadcasting with respect to radio broadcasting to Cuba, after receiving testimony from Senators Grassley and Jepsen; former Senator Richard Stone, on behalf of the Presidential Commission on Broadcasting to Cuba; and Wayne Smith, former Head, U.S. Interests Section (Havana, Cuba).

Committee will begin consideration of H.R. 5427, listed above, on tomorrow.

NOMINATION

Committee on Governmental Affairs: Committee approved for reporting the nomination of Dennis M. Devaney, of Maryland, to be a Member of the Merit Systems Protection Board.

BUDGET REFORM ACT

Committee on Governmental Affairs: Committee held hearings on S. 2629, establishing a 2-year budget

process, improving congressional control over the budget, streamlining the requirements of the budget process, and improving the legislative and budgetary processes by providing additional time for oversight and other legislative activities, receiving testimony from Alice M. Rivlin, Director, Congressional Budget Office; and Charles A. Bowsher, Comptroller General of the United States, General Accounting Office.

Hearings were recessed subject to call.

NOMINATION

Committee on the Judiciary: Committee approved for reporting the nomination of Harry W. Wellford, of Tennessee, to be U.S. Circuit Judge for the Sixth Circuit.

SMALL BUSINESS EXPORTERS

Committee on Small Business: Committee held oversight hearings on the implementation of the Small Business Export Expansion Act (P.L. 96-481), focusing on obstacles faced by small business exporters, receiving testimony from William H. Morris, Assistant Secretary for Trade Development, International Trade Administration, Department of Commerce; Peter Terpeluk, Jr., Acting Deputy Administrator, Small Business Administration; Alan Parter, New York State Department of Commerce, New York City; M. A. Dove, Jr., Gandy Company, Owatonna, Minnesota; S. J. Byers, Bunton Company, Louisville, Kentucky; and Dietner Doehring, Chromatics, Tucker, Georgia.

Hearings were recessed subject to call.

BUSINESS MEETING

Committee on Veterans' Affairs: Committee ordered favorably reported an original bill increasing the rates of disability compensation for disabled veterans, increasing the rates of dependency and indemnity compensation for surviving spouses and children of veterans, discontinuing duplicative payment to certain veterans, increasing the level of disability required for the payment of dependent allowances, providing for cost-saving improvements in veterans' programs, and improving certain aspects of the Veterans' Administration educational benefits programs and the Department of Labor veterans' employment programs. As approved by the Committee, the bill incorporates certain provisions of the following related measures: S. 2378, S. 2747, S. 2048, S. 2461, S. 2709, S. 2381, S. 2382, S. 2388, and H.R. 6782 (being held at Senate desk).

INDIAN LANDS

Select Committee on Indian Affairs: Committee concluded hearings on S. 1652, restoring certain lands in Arizona to the Colorado River Indian Reservation to be held in trust by the United States, after receiving testimony from Garrey E. Carruthers, Assistant Secretary of the Interior for Land and Water Resources; Anthony Drennan, Colorado River Tribe, Parker, Arizona; and Elmer Savilla, National Tribal Chairmen's Association, Washington, D.C.

House of Representatives

Member Action

Bills Introduced: 36 public bills, H.R. 7019-7054; and 16 resolutions, H.J. Res. 585-588, H. Con. Res. 397-401, and H. Res. 571-577 were introduced.

(See next issue.)

Bills Reported: Reports were filed as follows:

Conference report on H.R. 3239, to amend the Communications Act of 1934 to authorize appropriations for the administration of such Act (H. Rept. 97-765);

H.R. 5519, to give trade negotiating priority to service sector issues, and to expand and clarify existing laws governing interstate and foreign commerce to better deal with service trade problems, amended (H. Rept. 97-766);

H.R. 6384, to extend title XVII of the Public Health Service Act (H. Rept. 97-767);

H.R. 6458, to amend the Public Health Service Act and related laws to consolidate the laws relating to the Alcohol, Drug Abuse, and Mental Health

Administration, the National Institute of Mental Health, the National Institute of Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, amended (H. Rept. 97-768);

S. 1628, to amend the Emergency Fund Act (Act of June 26, 1948, 62 Stat. 1051) (H. Rept. 97-769);

H.R. 5652, to authorize and direct the Secretary of the Interior to convey certain real property to the Pershing County Water Conservation District, amended (H. Rept. 97-770);

S. 1621, to authorize the replacement of existing pump casings in southern Nevada water project pumping plants 1A and 2A, amended (H. Rept. 97-771);

Report entitled "Improvements Needed in the Department of Housing and Urban Development's Efforts to Avoid Single-Family Mortgage Foreclosures" (H. Rept. 97-772);

H.R. 6422, to direct the Secretary of Agriculture to release on behalf of the United States a rever-

sionary interest in certain land previously conveyed to the State of Connecticut, amended (H. Rept. 97-773);

H.R. 6124, to reduce interest rates, control inflation, and ensure the availability of credit for productive purposes, and promote economic recovery by extending the Credit Control Act, amended (H. Rept. 97-774);

H.R. 6222, to amend the Federal Reserve Act to exempt from reserve requirements a certain amount of the deposits and accounts of depository institutions, amended (H. Rept. 97-775);

S. 1277, to amend title III of the Colorado River Basin Project Act, Public Law 90-578 (92 Stat. 2471), and Public Law 96-375 (94 Stat. 1505), amended (H. Rept. 97-776);

H.R. 6298, to promote the development of nonanimal methods of research, experimentation, and testing, and to assure humane care of animals used in scientific research, experimentation, and testing, amended (H. Rept. 97-777);

H.R. 5154, to amend the Lanham Trademark Act to prohibit any State from requiring that a registered trademark be altered for use within such State, and to encourage private enterprise with special emphasis on the preservation of small business, amended (H. Rept. 97-778);

Conference report on H.R. 6068, Intelligence Authorization Act for fiscal year 1984 (H. Rept. 97-779);

Conference report on H.R. 3663, to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers (H. Rept. 97-780);

Report entitled "Stronger Support for Coordinated Federal Policy on Volunteerism Needed in Action" (H. Rept. 97-781);

H.R. 6788, to amend title 38, United States Code, to clarify the period for which an employer is required to grant an employee who is a member of the National Guard or Reserve a leave of absence in order to allow the employee to perform required active duty for training (H. Rept. 97-782); and

H.R. 7019, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983 (H. Rept. 97-783).

(See next issue.)

Journal: By a ye-and-nay vote of 366 yeas to 27 nays with 2 voting "present", Roll No. 298, the House approved the Journal of Wednesday, August 18.

Page H6527

Late Report: Committee on Appropriations received permission to have until midnight tonight to file a report on H.R. 7019, making appropriations for the Department of Transportation and related

agencies for the fiscal year ending September 30, 1983.

Page H6529

Bus Deregulation: House disagreed to the Senate amendment to H.R. 3663, to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers; and asked a conference. Appointed as conferees: Representatives Howard, Anderson, Rodino, Clausen, and Shuster.

Page H6555

Committee to Sit: Objection was heard to a request that the Committee on Energy and Commerce be permitted to sit today and the balance of the week during proceedings of the House under the 5-minute rule.

Page H6555

Late Reports: Committee on Energy and Commerce received permission to have until midnight Friday, August 20, to file reports on the following bills: H.R. 6598, to provide for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel; H.R. 6457, to amend the Public Health Service Act to revise and extend the authorities under that Act relating to the National Institutes of Health and the national research institutes; and H.R. 6173, to amend the Public Health Service Act to replace title XIV of such Act with a block grant to States for health planning; and

Committee on the Judiciary received permission to have until Thursday, August 26, to file a report on H.R. 6978, to provide for the appointment of United States bankruptcy judges under article III of the Constitution.

Page H6575

Tax Equity and Fiscal Responsibility Act: By a ye-and-nay vote of 226 yeas to 207 nays, Roll No. 303, the House agreed to the conference report on H.R. 4961, to make miscellaneous changes in the tax laws—clearing the measure for Senate action.

Rejected a motion to recommit the conference report to the committee of conference.

Agreed to H. Con. Res. 398, directing the Clerk of the House to make corrections in the enrollment of H.R. 4961.

Earlier, by a ye-and-nay vote of 268 yeas to 144 nays, Roll No. 299, agreed to a motion to table H. Res. 571, to return to the Senate H.R. 4961 and the Senate amendments thereto, with the message that the Senate amendments and conference actions contravene the Constitution and are an infringement of the privileges of the House; and

Agreed to H. Res. 569, the rule under which the conference report was considered, by a ye-and-nay vote of 253 yeas to 176 nays, Roll No. 301, after agreeing to order the previous question on the reso-

lution by a yea-and-nay vote of 220 yeas to 210 nays, Roll No. 300.

Page H6547

District Work Period: House agreed to H. Con. Res. 399, providing for an adjournment of the House from August 19 to September 8, 1982, and an adjournment of the Senate from August 19 or August 20 or August 21 to September 8, 1982.

Page H6643

Committee Election: House agreed to H. Res. 572, electing Representative Martinez to the Committee on Veterans' Affairs and the Committee on Education and Labor.

Page H6644

Calendar Wednesday: Agreed to dispense with Calendar Wednesday business of September 8.

Page H6644

Resignations-Appointments: Notwithstanding any adjournment of the House until Wednesday, September 8, 1982, the Speaker was authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

Page H6644

VA Nurse Recruitment: House agreed, with amendments, to the Senate amendments to H.R. 6350, to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to provide that Veterans' Administration nurses who work two twelve-hour regularly scheduled tours of duty over a weekend shall be considered to have worked a full basic workweek—returning the measure to the Senate.

Page H6644

Federal Managers' Accountability: House agreed to the Senate amendment to H.R. 1526, to amend the Accounting and Auditing Act of 1950 to require ongoing evaluations and reports on the adequacy of the systems of internal accounting and administrative control of each executive agency—clearing the measure for the President.

Page H6649

Late Reports: Committee on Merchant Marine and Fisheries received permission to have until midnight Friday, August 27, to file reports on the following bills: H.R. 6813, to amend the Federal Boat Safety Act of 1971; H.R. 6520, to transfer the authority of the Secretary of Transportation under the Act commonly known as the Truman-Hobbs Act to the Secretary of the Army; H.R. 6804, to provide subsistence allowances for members of the Coast Guard officer candidate program; and H.R. 6580, Sailing School Vessels Act of 1982; and

Committee on Banking Finance and Urban Affairs received permission to have until 5 p.m. Friday, August 20, to file its report on monetary policy.

(See next issue.)

Private Bill: House agreed to the Senate amendments to H.R. 3126, a private bill—clearing the measure for the President.

(See next issue.)

Communications Amendments: House agreed to the conference report on H.R. 3239, to amend the Communications Act of 1934 to authorize appropriations for the administration of such Act—clearing the measure for the President.

(See next issue.)

Special Envoy Habib: House agreed to H. Con. Res. 397, expressing the deep gratitude of the Congress to Special Envoy Philip Habib.

(See next issue.)

Military Construction Appropriations: By a yea-and-nay vote of 325 yeas to 31 nays, Roll No. 305, the House passed H.R. 6968, making appropriations for military construction and family housing for the Department of Defense for the fiscal year ending September 30, 1983.

Rejected:

An amendment that sought to reduce by 30.8 percent each appropriation for any account, activity, or project in the bill (rejected by a recorded vote of 34 ayes to 322 noes, Roll No. 304); and

An amendment that sought to prohibit expenditure of funds in violation of the balanced budget provisions in law.

H. Res. 561, the rule waiving certain points of order against the bill, was agreed to earlier by a voice vote.

(See next issue.)

Election of Speaker Pro Tempore: House agreed to H. Res. 573, electing Representative Price, Speaker pro tempore during the absence of the Speaker.

(See next issue.)

Bus Deregulation: House agreed to the conference report on H.R. 3663, to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers—clearing the measure for Senate action.

(See next issue.)

Louisiana World Exposition: House agreed to the Senate amendment to H.R. 6409, to provide for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, Louisiana—clearing the measure for the President.

(See next issue.)

Recesses: It was made in order for the Speaker to declare recesses at any time today subject to the call of the Chair.

(See next issue.)

Late Report: Committee on Science and Technology received permission to have until midnight Friday, August 20, to file a report on H.R. 6928, to promote the development of nonanimal methods of

research, experimentation, and testing, and to assure humane care of animals used in scientific research, experimentation, and testing.

(See next issue.)

Amendments Ordered Printed: Amendments ordered printed pursuant to the rule appear on pages (see next issue).

Quorum Calls—Votes: One quorum call, six yeand-nay votes, and one recorded vote developed during the proceedings of the House today and appear on pages H6527, H6528, H6554, H6614, H6635 (see next issue).

Recess: Met at 10 a.m. and recessed at 9:37 p.m. until noon on Friday, August 20.

Committee Meetings

DEPARTMENT OF TRANSPORTATION APPROPRIATIONS

Committee on Appropriations: Ordered reported H.R. 7019, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983.

DISTRICT OF COLUMBIA APPROPRIATIONS

Committee on Appropriations: Subcommittee on the District of Columbia approved for full Committee action the fiscal year 1983 District of Columbia appropriations bill.

NATIONAL USURY ACT

Committee on Banking, Finance and Urban Affairs: Subcommittee on Domestic Monetary Policy held a hearing on H.R. 4471, and H.R. 4572, National Usury Act. Testimony was heard from Representatives Wright, Snyder, Taylor, Stokes and Perkins.

CIVIL ACTIONS ARISING FROM PEACE OFFICERS PURSUIT INTO THE DISTRICT

Committee on the District of Columbia: Subcommittee on Government Operations and Metropolitan Affairs held a hearing on H.R. 5503, to amend title 23 of the District of Columbia Code to make liability in civil actions arising from fresh pursuit into the District of Columbia by members of a peace unit of a State determined by the laws of such State. Testimony was heard from Representative Wolf; from the following officials of the Government of the District of Columbia: Judith W. Rogers, Corporation Counsel and David A. Clarke, Chairman, Judiciary Committee, City Council; Henry E. Hudson, Attorney for Arlington County, State of Virginia and other local officials.

CLEAN AIR ACT AMENDMENTS

Committee on Energy and Commerce: Continued markup of H.R. 5252, Clean Air Act Amendments of 1982.

Committee recessed subject to call.

COWLITZ TRIBE OF INDIANS

Committee on Interior and Insular Affairs: Held a hearing on H.R. 3612, to provide for the disposition of funds appropriated to pay a judgment in favor of the Cowlitz Tribe of Indians in Indian Claims Commission docket No. 218. Testimony was heard from a public witness.

MISCELLANEOUS MEASURES

Committee on Interior and Insular Affairs: Subcommittee on Insular Affairs held a hearing on the following bills: H.R. 5688, to establish a Commission on Federal laws to study the application of the laws of the United States to Guam, the Virgin Islands, and American Samoa; H.R. 6680, to amend the Organic Act of Guam and the Revised Organic Act of the Virgin Islands to transfer the audit authority and related staff of the offices of the government comptrollers for Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa to the Office of Inspector General, Department of the Interior; H.R. 6780, State of the Insular Areas Report Act, and H.R. 6859, to amend or repeal certain provisions of the Organic Acts applicable to the Virgin Islands and Guam; and to hold an oversight hearing on the adequacy of current Federal Emergency Management Act coverage of the insular areas. Delegate Sunia; Wilbur D. Campbell, Acting Director, Accounting and Financial Management Division, GAO; from the following officials of the Department of the Interior: Richard Mulberry, Inspector General and Stuart P. French, Special Advisor to the Assistant Secretary, Office of Territorial and International Affairs; Juan Luis, Governor, Virgin Islands; Henry L. Feuerzeig, Judge, Territorial Court of Virgin Islands and public witnesses.

VOYAGEURS NATIONAL PARK

Committee on Interior and Insular Affairs: Subcommittee on Public Lands and National Parks approved for full Committee action as amended H.R. 846, to revise the boundary of Voyageurs National Park in the State of Minnesota.

MISCELLANEOUS MEASURES

Committee on the Judiciary: Ordered reported the following bills: H.R. 6978, amended, Bankruptcy Court Act of 1982; H.R. 5154, amended, to amend the Lanham Trademark Act to prohibit any State from requiring that a registered trademark be altered for use within such State, and to encourage private enterprise with special emphasis on the preservation of small business, and H.R. 6976, Missing Children Act.

The Committee also acted on a private claims bill.

ty—potentially, the preeminent shore-based ocean thermal energy conversion and marine science research facility in the world—and other renewable energy projects and programs in Hawaii.

Mr. Speaker, I would like to take this opportunity to thank the distinguished chairman of the Merchant Marine and Fisheries Committee, Mr. JONES, the distinguished ranking minority member, Mr. SNYDER, and the distinguished chairman of the Merchant Marine Subcommittee, Mr. BIAGGI, for helping to expedite the passage of this legislation. ●

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

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from North Carolina?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 3126.

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

There was no objection.

PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO HAVE UNTIL 5 P.M. FRIDAY, AUGUST 20, 1982, TO FILE REPORT ON MONETARY POLICY

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs may have until 5 p.m. Friday, August 20, 1982, to file its report on monetary policy.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 294

Mr. WATKINS. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of House Joint Resolution 294.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4576, RURAL ENTERPRISE ZONE DEVELOPMENT ACT OF 1981

Mr. WATKINS. Mr. Speaker, I ask unanimous consent that the name of

the gentleman from Arizona (Mr. STUMP) be removed from the list of cosponsors of H.R. 4576, the Rural Enterprise Zone Development Act of 1981.

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

There was no objection.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include therein extraneous matter on the bill, H.R. 6350.

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

There was no objection.

CONFERENCE REPORT ON H.R. 3239, COMMUNICATIONS AMENDMENTS ACT OF 1934

Mr. WIRTH. Mr. Speaker, I call up the conference report on the bill (H.R. 3239) to amend the Communications Act of 1934 to authorize appropriations for the administration of such act, and for other purposes.

The Clerk read the title of the bill.

Mr. WIRTH. Mr. Speaker, I ask unanimous consent that the joint statement of the managers be read in lieu of the conference report.

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

There was no objection.

The Clerk read the statement.

(For conference report and statement, see Proceedings of the House of today, August 19, 1982.)

Mr. WIRTH (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. WIRTH) is recognized for 30 minutes.

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

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

Mr. WIRTH. Mr. Speaker, I rise in support of the conference report on H.R. 3239. This report embodies an agreement between the House and Senate conferees on the Communications Amendments Act of 1982, and authorization of the National Telecommunications and Information Administration for fiscal year 1983 and 1984.

While the Communications Act of 1934 has been amended several times since its initial passage, it has never received a thorough technical overhaul and cleaning up. The act still contains numerous instances of obs-

lete language, while also imposing regulatory requirements and responsibilities upon the FCC which are no longer necessary in light of changed circumstances.

While many of the provisions of this package of amendments are merely technical revisions of existing law, several provisions permit the FCC to have greater flexibility in carrying out its duties, and in reducing the amount of unnecessary paperwork. Most importantly, the bill provides a number of budget saving provisions which will enable the Commission more efficiently and effectively to utilize its manpower and resources at a time of budgetary constraint. The budget saving provisions include authorizing the FCC to eliminate individual licensing of citizen band services, as well as those involving reimbursement for travel, awarding licenses by lottery, increasing the terms of certain licenses, and eliminating the need for certain construction permits.

In addition, the conference substitute repeals the sunset of the existing methodology for determining the reasonableness of rates for cable television pole attachments. The existing standard has resulted in adoption of a formula by the FCC which is fair to all parties and has worked extremely well.

Finally, the conference report reauthorizes the National Telecommunications and Information Administration of the Department of Commerce for fiscal years 1983 and 1984 at levels of \$12.9 million and \$11.8 million respectively. These amounts are below the current authorization level but provide for a sufficient level of funding to enable NTIA to effectively carry out its responsibilities in the area of public broadcasting.

I urge my colleagues to support passage of this conference report.

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

Mr. WIRTH. I yield to the gentleman from North Carolina.

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

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

This bill is to authorize appropriations for NTIA which is in the Department of Commerce, and also various amendments to the Federal Communications Act.

Basically it is a number of amendments to the act that have been requested and have been supported by the Commission and others for some time that are basically deregulation.

I would urge support. It had unanimous support of the conferees and bipartisan support on both sides of the Capitol. I would urge it be adopted at this time.

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

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROYHILL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just adopted.

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

There was no objection.

EXPRESSION OF GRATITUDE TO SPECIAL ENVOY PHILIP HABIB

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 397) expressing the deep gratitude of the Congress to Special Envoy Philip Habib.

The Clerk read the title of the concurrent resolution.

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

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 397

Whereas a peaceful and just solution to the fighting in Lebanon is important to the continued viability of the overall Middle East peace process; and

Whereas Special Envoy Philip Habib has given freely of his time and energies to promote and support the vital national interests of the United States in peace in that critical region; and

Whereas, in furtherance of those national interests, Special Envoy Philip Habib has carried out with tireless dedication supremely difficult and demanding negotiations to bring an end to the tragic bloodshed in Lebanon: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress expresses its deep gratitude for the selfless and courageous service of Special Envoy Philip Habib, in the best tradition of American diplomacy, to negotiate an end to the siege of West Beirut and to achieve the removal of all foreign forces from Lebanon.

Mr. ZABLOCKI (during the reading). Mr. Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

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

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, I do so for the purpose of giving the chairman of our committee an opportunity to explain the purpose of this resolution.

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

Mr. BROOMFIELD. I am happy to yield to the gentleman.

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

Mr. ZABLOCKI. Mr. Speaker, I consider it an honor and a distinct privilege to join with the ranking minority member of the Committee on Foreign Affairs, the distinguished gentleman from Michigan (Mr. BROOMFIELD), in sponsoring this resolution of commendation for a great and dedicated public servant, ambassador Philip Habib.

Ambassador Habib's remarkable accomplishments, against all odds, as well as his unusual diplomatic skills, are a matter of public record and need little further elaboration. In his heroic and persistent effort to secure a just settlement to the Lebanese conflict, he has managed to maintain the confidence of a broad spectrum of conflicting interests and parties to the dispute. This, in itself, is a testament to his abilities and, I might add, to his character.

Above all, however, I would like to emphasize one additional point: Ambassador Habib has enjoyed a long, honorable, and very distinguished career in the Foreign Service of the United States. He has no further career ambitions and was, in fact, recalled from retirement by the President of the United States to undertake a thankless assignment of critical importance to this country and to the peace of the region.

Mr. Speaker, the role of Ambassador Habib and the universal confidence he has inspired among the disputants in the Lebanon crisis—speak for themselves. We own him, as a nation, a profound debt of gratitude.

□ 1830

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

Mr. BROOMFIELD. Mr. Speaker, further reserving the right to object, as a principal sponsor of this concurrent resolution, I strongly urge support of this effort to express the deep gratitude of the Members of this body for the contributions of Special Envoy Philip C. Habib to bring about an end to the tragic bloodshed in Lebanon.

On many occasions, he has been called upon to serve his country in resolving the most difficult and challenging problems in this particularly volatile region. His prowess in diplomacy and his negotiating skills are legend among his colleagues and foreign government officials. His successes are noteworthy.

Once again, in furtherance of the national interests of his country, he has carried out with dedication the extremely complex negotiations to end the horrible bloodshed and destruction in Beirut.

In the midst of the bitter fighting, Envoy Habib traveled to war-torn Beirut and deftly worked with the many concerned parties to effect a rapid cease-fire. He displayed not only personal courage, but incredible stamina in pursuing the long-term negotiating efforts. When a resolution of the problems appeared to be slipping

away, his determination and professionalism prevailed; he resolved differences by urging compromise when necessary, and displayed sensitivity to the vital interests of the concerned factions. He brought together men with varying backgrounds and political positions, and urged them to stop the carnage. When personal meetings with high-ranking officials were critical to maintain momentum, he seized the moment and shuttled off to distant capitals in his quest for peace.

He is more than a man with a mission; I believe that because of his personal commitment and involvement with the Middle East, he has truly devoted his life to resolving the long-standing troubles in this strategic area of the world. It is perhaps fitting that a son of Lebanon should return to bring peace to his ancestral land.

I believe that the international community should reward these achievements by presenting Envoy Habib with the coveted Nobel Peace Prize.

As we approach the day for the implementation of the Habib Plan to bring about an end to the siege of West Beirut and the removal of foreign forces from Lebanon, I encourage my colleagues to join me in expressing our sincere appreciation for Mr. Habib's distinguished service and historic accomplishments in working to bring peace to the Middle East.

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

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

Mr. BROOMFIELD. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I, too, wish to join in the tribute to this outstanding peacemaker who, despite all kinds of problems from all sides, in a very difficult situation, has helped to bring peace to a very troubled part of this world. We hope and pray that it will be a long-lasting peace. Our hats are off to a great Ambassador, Philip Habib.

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

Mr. BROOMFIELD. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Georgia.

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

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Speaker, I would like to commend the chairman and the ranking minority member for bringing this resolution for a truly great American and a great peacemaker.

During the last several days in July, Mr. Speaker, I had occasion to be in the Middle East, and on two occasions I met with Ambassador Habib in the course of his travels from capital to capital. While you could see very clear-

Hiler	Moore	Siljander
Hopkins	Moorhead	Skeen
Hubbard	Morrison	Skelton
Hughes	Mottl	Smith (AL)
Hutto	Myers	Smith (NJ)
Hyde	Napler	Smith (OR)
Jacobs	Natcher	Snyder
Jeffries	Neal	Solomon
Johnston	Oakar	Spence
Kasen	Ottinger	Stangeland
Kemp	Parris	Staton
Kildee	Pashayan	Stenholm
Kindness	Patman	Stratton
Kramer	Paul	Studds
LaFalce	Porter	Stump
Lagomarsino	Rinaldo	Tauzin
LeBoutillier	Ritter	Taylor
Lee	Roberts (SD)	Thomas
Lent	Robinson	Trible
Levitas	Rogers	Walker
Lewis	Roth	Wampler
Livingston	Rouselet	Weber (MN)
Lowery (CA)	Roybal	Whitley
Langren	Rudd	Whittaker
Marlenee	Santini	Whitten
Martin (NC)	Schulze	Williams (MT)
McCloskey	Sensenbrenner	Wolf
McCollum	Shaw	Wortley
McDonald	Shelby	Yatron
McGrath	Shumway	Young (AK)
Miller (OH)	Shuster	Young (FL)

NOT VOTING—22

Atkinson	Chisholm	Heftel
Balls	Corcoran	Holt
Bishop	Dellums	Moffett
Blum	Dickinson	Rahall
Bowen	Duncan	Rosenthal
Brown (OH)	Ertel	Savage
Burton, John	Fountain	
Chappell	Goldwater	

□ 1045

Messrs. STRATTON, GINN, and ROYBAL changed their votes from "yea" to "nay."

Messrs. McCURDY, MARRIOTT, and MARTIN of New York changed their votes from "nay" to "yea."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON DEPARTMENT OF TRANSPORTATION APPROPRIATIONS BILL, 1983

Mr. BENJAMIN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report on the bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

Mr. COUGHLIN reserved all points of order on the bill.

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

There was no objection.

CONFERENCE REPORT ON H.R. 3239, FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION ACT OF 1981

Mr. WIRTH submitted the following conference report and statement on the bill (H.R. 3239) to amend the Communications Act of 1934 to authorize

appropriations for the administration of such act, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 97-765)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3239) to amend the Communications Act of 1934 to authorize appropriations for the administration of such Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—COMMUNICATIONS AMENDMENTS

SHORT TITLE

SECTION 101. This title may be cited as the "Communications Amendments Act of 1982".

FINANCIAL INTERESTS OF MEMBERS AND EMPLOYEES OF FEDERAL COMMUNICATIONS COMMISSION

SEC. 102. Section 4(b) of the Communications Act of 1934 (47 U.S.C. 154(b)) is amended to read as follows:

"(b)(1) Each member of the Commission shall be a citizen of the United States.

"(2)(A) No member of the Commission or person employed by the Commission shall—

"(i) be financially interested in any company or other entity engaged in the manufacture or sale of telecommunications equipment which is subject to regulation by the Commission;

"(ii) be financially interested in any company or other entity engaged in the business of communication by wire or radio or in the use of the electromagnetic spectrum;

"(iii) be financially interested in any company or other entity which controls any company or other entity specified in clause (i) or clause (ii), or which derives a significant portion of its total income from ownership of stocks, bonds, or other securities of any such company or other entity; or

"(iv) be employed by, hold any official relation to, or own any stocks, bonds, or other securities of, any person significantly regulated by the Commission under this Act;

except that the prohibitions established in this subparagraph shall apply only to financial interests in any company or other entity which has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission.

"(B)(i) The Commission shall have authority to waive, from time to time, the application of the prohibitions established in subparagraph (A) to persons employed by the Commission if the Commission determines that the financial interests of a person which are involved in a particular case are minimal, except that such waiver authority shall be subject to the provisions of section 208 of title 18, United States Code. The waiver authority established in this subparagraph shall not apply with respect to members of the Commission.

"(ii) In any case in which the Commission exercises the waiver authority established in this subparagraph, the Commission shall publish notice of such action in the Federal Register and shall furnish notice of such action to the appropriate committees of each House of the Congress. Each such notice shall include information regarding the identity of the person receiving the waiver, the position held by such person,

and the nature of the financial interests which are the subject of the waiver.

"(3) The Commission, in determining whether a company or other entity has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission, shall consider (without excluding other relevant factors)—

"(A) the revenues, investments, profits, and managerial efforts directed to the related communications, manufacturing, or sales activities of the company or other entity involved, as compared to the other aspects of the business of such company or other entity;

"(B) the extent to which the Commission regulates and oversees the activities of such company or other entity;

"(C) the degree to which the economic interests of such company or other entity may be affected by any action of the Commission; and

"(D) the perceptions held by the public regarding the business activities of such company or other entity.

"(4) Members of the Commission shall not engage in any other business, vocation, profession, or employment while serving as such members.

"(5) The maximum number of commissioners who may be members of the same political party shall be a number equal to the least number of commissioners which constitutes a majority of the full membership of the Commission."

APPOINTMENT, TERMS OF OFFICE, SALARY, AND COMPENSATION OF MEMBERS OF COMMISSION

SEC. 103. (a) Section 4(c) of the Communications Act of 1934 (47 U.S.C. 154(c)) is amended—

(1) by striking out "The";

(2) by striking out "first appointed" and all that follows through "but their successors"; and

(3) by striking out "qualified" and inserting in lieu thereof "been confirmed and taken the oath of office".

(b) Section 4(d) of the Communications Act of 1934 (47 U.S.C. 154(d)) is amended to read as follows:

"(d) Each Commissioner shall receive an annual salary at the annual rate payable from time to time for level IV of the Executive Schedule, payable in monthly installments. The Chairman of the Commission, during the period of his service as Chairman, shall receive an annual salary at the annual rate payable from time to time for level III of the Executive Schedule."

(c) Section 4(f)(2) of the Communications Act of 1934 (47 U.S.C. 154(f)(2)) is amended by striking out "a legal assistant, an engineering assistant," and inserting in lieu thereof "three professional assistants".

(d) Section 4(g) of the Communications Act of 1934 (47 U.S.C. 154(g)) is amended by inserting "(1)" after the subsection designation, and by adding at the end thereof the following new paragraph:

"(2)(A) If—

"(i) the necessary expenses specified in the last sentence of paragraph (1) have been incurred for the purpose of enabling commissioners or employees of the Commission to attend and participate in any convention, conference, or meeting;

"(ii) such attendance and participation are in furtherance of the functions of the Commission; and

"(iii) such attendance and participation are requested by the person sponsoring such convention, conference, or meeting; then the Commission shall have authority to accept direct reimbursement from such sponsor for such necessary expenses.

"(B) The total amount of unreimbursed expenditures made by the Commission for travel for any fiscal year, together with the total amount of reimbursements which the Commission accepts under subparagraph (A) for such fiscal year, shall not exceed the level of travel expenses appropriated to the Commission for such fiscal year.

"(C) The Commission shall submit to the appropriate committees of the Congress, and publish in the Federal Register, quarterly reports specifying reimbursements which the Commission has accepted under this paragraph.

"(D) The provisions of this paragraph shall cease to have any force or effect at the end of fiscal year 1985."

(e) Section 4(k)(2) of the Communications Act of 1934 (47 U.S.C. 154(k)(2)) is amended by striking out "Provided, That the" and all that follows through "by such reports".

(f) Section 4(k) of the Communications Act of 1934 (47 U.S.C. 154(k)) is amended by redesignating paragraph (4) and paragraph (5) as paragraph (3) and paragraph (4), respectively.

(g) Section 4(k)(4) of the Communications Act of 1934, as so redesignated in subsection (f), is amended by striking out "Bureau of the Budget" and inserting in lieu thereof "Office of Management and Budget".

USE OF AMATEUR VOLUNTEERS FOR CERTAIN PURPOSES

SEC. 104. Section 4(f) of the Communications Act of 1934 (47 U.S.C. 154(f)) is amended by adding at the end thereof the following new paragraph:

"(4)(A) The Commission, for purposes of preparing any examination for an amateur station operator license, may accept and employ the voluntary and uncompensated services of any individual who holds an amateur station operator license of a higher class than the class license for which the examination is being prepared. In the case of examinations for the highest class of amateur station operator license, the Commission may accept and employ such services of any individual who holds such class of license.

"(B) The Commission, for purposes of administering any examination for an amateur station operator license, may accept and employ the voluntary and uncompensated services of any individual who holds an amateur station operator license of a higher class than the class license for which the examination is being conducted. In the case of examinations for the highest class of amateur station operator license, the Commission may accept and employ such services of any individual who holds such class of license. Any person who owns a significant interest in, or is an employee of, any company or other entity which is engaged in the manufacture or distribution of equipment used in connection with amateur radio transmissions, or in the preparation or distribution of any publication used in preparation for obtaining amateur station operator licenses, shall not be eligible to render any service under this subparagraph.

"(C)(i) The Commission, for purposes of monitoring violations of any provision of this Act (and of any regulation prescribed by the Commission under this Act) relating to the amateur radio service, may—

"(I) recruit and train any individual licensed by the Commission to operate an amateur station; and

"(II) accept and employ the voluntary and uncompensated services of such individual.

"(ii) The Commission, for purposes of recruiting and training individuals under clause (i) and for purposes of screening, annotating, and summarizing violation reports referred under clause (i), may accept

and employ the voluntary and uncompensated services of any amateur station operator organization.

"(iii) The functions of individuals recruited and trained under this subparagraph shall be limited to—

"(I) the detection of improper amateur radio transmissions;

"(II) the conveyance to Commission personnel of information which is essential to the enforcement of this Act (or regulations prescribed by the Commission under this Act) relating to the amateur radio service; and

"(III) issuing advisory notices, under the general direction of the Commission, to persons who apparently have violated any provision of this Act (or regulations prescribed by the Commission under this Act) relating to the amateur radio service.

Nothing in this clause shall be construed to grant individuals recruited and trained under this subparagraph any authority to issue sanctions to violators or to take any enforcement action other than any action which the Commission may prescribe by rule.

"(D)(i) The Commission, for purposes of monitoring violations of any provision of this Act (and of any regulation prescribed by the Commission under this Act) relating to the citizens band radio service, may—

"(I) recruit and train any citizens band radio operator; and

"(II) accept and employ the voluntary and uncompensated services of such operator.

"(ii) The Commission, for purposes of recruiting and training individuals under clause (i) and for purposes of screening, annotating, and summarizing violation reports referred under clause (i), may accept and employ the voluntary and uncompensated services of any citizens band radio operator organization. The Commission, in accepting and employing services of individuals under this subparagraph, shall seek to achieve a broad representation of individuals and organizations interested in citizens band radio operation.

"(iii) The functions of individuals recruited and trained under this subparagraph shall be limited to—

"(I) the detection of improper citizens band radio transmissions;

"(II) the conveyance to Commission personnel of information which is essential to the enforcement of this Act (or regulations prescribed by the Commission under this Act) relating to the citizens band radio service; and

"(III) issuing advisory notices, under the general direction of the Commission, to persons who apparently have violated any provision of this Act (or regulations prescribed by the Commission under this Act) relating to the citizens band radio service.

Nothing in this clause shall be construed to grant individuals recruited and trained under this subparagraph any authority to issue sanctions to violators or to take any enforcement action other than any action which the Commission may prescribe by rule.

"(E) The authority of the Commission established in this paragraph shall not be subject to or affected by the provisions of part III of title 5, United States Code, or section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

"(F) Any person who provides services under this paragraph shall not be considered, by reason of having provided such services, a Federal employee.

"(G) The Commission, in accepting and employing services of individuals under subparagraphs (A), (B), and (C), shall seek to achieve a broad representation of individ-

uals and organizations interested in amateur station operation.

"(H) The Commission may establish rules of conduct and other regulations governing the service of individuals under this paragraph."

ORGANIZATION AND FUNCTIONING OF COMMISSION

SEC. 105. (a) Section 5(b) of the Communications Act of 1934 (47 U.S.C. 155(b)) is amended—

(1) by striking out "Within" and all that follows through "and from" and inserting in lieu thereof "From"; and

(2) by striking out "hereafter".

(b) Section 5 of the Communications Act of 1934 (47 U.S.C. 155) is amended by redesignating subsection (d) and subsection (e) as subsection (c) and subsection (d), respectively.

(c) The first sentence of section 5(c)(1) of the Communications Act of 1934, as so redesignated in subsection (b), is amended by striking out "three" and inserting in lieu thereof "two".

REGULATION OF POLE ATTACHMENTS

SEC. 106. Section 224 of the Communications Act of 1934 (47 U.S.C. 224) is amended by striking out subsection (e) thereof.

JURISDICTION OF COMMISSION

SEC. 107. Section 301 of the Communications Act of 1934 (47 U.S.C. 301) is amended—

(1) by striking out "interstate and foreign";

(2) by inserting "State," after "any" the third place it appears therein;

(3) by inserting a comma after "Territory" the first place it appears therein; and

(4) by inserting "State," after "same".

INTERFERENCE WITH ELECTRONIC EQUIPMENT

SEC. 108. (a)(1) The first sentence of section 302(a) of the Communications Act of 1934 (47 U.S.C. 302(a)) is amended by inserting "(1)" after "regulations", and by inserting before the period at the end thereof the following: "; and (2) establishing minimum performance standards for home electronic equipment and systems to reduce their susceptibility to interference from radio frequency energy".

(2) The last sentence of section 302(a) of the Communications Act of 1934 (47 U.S.C. 302(a)) is amended by striking out "shipment, or use of such devices" and inserting in lieu thereof "or shipment of such devices" and home electronic equipment and systems, and to the use of such devices".

(3) Section 302(b) of the Communications Act of 1934 (47 U.S.C. 302(b)) is amended by striking out "ship, or use devices" and inserting in lieu thereof "or ship devices or home electronic equipment and systems, or use devices".

(4) Section 302(c) of the Communications Act of 1934 (47 U.S.C. 302(c)) is amended—

(A) in the first sentence thereof, by inserting "or home electronic equipment and systems" after "devices" each place it appears therein; and

(B) in the last sentence thereof, by inserting "and home electronic equipment and systems" after "Devices", by striking out "common objective" and inserting in lieu thereof "objectives", and by inserting "and to home electronic equipment and systems" after "reception".

(b) Any minimum performance standard established by the Federal Communications Commission under section 302(a)(2) of the Communications Act of 1934, as added by the amendment made in subsection (a)(1), shall not apply to any home electronic equipment or systems manufactured before the date of the enactment of this Act.

QUALIFICATIONS OF STATION OPERATORS

SEC. 109. Section 303(i)(1) of the Communications Act of 1934 (47 U.S.C. 303(i)(1)) is amended—

(1) by striking out "such citizens" and all that follows through "qualified" and inserting in lieu thereof "persons who are found to be qualified by the Commission and who otherwise are legally eligible for employment in the United States"; and

(2) by striking out "in issuing licenses" and all that follows through the end thereof and inserting in lieu thereof the following: "such requirement relating to eligibility for employment in the United States shall not apply in the case of licenses issued by the Commission to (A) persons holding United States pilot certificates; or (B) persons holding foreign aircraft pilot certificates which are valid in the United States, if the foreign government involved has entered into a reciprocal agreement under which such foreign government does not impose any similar requirement relating to eligibility for employment upon citizens of the United States".

GROUNDS FOR SUSPENSION OF LICENSES

SEC. 110. Section 303(m)(1)(A) of the Communications Act of 1934 (47 U.S.C. 303(m)(1)(A)) is amended by inserting ", or aided, or abetted the violation of," after "violated".

LICENSING OF CERTAIN AIRCRAFT RADIO STATIONS AND OPERATORS

SEC. 111. (a) Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following new paragraph:

"(1) Notwithstanding the provisions of section 301(e), have authority, in any case in which an aircraft registered in the United States is operated (pursuant to a lease, charter, or similar arrangement) by an aircraft operator who is subject to regulation by the government of a foreign nation, to enter into an agreement with such government under which the Commission shall recognize and accept any radio station licenses and radio operator licenses issued by such government with respect to such aircraft."

(b) Section 301(e) of the Communications Act of 1934 (47 U.S.C. 301(e)) is amended by inserting "(except as provided in section 303(i))" after "United States".

REVISION OF LICENSE TERMS

SEC. 112. (a) Section 307 of the Communications Act of 1934 (47 U.S.C. 307) is amended by striking out subsection (c), and by redesignating subsection (d) and subsection (e) as subsection (c) and subsection (d), respectively.

(b) Section 307(c) of the Communications Act of 1934, as so redesignated in subsection (a), is amended—

(1) by striking out "five years" the second place and the last place it appears therein and inserting in lieu thereof "ten years"; and

(2) by inserting after the second sentence thereof the following new sentence: "The term of any license for the operation of any auxiliary broadcast station or equipment which can be used only in conjunction with a primary radio, television, or translator station shall be concurrent with the term of the license for such primary radio, television, or translator station."

AUTHORITY TO OPERATE CERTAIN RADIO STATIONS WITHOUT INDIVIDUAL LICENSES

SEC. 113. (a) Section 307 of the Communications Act of 1934, as amended in section 112(a), is further amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding any licensing requirement established in this Act, the Com-

mission may by rule authorize the operation of radio stations without individual licenses in the radio control service and the citizens band radio service if the Commission determines that such authorization serves the public interest, convenience, and necessity.

"(2) Any radio station operator who is authorized by the Commission under paragraph (1) to operate without an individual license shall comply with all other provisions of this Act and with rules prescribed by the Commission under this Act.

"(3) For purposes of this subsection, the terms 'radio control service' and 'citizens band radio service' shall have the meanings given them by the Commission by rule."

(b) Section 303(n) of the Communications Act of 1934 (47 U.S.C. 303(n)) is amended by inserting after "any Act" the first place it appears therein the following: ", or which the Commission by rule has authorized to operate without a license under section 307(e)(1)".

AUTHORIZATION OF TEMPORARY OPERATIONS

SEC. 114. Section 309(f) of the Communications Act of 1934 (47 U.S.C. 309(f)) is amended—

(1) by striking out "emergency" each place it appears therein and inserting in lieu thereof "temporary";

(2) by striking out "one additional period" and inserting in lieu thereof "additional periods"; and

(3) by striking out "ninety days" and inserting in lieu thereof "180 days".

RANDOM SELECTION SYSTEM FOR CERTAIN LICENSES AND PERMITS

SEC. 115. (a) Section 309(i)(1) of the Communications Act of 1934 (47 U.S.C. 309(i)(1)) is amended—

(1) by striking out "applicant" the first place it appears therein and inserting in lieu thereof "application"; and

(2) by striking out "the qualifications of each such applicant under section 308(b)" and inserting in lieu thereof "that each such application is acceptable for filing".

(b) Section 309(i)(2) of the Communications Act of 1934 (47 U.S.C. 309(i)(2)) is amended to read as follows:

"(2) No license or construction permit shall be granted to an applicant selected pursuant to paragraph (1) unless the Commission determines the qualifications of such applicant pursuant to subsection (a) and section 308(b). When substantial and material questions of fact exist concerning such qualifications, the Commission shall conduct a hearing in order to make such determinations. For the purpose of making such determinations, the Commission may, by rule, and notwithstanding any other provision of law—

"(A) adopt procedures for the submission of all or part of the evidence in written form;

"(B) delegate the function of presiding at the taking of written evidence to Commission employees other than administrative law judges; and

"(C) omit the determination required by subsection (a) with respect to any application other than the one selected pursuant to paragraph (1)."

(c)(1) Section 309(i)(3)(A) of the Communications Act of 1934 (47 U.S.C. 309(i)(3)(A)) is amended by striking out "groups" the first place it appears therein, and all that follows through the end thereof, and inserting in lieu thereof the following: "used for granting licenses or construction permits for any media of mass communications, significant preferences will be granted to applicants or groups of applicants, the grant to which of the license or permit would increase the diversification of ownership of the media of mass communications. To fur-

ther diversify the ownership of the media of mass communications, an additional significant preference shall be granted to any applicant controlled by a member or members of a minority group."

(2) Section 309(i)(3) of the Communications Act of 1934 (47 U.S.C. 309(i)(3)) is amended by adding at the end thereof the following new subparagraph:

"(C) For purposes of this paragraph:

"(i) The term 'media of mass communications' includes television, radio, cable television, multipoint distribution service, direct broadcast satellite service, and other services, the licensed facilities of which may be substantially devoted toward providing programming or other information services within the editorial control of the licensee.

"(ii) The term 'minority group' includes Blacks, Hispanics, American Indians, Alaska Natives, Asians, and Pacific Islanders."

(d) Section 309(i)(4)(A) of the Communications Act of 1934 (47 U.S.C. 309(i)(4)(A)) is amended by striking out "effective date of this subsection" and inserting in lieu thereof "date of the enactment of the Communications Technical Amendments Act of 1982".

AGREEMENTS RELATING TO WITHDRAWAL OF CERTAIN APPLICATIONS

SEC. 116. (a) Section 311(c)(3) of the Communications Act of 1934 (47 U.S.C. 311(c)(3)) is amended by striking out "the agreement" the second place it appears therein and all that follows through the end thereof and inserting in lieu thereof the following: "(A) the agreement is consistent with the public interest, convenience, or necessity; and (B) no party to the agreement filed its application for the purpose of reaching or carrying out such agreement."

(b) Section 311(d)(1) of the Communications Act of 1934 (47 U.S.C. 311(d)(1)) is amended by striking out "two or more" and all that follows through "station" and inserting in lieu thereof the following: "an application for the renewal of a license granted for the operation of a broadcasting station and one or more applications for a construction permit relating to such station."

(c) Section 311(d)(3) of the Communications Act of 1934 (47 U.S.C. 311(d)(3)) is amended by striking out "license".

WILLFUL OR REPEATED VIOLATIONS

SEC. 117. Section 312 of the Communications Act of 1934 (47 U.S.C. 312) is amended by adding at the end thereof the following new subsection:

"(f) For purposes of this section:

"(1) The term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act or by a treaty ratified by the United States.

"(2) The term 'repeated', when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day."

APPLICABILITY OF CONSTRUCTION PERMIT REQUIREMENTS TO CERTAIN STATIONS

SEC. 118. Section 319(a) of the Communications Act of 1934 (47 U.S.C. 319(a)) is amended by striking out "the construction of which is begun or is continued after this Act takes effect".

AUTHORITY TO ELIMINATE CERTAIN CONSTRUCTION PERMITS

SEC. 119. Section 319(d) of the Communications Act of 1934 (47 U.S.C. 319(d)) is amended to read as follows:

"(d) A permit for construction shall not be required for Government stations, amateur stations, or mobile stations. A permit for construction shall not be required for public coast stations, privately owned fixed microwave stations, or stations licensed to common carriers, unless the Commission determines that the public interest, convenience, and necessity would be served by requiring such permits for any such stations. With respect to any broadcasting station, the Commission shall not have any authority to waive the requirement of a permit for construction. With respect to any other station or class of stations, the Commission shall not waive such requirement unless the Commission determines that the public interest, convenience, and necessity would be served by such a waiver."

PRIVATE LAND MOBILE SERVICES

SEC. 120. (a) Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by adding at the end thereof the following new section:

"PRIVATE LAND MOBILE SERVICES

"SEC. 331. (a) In taking actions to manage the spectrum to be made available for use by the private land mobile services, the Commission shall consider, consistent with section 1 of this Act, whether such actions will—

"(1) promote the safety of life and property;

"(2) improve the efficiency of spectrum use and reduce the regulatory burden upon spectrum users, based upon sound engineering principles, user operational requirements, and marketplace demands;

"(3) encourage competition and provide services to the largest feasible number of users; or

"(4) increase interservice sharing opportunities between private land mobile services and other services.

"(b)(1) The Commission, in coordinating the assignment of frequencies to stations in the private land mobile services and in the fixed services (as defined by the Commission by rule), shall have authority to utilize assistance furnished by advisory coordinating committees consisting of individuals who are not officers or employees of the Federal Government.

"(2) The authority of the Commission established in this subsection shall not be subject to or affected by the provisions of part III of title 5, United States Code, or section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

"(3) Any person who provides assistance to the Commission under this subsection shall not be considered, by reason of having provided such assistance, a Federal employee.

"(4) Any advisory coordinating committee which furnishes assistance to the Commission under this subsection shall not be subject to the provisions of the Federal Advisory Committee Act.

"(c)(1) For purposes of this section, private land mobile service shall include service provided by specialized mobile radio, multiple licensed radio dispatch systems, and all other radio dispatch systems, regardless of whether such service is provided indiscriminately to eligible users on a commercial basis, except that a land station licensed in such service to multiple licensees or otherwise shared by authorized users (other than a nonprofit, cooperative station) shall not be interconnected with a telephone exchange or interexchange service or facility for any purpose, except to the extent that (A) each user obtains such interconnection directly from a duly authorized carrier; or (B) licensees jointly obtain such intercon-

nection directly from a duly authorized carrier.

"(2) A person engaged in private land mobile service shall not, insofar as such person is so engaged, be deemed a common carrier for any purpose under this Act. A common carrier shall not provide any dispatch service on any frequency allocated for common carrier service, except to the extent such dispatch service is provided on stations licensed in the domestic public land mobile radio service before January 1, 1982.

"(3) No State or local government shall have any authority to impose any rate or entry regulation upon any private land mobile service, except that nothing in this subsection may be construed to impair such jurisdiction with respect to common carrier stations in the mobile service."

(b)(1) Section 3 of the Communications Act of 1934 (47 U.S.C. 153) is amended by adding at the end thereof the following new paragraph:

"(gg) 'Private land mobile service' means a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation."

(2) Section 3(n) of the Communications Act of 1934 (47 U.S.C. 153(n)) is amended to read as follows:

"(n) 'Mobile service' means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes both one-way and two-way radio communication services."

NOTICES OF APPEAL

SEC. 121. Section 402(d) of the Communications Act of 1934 (47 U.S.C. 402(d)) is amended—

(1) by striking out "Commission" the first place it appears therein and inserting in lieu thereof "appellant";

(2) by striking out "date of service upon it" and inserting in lieu thereof "filing of such notice";

(3) by striking out "and shall thereafter" and all that follows through "Washington"; and

(4) by striking out "Within thirty days after the filing of an appeal, the" and inserting in lieu thereof "The".

COMPUTATION OF CERTAIN FILING DEADLINES

SEC. 122. The last sentence of section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended by striking out "public notice" and all that follows through the end thereof and inserting in lieu thereof the following: "the Commission gives public notice of the order, decision, report, or action complained of."

EFFECTIVE DATE OF CERTAIN COMMISSION ORDERS

SEC. 123. Section 408 of the Communications Act of 1934 (47 U.S.C. 408) is amended by striking out "within such reasonable time" and all that follows through the end thereof and inserting in lieu thereof the following: "thirty calendar days from the date upon which public notice of the order is given, unless the Commission designates a different effective date. All such orders shall continue in force for the period of time specified in the order or until the Commission or a court of competent jurisdiction issues a superseding order."

APPLICATION OF FORFEITURE REQUIREMENTS TO CABLE TELEVISION SYSTEM OPERATORS

SEC. 124. The second sentence of section 503(b)(5) of the Communications Act of 1934

(47 U.S.C. 503(b)(5)) is amended by inserting "or is a cable television system operator" before the period at the end thereof.

FORFEITURE OF COMMUNICATIONS DEVICES

SEC. 125. Title V of the Communications Act of 1934 (47 U.S.C. 501 et seq.) is amended by adding at the end thereof the following new section:

"FORFEITURE OF COMMUNICATIONS DEVICES

"SEC. 510. (a) Any electronic, electromagnetic, radio frequency, or similar device, or component thereof, used, sent, carried, manufactured, assembled, possessed, offered for sale, sold, or advertised with willful and knowing intent to violate section 301 or 302, or rules prescribed by the Commission under such sections, may be seized and forfeited to the United States.

"(b) Any property subject to forfeiture to the United States under this section may be seized by the Attorney General of the United States upon process issued pursuant to the supplemental rules for certain admiralty and maritime claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made if the seizure is incident to a lawful arrest or search.

"(c) All provisions of law relating to—

"(1) the seizure, summary and judicial forfeiture, and condemnation of property in violation of the customs laws;

"(2) the disposition of such property or the proceeds from the sale thereof;

"(3) the remission or mitigation of such forfeitures; and

"(4) the compromise of claims with respect to such forfeitures;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions of this section, except that such seizures and forfeitures shall be limited to the communications device, devices, or components thereof.

"(d) Whenever property is forfeited under this section, the Attorney General of the United States may forward it to the Commission or sell any forfeited property which is not harmful to the public. The proceeds from any such sale shall be deposited in the general fund of the Treasury of the United States."

EXEMPTION APPLICABLE TO AMATEUR RADIO COMMUNICATIONS

SEC. 126. The last sentence of section 605 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(1) by striking out "broadcast or";

(2) by striking out "amateurs or others" and inserting in lieu thereof "any station";

(3) by striking out "or" the last place it appears therein;

(4) by inserting "aircraft, vehicles, or persons" after "ships"; and

(5) by inserting before the period at the end thereof the following: "or which is transmitted by an amateur radio station operator or by a citizens band radio operator".

TECHNICAL AMENDMENTS

SEC. 127. (a) Section 304 of the Communications Act of 1934 (47 U.S.C. 304) is amended by striking out "ether" and inserting in lieu thereof "electromagnetic spectrum".

(b) Section 402(a) of the Communications Act of 1934 (47 U.S.C. 402(a)) is amended by striking out "Public Law" and all that follows through the end thereof and inserting in lieu thereof "chapter 158 of title 28, United States Code."

(c)(1) Section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended by striking out "rehearing" each place it ap-

pears therein and inserting in lieu thereof "reconsideration".

(2) The heading for section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended by striking out "REHEARINGS" and inserting in lieu thereof "RECONSIDERATIONS".

AMENDMENT TO OTHER LAW

SEC. 128. Section 1114 of title 18, United States Code, is amended by inserting after "law enforcement functions," the following: "or any officer or employee of the Federal Communications Commission performing investigative, inspection, or law enforcement functions."

TITLE II—NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the administration of the National Telecommunications and Information Administration \$12,917,000 for fiscal year 1983, and \$11,800,000 for fiscal year 1984, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs.

STUDY OF TELECOMMUNICATIONS AND INFORMATION GOALS

SEC. 202. (a) The National Telecommunications and Information Administration shall conduct a comprehensive study of the long-range international telecommunications and information goals of the United States, the specific international telecommunications and information policies necessary to promote those goals and the strategies that will ensure that the United States achieves them. The Administration shall further conduct a review of the structures, procedures, and mechanisms which are utilized by the United States to develop international telecommunications and information policy.

(b) In any study or review conducted pursuant to this section, the National Telecommunications and Information Administration shall not make public information regarding usage or traffic patterns which would damage United States commercial interests. Any such study or review shall be limited to international telecommunications policies or to domestic telecommunications issues which directly affect such pol-

and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

JOHN D. DINGELL,

TIMOTHY E. WIRTH,

JAMES T. BROYLE,

Managers on the Part of the House.

BARRY GOLDWATER,

TED STEVENS,

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 amendments of the Senate to the bill (H.R. 3239) to amend the Communications Act of 1934 to authorize appropriations for the administration of such Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill 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.

TITLE I

SHORT TITLE

House bill

The House bill provided that the bill may be cited as the "Federal Communications Commission Authorization Act of 1981."

Senate amendment

The Senate amendment provided that this title may be cited as the "Communications Amendments Act of 1982."

Conference substitute

The conference substitute adopts the Senate provision.

While the Communications Act of 1934 has been amended several times since its initial passage, it has never received a thorough technical overhaul and clean-up. The Act still contains numerous instances of obsolete language, while imposing regulatory requirements and responsibilities upon the FCC which are no longer necessary in light of advancements in technology and changed circumstances.

While many of the provisions of the Conference Substitute are merely technical revisions of existing law, several provisions permit the FCC to have greater flexibility in reorganizing staff, in carrying out its duties, and in reducing the amount of unnecessary paperwork.

Most importantly, the bill provides a number of budget saving provisions which will enable the Commission more efficiently and effectively to utilize its manpower and resources at a time of budgetary constraint. For example, section 307 of the Communications Act would be amended by authorizing the Commission to eliminate the individual licensing of citizens band (CB) and radio control services, which would save the Commission at least \$400,000 annually. Other provisions such as those relating to reimbursement for travel, awarding licenses by lottery, increasing the terms of certain licenses, and eliminating the need for certain construction permits would also result in significant budgetary and resource savings.

Three major classes of licenses are dealt with in the Conference Substitute. Amateur radio, citizens band (CB) radio, and private land mobile radio. In addition, the issues of radio frequency interference rejection standards and Commission authority to use a system of random selection to grant licenses are addressed in the bill. A descriptive background on each issue follows.

A. Amateur radio service.—The amateur radio service is as old as radio itself. Every single one of the early radio pioneers, experimenters, and inventors was an amateur: commercial, military, and government radio was unknown. The zeal and dedication to the service of mankind of those early pioneers has provided the spiritual foundation for amateur radio over the years. The contributions of amateur radio operators to our present day communication techniques, facilities, and emergency communications have been invaluable.

In the early 1920s, amateurs were relegated to the portion of the radio frequency spectrum that was considered at that time to be virtually useless: the short-waves below 200 meters. These short-waves that once were considered useless are now occu-

pled by marine and aviation, police and public safety, television and FM broadcast, international broadcast, and amateur services, to name a few.

Amateurs are pioneering still today. Space or satellite communications are a most important part of amateur radio. Through Program OSCAR (Orbiting Satellite Carrying Amateur Radio), amateurs have been utilizing advanced technology from their relatively simple, inexpensive ground stations. Seven amateur satellites have been built to date by amateurs at their expense. The amateur space activities are playing an important role in attracting the young people of America to scientific fields.

Almost every nation has amateurs who communicate each day with fellow amateurs in other countries and on other continents passing vital emergency message traffic and acting as ambassadors of international goodwill. The modes of communication include Morse code telegraphy, telephone, teletype or teleprinter, television and facsimile. Equipment ranges from home-built transmitters and receivers using parts from discarded radio and television receivers and costing only a few dollars, to the most sophisticated equipment manufactured for commercial, government, and military use costing many hundreds of dollars.

There are approximately 400,000 amateurs in the United States and almost 900,000 throughout the world. At any time of every day, thousands of amateurs scattered throughout the world are listening to and communicating with fellow amateurs over distances varying from only a few miles within a city to thousands of miles across the world. It is the large number of amateurs dispersed around the world operating in the five high frequency bands that has made it possible to provide the first, and for some time thereafter, the only communication links between areas devastated by natural disasters—earthquakes, tidal waves, hurricanes, tornadoes, blizzards and floods—and the outside world.

Every amateur has earned his license by having demonstrated his knowledge of radio theory and application, International Morse Code, the Communications Act, and the regulations of the Federal Communications Commission. Entry into amateur radio usually is through the Novice Class. Amateurs are encouraged to increase their knowledge and skills by a series of five classes or grades of license, all but one with limited operating privileges.

The Amateur Radio Service has been praised for being self-regulated. The Commission has reported that less time has been devoted to monitoring and regulating the Amateur Service than to any other service because of its self-policing and discipline.

One primary purpose of the Conference Substitute is to provide the Federal Communications Commission with the authority to implement various programs which will result in improvements in administration of the amateur radio service and to cut the cost thereof. It will further allow the amateur radio service to continue its tradition as the most self-regulated radio service in the United States, and to become to some extent self-administered, requiring even less expenditure to government time and effort than in the past.

B. Citizens band radio service.—The citizens band (CB) radio service comprises the largest single class of radio operators in the country. Although the CB had the nation experienced during the late 1970s may now be over, there are still about millions of CB licensees throughout the United States.

Citizens band radio is the primary highway communications system for individuals

in the United States. It is the only two-way service available to conduct personal and/or business communications between private citizens, businesses, police and government officials.

Channel 9 on the citizens band has been designated as an Official Emergency Traveler's Assistance Channel. This has been recognized by users and manufacturers alike, resulting in the purchase of CB radios as a highway safety device to be used in family automobiles and other vehicles. The U.S. Coast Guard monitors Channel 9 to hear boating emergencies. Moreover, many fleets of state highway patrol and state and local police vehicles have been equipped with CB radio to assist motorists.

In addition to the special Channel 9 function, CB radio has often been used by individuals and organizations to notify appropriate authorities of emergencies and natural disasters. In many cases, a CB radio operator on the scene has communicated the first news of airplane crashes, floods, earthquakes, tornadoes, and other catastrophes. Moreover, many CB organizations have worked with local law enforcement agencies to establish on-going programs whereby CBers voluntarily perform function such as motorist assistance, security patrol observation, area searches for missing persons, escorts for oversized vehicles or parades, disaster duty, or facilitation of rescue missions.

The community service provided by the CB radio service and its many organizations has been recognized on numerous occasions. For example, in 1978, the heads of the three federal government agencies (Department of Transportation, Interstate Commerce Commission, and Federal Communications Commission) signed a federal policy statement on the benefits of CB radio for the promotion of highway safety. The American National Red Cross has officially recognized the effectiveness of CB radio in disaster situations and has agreed to work with CB groups for the purpose of disaster relief. One CB organization in particular, REACT International, received the 1982 President's Volunteer Action Award in recognition of the outstanding public service performance of its volunteer members in monitoring Channel 9 and providing other assistance to promote highway safety.

These public service voluntary efforts by CB operators have been threatened by a small minority of CB users who, either maliciously or in ignorance of FCC rules, transmit regularly non-emergency communications on the Official Emergency and Traveler's Assistance Channel. One key purpose of the Conference Substitute is to permit the FCC to accept the volunteer services of CB operators to monitor the CB frequencies for such rule violations in order to preserve the integrity of the CB service. Moreover, the Conferees are extremely concerned that should the Commission decide to de-license the CB service, the commission continues to ensure that the overall integrity of this service is protected.

C. Private land mobile service.—Licensees in the private land mobile services include public safety, industrial, business and land transportation users which operate their own private one-way and two-way land mobile systems, most often as means of enhancing a firm's ability of providing a multitude of other goods or services to the American public. Private land mobile services play a relatively unknown, but critically important, role in protecting the public welfare and in promoting economic vitality. Because of the existence of private land mobile radio, a large number of business establishments, large and small, are capable of responding quickly to service calls from home-

owners and consumers, enabling them to be more efficient and economical.

Police, fire, ambulance and other emergency services to the public are in large part reliant on the use of private land mobile radio. In addition, private land mobile radio is rapidly becoming an important tool for the survival of the small businessman in the present economy. Additionally, public utilities are able to respond quickly to calls, avoid widespread disruption of utility service to the general public, and promptly restore service during blackouts through use of such radio services. Moreover, manufacturing plants and refineries are able to operate in a more efficient and safe manner; forest crews are able to contain forest fires with less personal danger and with less loss of valuable timber; and, snowplows and other highway equipment can be utilized more effectively and construction activities can be better coordinated. These are only a few of the many important and essential uses of private land mobile radio affecting public safety and the welfare, as well as the economy.

The Conference Substitute recognizes the critical importance of the private land mobile services and provides statutory support and guidance for existing and future FCC regulation of these services.

D. Radio frequency interference rejection standards.—Radio frequency interference (RFI) arises when a signal radiated by a transmitter is picked up by an electronic device in such a manner that it prevents the clear reception of another and desired signal or causes malfunction of some other electronic device (not simply a radio or television receiver). While almost any transmitter of any service is a potential interference source, Amateur or Citizens Band (CB) stations are very often associated with RFI problems involving electronic devices in the home.

Particularly since the advent of commercial television immediately following World War II, amateur radio operators have been active in interference control and elimination. The amateurs learned very early that the incorporation of good engineering practices in their transmitter construction, such as electrostatic shielding and filtering, minimized the possibility of interference by preventing the radiation of spurious signals. Such practices and techniques are well understood and are universally incorporated in transmitters manufactured and in use today, irrespective of the service. Appropriate rules of the Federal Communications Commission require all transmitters of all services, including the transmitting sections of transceivers, to suppress spurious radiation.

It has become evident that many interference problems involving home electronic equipment and systems are not fully resolvable through taking protective steps with the transmitting equipment, but that resolution of some interference problems may require action with respect to receivers and other electronic devices picking up unwanted signals.

Causes for interference to television reception, for example, can be divided into the following categories. First, although least common, is the pickup of a spurious (unwanted) signal having a frequency within or close to the band of frequencies occupied by the television signal. Such interference usually is caused by an interfering transmitter. In many instances, there is what is termed an harmonic relationship between the transmitter frequency and the television channel. That is particularly the case with the 27 Megahertz CB service: the second the third harmonics (multiples) of the 27 Megahertz CB signal fall in TV Channels 2 and 5,

respectively. It is generally recognized that no TV design can eliminate susceptibility to harmonic interference. Second is the overloading of the input circuit of the television receiver by an undesired signal so strong that overloading, i.e. malfunctioning, of the circuits generates spurious signals within the television receiver that interferes with the desired signal. Such interference usually is more severe with transistorized receivers and may result from poor circuit design in the receiver. Third is the pickup of an undesired signal by circuits within the set or wiring leading to the set. Poor shielding or poor circuit design in the receiver is usually the culprit.

Interference to other electronic devices such as record players, hi-fi amplifiers, home burglar alarm and security systems, automatic garage door openers, electronic organs, and public address systems usually arises from the pick-up of a relatively strong signal by the external wiring, such as the wires leading to the speakers or to the power source, followed by the rectification of the signal by a circuit, contact or component within the device.

The cures for most such interference have been well known for many years. Often an inexpensive filter in the lead from the antenna to the television receiver will reduce the interference to an acceptable level or eliminate it entirely. For the other electronic devices, the judicious installation of inexpensive capacitors (devices which prevent wiring from picking up undesired signals) may suffice.

Even though the causes and cures of radio and television interference have been known for many years, the number of complaints received by the Commission has grown steadily each year. With the rapid, and indeed explosive, growth of the 27 MHz CB service in the mid-1970s, the probability of a home electronic device being located near a transmitter of some sort has increased substantially. The public's use of home electronic devices has grown, and continues to grow, at an exponential rate.

Many manufacturers of home electronic equipment and systems have been willing to provide, often free of charge, filters for electronic equipment when a particular interference problem is brought to their attention. However, their efforts to voluntarily address the root problem by incorporating such RFI suppression techniques in the design and assembly-line stage have been less than adequate. This is true even though such filtering mechanisms and anti-interference design may only cost a few cents per unit.

Many believe that the Commission does not now have authority to compel the use of protective devices in equipment which does not emit radio frequency energy sufficient in degree to cause harmful interference to radio communications. Manufacturers and retailers also believe that the Commission cannot require a label on equipment or the supplying of a pamphlet of the possibility of interference and outlining corrective measures. The Commission has thus far acted in consonance with this belief. The Conference Substitute would thus give the FCC the authority to require that home electronic equipment and systems to be so designed and constructed as to meet minimum standards for protection against unwanted radio signals and energy. Extensive amateur and Commission experience over the years with interference investigation and elimination supports the conclusion that, in most instances, satisfactory corrective measures can be simple and inexpensive. The Conferees by no means intends for major modifications and redesigns of equipment to be re-

quired, or that the Commission require steps to be taken which impose substantial additional costs or unnecessary burdens on equipment manufacturers. We do not believe that elaborate procedures will be necessary in order to achieve the desired result. Existing equipment and that manufactured prior to the date of enactment of this legislation will be exempt from any such standards as might be established by the FCC.

The millions of purchasers of television and radio receivers and other home electronic equipment and systems each year deserve protection from interference. Significant reduction of interference from the multitude of complaints received each year by the Commission should result from enactment of this provision, as should lawsuits against amateur and other radio operators in local jurisdictions based upon interference. Section 7 of the Conference Substitute is viewed by the Conferees as necessary to address adequately this increasing problem, which plagues so many of the nation's consumers. Moreover, by virtue of this section, the Conferees wish to clarify that the exclusive jurisdiction over RFI incidents (including pre-emption of state and local regulation of such phenomena) lies with the FCC.

FCC authority to use a system of random selection.—On August 13, 1981, President Reagan signed into law the Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, 95 Stat. 357 (1981). Section 1242(a) of this Act added a new subsection 309(i) to the Communications Act of 1934 (47 U.S.C. 309(i)) authorizing the FCC to grant licenses on the basis of random selection or lottery. 95 Stat. 736 (1981).

This statute permitted the Commission to grant licenses or construction permits involving any use of the electromagnetic spectrum to a qualified applicant through the use of a lottery system. The statute gave the Commission the discretion to determine when the use of a lottery to grant licenses or permits was appropriate. Any use of a lottery system by the Commission, however, was required to incorporate "significant preferences" to "groups or organizations, or members of groups or organizations, which are underrepresented in the ownership of telecommunications facilities or properties." 47 U.S.C. 309(i)(3)(A). The intent of the Congress in requiring such significant preferences in the administration of a lottery was to increase the number of media outlets owned by such underrepresented persons or groups, thereby fostering diversity of ownership in the media of mass communications. Conference Report on H.R. 3982, Omnibus Budget Reconciliation Act of 1981—Book 2, H.R. Rep. No. 97-208, 97th Cong., 1st Sess. 897 (1981).

Because of Congressional desire that the FCC proceed expeditiously to implement a lottery scheme, the statute directed the Commission to establish rules for a system of random selection, "not later than 180 days after the effective date" of the Act. 47 U.S.C. 309(i)(4)(A). The 180 day period expired on February 9, 1982. On February 8, 1982, the Commission held a public meeting to announce that it would "decline" to adopt rules governing a lottery system, stating that it found the requirements of the statute to be ambiguous and unworkable. Random Selection or Lotteries, Report and Order, FCC General Docket No. 81-768 (1982). The Commission stated that it did "not believe that Congress would intend for [it] to expend [its] limited resources to draft and defend rules creating a lottery framework which would not be used." Random Selection or Lotteries, Report and Order, FCC General Docket No. 81-768, footnote at page 28 (1982). While the Com-

mission cited legal and administrative difficulties with the statute, it did not seek any type of formal direction or clarification from the Congress prior to the expiration of the 180 day period as to how a lottery system might be designed. It was only after certain members of the Congress expressed their view that the Commission's abdication of its statutory responsibility must be rectified, that the Commission sought additional guidance from the Congress.

The Conferees considered this action to be in clear violation of the plain language of the statute, which mandated that the Commission prescribe lottery rules within 180 days, while permitting the agency discretion only with respect to when a lottery would actually be used. It was felt that as a creature of Congress, the Commission must obey the directives of its creator, and that it is not for the FCC to presume legislative intent when Congress clearly mandated that an action be taken, or to refuse to take action because it felt that Congress had not passed the precise lottery statute it wanted. Several Budget Reconciliation Act of 1981, Pub. L. No. 97-35, Stat. 357 (1981). Section 1242(a) of this Act added a new subsection 309(i) to the Communications Act of 1934 (47 U.S.C. 309(i)) authorizing the FCC to grant licenses on the basis of random selection or lottery. 95 Stat. 736 (1981).

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Because of Congressional desire that the FCC proceed expeditiously to implement a lottery scheme, the statute directed the Commission to establish rules for a system of random selection, "not later than 180 days after the effective date" of the Act. 47 U.S.C. 309(i)(4)(A). Members considered this to be a violation of Federal law which totally thwarted Congressional intent that generic lottery rules be established and available for use as soon as possible. This was so that if at any time the present or some future Commission wished to utilize a lottery process, the rules would already be in place and there would be no delays brought about by having to then take the time to develop a generic lottery process.

The amendments to the lottery statute in the Conference Substitute and the legislative history contained in the detailed section-by-section analysis which follows are intended to give the Commission the additional guidance and clarification it said it needed to establish lottery rules. The amendments retain the principles which were agreed upon by both the House and Senate during the budget reconciliation process.

FINANCIAL INTERESTS OF MEMBERS AND EMPLOYEES OF FEDERAL COMMUNICATIONS COMMISSION

House bill

The House bill contained no provision.

Senate amendment

The Senate amendment section 4(b) of the Communications Act of 1934 by replacing the absolute bar on the ownership of any interest in any company involved in wire or radio communications or in the manufacture or sale of wire or radio equipment with a standard that prohibits ownership only when there exists a "significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission, and sets forth reasonable guidelines as to when the standard is met.

Conference substitute

The conference substitute adopts the Senate provision, with one change. Section 4(b)(6) of the Act, drafted when the FCC had seven members, has been amended in the Conference Substitute to establish a formula for political balance in Commission membership, regardless of the size of the Commission.

The statutory restriction imposing an absolute bar on ownership interests, addressed by the Senate amendment, has proven to be a hardship, particularly for staff employees who may have minor securities holdings in firms which deal only peripherally with "wire or radio communications." For example, a Commission employee working in the common carrier bureau is forbidden from owning even one share of stock in a bus company which incidentally might own and operate radios on its transportation vehicles.

As the Commission has observed in addressing this prohibition, in the telecommunications age there is scarcely a major enterprise which is not in some way connected with a telecommunications product or service. Employee Financial Interests, Notice of Proposed Rulemaking, 45 Fed. Reg. 47885 (July 17, 1980). For example, radio communications are used and Commission licenses are held by businesses such as airlines, railroads, maritime vessels, taxicabs, and numerous other industries. Additionally, virtually every large retail establishment sells equipment regulated by the Commission (e.g., radios, television, microwave ovens).

The language amending Section 4(b)(2) of the Communications Act specifies a two-fold requirement that must be met before the prohibition would be applicable: (1) the interest or activity must fall within the parameters of at least one of four specified categories involving significant regulation set out in the legislation; and (2) the entity involved must have a significant interest in activities subject to Commission regulation. The Conferees intend that these ownership prohibitions be read separately. For example, a company that has certain operations which are "significantly regulated" by the Commission would not necessarily have a "significant interest" in activities subject to Commission regulation. The Conferees believe that this provision will add integrity to the regulatory process by assuring that members and employees of the agency will not have conflicts of interest of any meaningful consequence, while at the same time not precluding financial interests in matters that are only remotely related to the agency's activities.

In addition, the provision would permit the Commission to waive the conflict of interest prohibitions for Commission employees (but not Commissioners) if the Commis-

sion determines that financial interests of the involved employee are minimal. This waiver authority is subject to 18 U.S.C. 208, which essentially prohibits an employee from participating in any matter in which the employee has a financial interest (subject to another waiver provision where the interest is so insubstantial as to be deemed unlikely to affect the integrity of the employee's services). Any exercise of this waiver authority must be accompanied by publication of such action in the Federal Register and notification of both the House and Senate Authorization Committees in order to retain Congressional oversight and public confidence in the Commission's regulatory responsibilities. The Conferees intend that the Commission exercise this waiver authority with the utmost care and propriety.

The Conferees note that the amendment to section 4(b) also deletes a sentence which prohibits any Commissioner who has not served his full term from representing any person before the Commission in a professional capacity for one year following the termination of his service. The Committee wishes to emphasize that the purpose of this deletion is only to make the Communications Act consistent with the conflict of interest rules which govern all Federal officials, the Ethics in Government Act, as amended 18 U.S.C. 207 (1978). The Committee notes that the prohibitions in the Ethics in Government Act are stronger than those presently in section 4(b) of the Communications Act, and that it intends that these stricter requirements govern former FCC officials.

APPOINTMENT, TERMS OF OFFICE, SALARY, AND COMPENSATION OF MEMBERS OF COMMISSION
House bill

The House bill contained no provision.

Senate amendment

This section allows the Commission, under certain circumstances, to accept reimbursement from non-governmental entities for travel and related expenses incurred by Commissioners and employees attending non-government-sponsored functions. The provision will expire at the end of fiscal year 1985.

Conference substitute

The conference substitute adopts the Senate provision.

In order to keep in touch with the industries and individuals they regulate, Commissioners and Commission employees have found it useful to travel on occasion to different parts of the country on official business to attend conferences, conventions, and meetings. These trips range from Commissioners' participation in industry-wide conventions, to a bureau chief's panel appearance in an educational institution's symposium, to a division head's meeting to explain a new FCC rule to a small group of licensees. Given the rapid technological changes which are occurring in the telecommunications industry, and the continuing introduction of new communications services and facilities to the public, the ability of the Commission to travel is a relatively significant aspect of its service to the public.

The reimbursement experiment is designed to supplement appropriations to the Commission during a period in which the Commission's responsibilities, particularly in the area of common carrier regulation, are projected to increase, while Congress moves to reduce federal government expenditures. The Committee recognizes that attendance by Commissioners and Commission employees at non-governmental conventions and meetings generate valuable exchanges between government officials and

non-governmental groups and should be allowed to continue at reasonable levels. Appropriated travel funds saved hereby should be used to pay for other high-priority non-travel expenses of the Commission.

The Conferees further intended that such reimbursement, in general, should be permissible notwithstanding the provisions of any other statutes, regulations, executive orders or similar restrictions which ordinarily would bar the receipt of such reimbursements from any source.

As part of the program of budget austerity, the amount of money available for travel by Federal agencies is being reduced. This might well have a negative impact upon the Commission's ability to participate in industry functions intended to offer those subject to FCC regulation a better opportunity to interface with Commissioners and staff. As the amount of moneys appropriated to the Commission for travel decreases, smaller organizations and non-profit or educational groups in particular may find themselves out of the Commission's travel picture. Meanwhile, at the present time, those groups which could easily afford to pay the necessary expenses for Commissioners' and Commission employees' travel to their functions are prevented from doing so.

Currently, no independent regulatory agency has the authority to accept travel reimbursement from private parties except with respect to a very limited number of groups. However, given the rather severe budget constraints facing the Commission, providing for an experimental period to test the operation of a limited travel reimbursement mechanism over which Congress could exert strong oversight, preserves Congressional control while enhancing budgetary resources for travel purposes. Thus, the Conference Substitute establishes a limited travel reimbursement mechanism, which will sunset after three years, and is intended to alleviate some of the budgetary pressures which might inhibit the ability of Commissioners and Commission staff to travel.

To ensure Congressional oversight, the amendment to Section 4(b) includes three significant limitations on the Commission's reimbursement authority. First, the total amount that the Commission could travel in any fiscal year is limited to the level of travel money appropriated for the Commission for such fiscal year. In this way, the Commission is not given carte blanche with respect to travel, while Congress continues to decide the overall degree of travel which would be appropriate in any given year. Second, the Commission is required to report to Congress, as well as publicly report, any instances in which it receives travel reimbursements under this section. Third, the entire travel reimbursements section, since it is intended to be an experiment, commences with the beginning of fiscal year 1983, and sunsets at the end of fiscal year 1985.

The Conferees wish to emphasize that during this experimental period, the Commission is not to neglect groups or organizations which do not have the means to reimburse the Commission for its travel expenses. The Conferees intend that the Commission attend and participate in conventions, conferences, and meetings held by non-profit, public interest, educational, and other groups at roughly the same or higher level as in previous years.

The amount of reimbursement permitted is limited to the travel appropriation specified by Congress for each fiscal year. Congress may wish to raise the present ceiling on Commission travel if it feels that additional travel is warranted, particularly if it appears that such additional travel would

likely be funded by non-governmental sources. The Conferees intend that, in the absence of an express limitation on the amount of moneys which the Commission can expend on any given fiscal year, the reimbursement limit will be the figure listed as "Travel and Transportation of Persons" contained in the President's Annual Budget Estimate for the Commission. Appropriated travel moneys saved through the reimbursement mechanism may be "reprogrammed" between programs and activities for other uses in the Commission's budget to the extent permissible under existing law. These limits may be exceeded only upon written approval by both House and Senate Appropriations Committees.

The Conferees note that the Commission currently has experience with the travel reimbursement process, since federal law permits acceptance of reimbursement from certain private non-profit organizations for government travel expenses. See, e.g., 5 U.S.C. 4101 *et seq.* Under its current practice, the Commission pays all the proper expenses of the Commission traveller from its general appropriation; subsequently, the Commission bills and receives reimbursement from the sponsoring private non-profit organization, crediting its appropriation by the amount of reimbursement. The Committee intends that these procedures be used as the model for implementation of this provision notwithstanding any contrary provision of law. See 31 U.S.C. 484 (1976). In no instance should private entities make direct payments to or provide transportation tickets for Commissioner or Commission employees.

The quarterly reports required by Section 3 shall consist of the following information: a) the dates and brief description of the private event, b) the name and address of the sponsoring organization, c) number of Commissioners, and number and title of employees who attended the event, and d) the total amount of reimbursement, subdivided into travel, room, board, and other expenses. These shall be filed, within thirty days after the close of each fiscal quarter, with the House and Senate Commerce and Appropriations Committees.

USE OF AMATEUR VOLUNTEERS FOR CERTAIN PURPOSES

House bill

The House bill contained no provision.

Senate amendment

The Senate amendment provided a statutory basis for the present Commission practice of permitting amateurs of a higher license class to voluntarily administer novice (entry) class amateur radio license examinations to candidates and extends the concept to include the volunteer administration of all classes of amateur licenses. To guard against conflicts of interest, persons who own a significant interest in or are employees of any entity involved in the manufacture or distribution of amateur radio equipment, or involved in the preparation or distribution of publications which may be used as study aids for amateur license exams are disqualified from volunteering to administer amateur exams. The Senate amendment also authorizes the Commission to utilize the volunteer assistance of amateur licensees in the preparation of amateur license exams, notwithstanding any contrary provision of law. See generally, 31 U.S.C. 665(d) (1976).

Conference substitute

The conference substitute adopts the Senate provision.

There are five classes of amateur radio licenses with admission to higher license

classes contingent upon the satisfactory completion of progressively more challenging license examinations. These examinations are presently administered by FCC personnel, generally those in the Field Operations Bureau. Due to resource and personnel reductions, the opportunity to take amateur license examinations is extremely limited. In some areas of the United States, amateur examinations can only be given once per year as a result of shortages of personnel in the Commission's Field Operations Bureau. Should a person not pass an amateur examination the first time, up to two years can pass without an individual having an amateur license. The benefits of amateur radio to individuals, especially young people, including technical self-training and knowledge of electronics should not be denied to such persons on the basis of personnel shortages at the Commission.

To help alleviate this problem, for several years amateurs of a higher license class have voluntarily administered novice (entry) class amateur radio license examinations to candidates. After administering the exam, the volunteer mails the written portion of the exam to the Commission for grading. This has saved Commission resources and provided a convenient method of administering these entry level examinations, especially to young people interested in radio.

The Conferees believe that this use of volunteer services by licensed amateurs by the Commission is a beneficial and efficient utilization of manpower in the public interest. Thus, the Conference Substitute provides a statutory basis for present Commission practice and extends the concept to include the volunteer administration of all classes of amateur licenses. To guard against conflicts of interest, persons who own a significant interest in or are employees of any entity involved in the manufacture or distribution of amateur radio equipment, or involved in the preparation or distribution of publication which may be used as study aids for amateur license exams are disqualified from volunteering to administer amateur exams.

This provision also authorizes the Commission to utilize the volunteer assistance of amateur licensees in the preparation of amateur license exams, notwithstanding any contrary provision of law. See generally, 31 U.S.C. 665(d) (1976). The FCC's failure to

repeal and revise written examinations has resulted, through repetition, in compromise of the examination system. The Conferees note that at least one firm has published study aids which include the exact questions contained in current FCC amateur license exams. This has enabled some to pass amateur exams on the basis of rote memory rather than an understanding of FCC regulations. By permitting the Commission to accept suggested questions for various classes of amateur license exams from the licensees themselves or from amateur radio operator organizations, the Commission will be able to amass a larger pool of examination questions. The Conferees expect that volunteering individuals and organizations will protect against the premature disclosure to the public of submitted questions.

Another important consequence of the diminishing resources of the Commission's Field Operations Bureau, is the inadequacy of monitoring and enforcement services in both the amateur and Citizens Band (CB) radio services. This section authorizes the use of volunteers from the amateur and CB radio services to assist the Commission in monitoring for violations in their respective services. While these volunteers may issue advisory notices to apparent violators, they may not impose sanctions or take any other

enforcement action against violators. See Section 4(f)(4)(C) and (D) of the Communications Act of 1934.

This provision also makes it clear that all volunteers will serve without compensation and will not be deemed employees of the Federal Government for the purpose of receiving any benefits as a result of their services.

The Conference Substitute should help conserve Commission resources by giving statutory approval to the use of amateur radio volunteers who will complement the Commission's staff in carrying out licensing and monitoring responsibilities. The use of CB volunteers for monitoring assignments should yield similar benefits.

ORGANIZATION AND FUNCTIONING OF COMMISSION

House bill

The House bill contained no provision.

Senate amendment

The Senate reduced the minimum composition or quorum of the FCC's Review Board established by section 5(d) of the Communications Act of 1934, from three to two employees.

Conference substitute

The conference substitute adopts the Senate provision.

Section 556(b) of the Administrative Procedure Act, 5 U.S.C. ss 556(b), provides that a federal administrative agency may designate employee boards to preside over specified classes of proceedings. The FCC's employee board, which is known as the Review Board, on occasion, has not been able to issue decisions either because one of its members was disqualified from participating in a particular proceeding, a member was absent due to long illness or because a vacancy on the Board was unfilled.

By reducing the Board's minimum composition or quorum requirement to two employees, the problems caused by disqualification, prolonged illness, and prolonged vacancies should be alleviated. Where a deadlock occurs on a two-member panel, the Committee expects that such proceedings be certified to the full Commission for final disposition.

This section also deletes obsolete language.

POLE ATTACHMENTS

House bill

The House bill contained no provision.

Senate amendment

The Senate repealed Section 224(d) and 224(e) of the Communications Act of 1934.

Conference substitute

The Conferees agreed to the Senate provision deleting Section 224(e) but voted to retain Section 224(d) in current law.

On February 21, 1978, the President signed into law P.L. 95-234, which grants the Federal Communications Commission jurisdiction to regulate the rates, terms, and conditions for the attachment of cable system transmission lines to utility poles, where pole attachments are not regulated by a state. The purpose of requiring the regulation of the pole attachment rates was to provide that the rates are "just and reasonable". The statute imposes a methodology on the FCC to determine appropriate rates. This methodology expires five years after the date of enactment.

The Pole Attachment Act has brought considerable certainty regarding the price of access to utility poles. Further, it has encouraged private settlements by parties to a dispute. It has saved the FCC money by reducing the number of disputes brought to the Commission for administrative action.

The FCC has administered the methodology set forth in subsection (d) by applying a formula which deals with all parties concerned.

The Conferees recognized that the FCC has the discretion to continue to use the standard called for in Section 224(d) if that subsection were permitted to expire. Further, the Commission has shown no indication that it would change the existing formula. In the event that the requirement of the formula established by Section 224(d) were permitted to expire, it would increase the likelihood that parties would petition to alter the formula by rulemaking, with resulting increased burden on the FCC and uncertainty in the industry until such issues were resolved.

Finally, the Conferees recognized that Section 224(e) was added to the Section because Congress was uncertain whether the methodology established by the statute would work. In the face of evidence indicating the effectiveness of this provision, the Conferees agreed that it should remain in the statute. Accordingly, the sunset provision of Section 224 has been deleted, while the methodology established in that Section will remain in force.

JURISDICTION OF COMMISSION

House bill

The House bill contained no provision.

Senate amendment

The Senate amended Section 301 of the Communications Act of 1934 to make clear that the Commission's jurisdiction over radio communications extends to intrastate as well as interstate transmissions.

Conference substitute

The conference substitute adopts the Senate provision.

The present statutory ambiguity imposes wasteful burdens on the Commission and various United States Attorney's particularly with regard to prosecution of Citizens Band (CB) radio operators transmitting in violation of FCC rules. Typically in such a case, the defendants concede the violation, but challenge the Federal Government's jurisdiction on the ground that the CB transmission did not cross state lines. To refute this argument, the Commission invariably is asked to furnish engineering data and expert witnesses, often at considerable expense. In most instances, once the expert evidence is made available, the defendants plead guilty and the case terminated.

The provision would end these wasteful proceedings. Further, it would make Section 301 consistent with judicial decisions holding that all radio signals are interstate by their very nature. See, e.g., *Fisher's Blend Station Inc. v. Tax Commission of Washington State*, 297 U.S. 650, 655 (1936).

INTERFERENCE WITH ELECTRONIC EQUIPMENT

House bill

The House bill contained no provision.

Senate amendment

The Senate amends Section 302(a) of the Communications Act of 1934 and authorizes the Commission to establish minimum performance standards for "home electronic equipment and systems" to take appropriate action in order to protect such equipment from radio frequency interference (RFI).

Conference substitute

The conference substitute adopts the Senate provision.

For many years, public complaints have persisted about radio frequency interference to consumer electronic equipment, such as television sets and radio receivers. This interference has often been attributed to trans-

missions from the Amateur and Citizens Band (CB) radio services.

The Conferees wish to emphasize that it was its hope that voluntary efforts by manufacturers to reduce RFI when possible, as opposed to the use of government regulation, would be sufficient. Devices designed and marketed for use in a commercial environment normally include necessary protection against interference and do not require Commission regulation. In the market for home devices, however, good faith industry attempts to solve this interference problem have not always been as successful. Thus, in view of complaints regarding home devices, the Conferees believe that Commission authority to impose appropriate regulations on home electronic equipment and systems is now necessary to insure that consumers' home electronic equipment and systems will not be subject to malfunction due to RFI. However, the legislation does not mandate Commission exercise of this authority; that decision is well within the technical expertise of the agency.

The Conferees intend that the Commission's authority apply only to "home electronic equipment and systems" likely to be found in a private residence and intended for residential use, as distinguished from devices intended for office and business use. Radio and television sets would be typical examples of equipment subsumed under the term "home electronic equipment and systems." Other examples include home burglar alarm and security systems, automatic garage door openers, electronic organs, record turntables, and stereo/high fidelity amplifier systems. Although this legislation is aimed primarily at home equipment and systems, it is not intended to prevent the Commission from adopting standards for such devices which are also used outside the home. Portable TV receivers and radios as well as medical alert devices, for instance, are intended to be covered.

A number of alternatives are available to the Commission in exercising the authority granted hereunder. The Commission could direct manufacturers of some types of home electronic equipment and systems to meet certain minimal standards by incorporating an interference suppression capability into their devices before the equipment is offered for sale. On the other hand, the Commission may choose to require only a warning label on those types of home electronic equipment and systems for which the installation of filtering, shielding or other interference suppression components would be unreasonably costly in relation to the total price of the device, or where such installation otherwise is unreasonable or impractical. Such a warning could be given in a pamphlet or tag accompanying the equipment, and marketplace forces would determine the success of particular competitors who choose to rely on such warnings instead of actually building in the filtering devices necessary to fully protect against interference.

The Conferees expect the Commission to exercise the authority granted herein, as it has exercised the authority granted under section 302 of the Communications Act of 1934, by balancing the cost of improving the performance of a device to particular levels against the benefit to be gained from requiring manufacturers to meet standards of various levels of stringency. In so doing, the Conferees expect the number of interference complaints recorded and investigated by the Commission to be significantly reduced.

The Conference Substitute is further intended to clarify the reservation of exclusive jurisdiction to the Federal Communications Commission over matters involving RFI. Such matters shall not be regulated by

local or state law, nor shall radio transmitting apparatus be subject to local or state regulation as part of any effort to resolve an RFI complaint. The Conferees believe that radio transmitter operators should not be subject to fines, forfeitures or other liability imposed by any local or state authority as a result of interference appearing in home electronic equipment or systems. Rather, the Conferees intend that regulation of RFI phenomena shall be imposed only by the Commission.

QUALIFICATIONS OF STATION OPERATORS

House bill

The House bill contained no provision.

Senate amendment

Section 303(1) of the Communications Act authorizes the Commission to grant radio operator licenses to citizens and nationals of the United States. The Senate broadened this category to include aliens who are legally eligible for employment in the United States.

Conference substitute

The conference substitute adopts the Senate provision.

Under current law, aliens must undergo an extensive time and resource consuming waiver procedure to obtain commercial radio operator licenses. For example, an alien aircraft mechanic or baggage handler seeking employment with an airline cannot obtain the necessary Restricted Radio Operator Permit for aircraft radio communications needed in those jobs without an express waiver from the Commission. The Commission will thus be spared these extensive and time consuming waiver proceedings. The change being proposed here would continue to have the effect of excluding undocumented aliens or other aliens not eligible for employment in the United States. See 8 C.F.R. Part 109 (1981).

In addition, the Conference Substitute would make a minor technical change in other language in Section 303(1). Current law exempts from the citizenship requirement persons holding United States pilot certificates which are valid in this country because of reciprocal agreements between the United States and the foreign country involved. To achieve consistency, the standard for such reciprocal agreements would be changed from one of citizenship to one of eligibility for employment. The intent here is not to narrow the number of persons falling within the scope of the existing law, but merely to make Section 303(1) internally consistent.

GROUNDINGS FOR SUSPENSION OF LICENSES

House bill

The House bill contained no provision.

Senate amendment

The Senate amended Section 303 of the Communications Act to allow the Commission to suspend the license of any operator who causes, aids or abets in a violation of the Act or the Commission's rules.

Conference substitute

The conference substitute adopts the Senate provision.

Currently, the Commission cannot take such action against the increasing number of operators who illegally advise, equip, or otherwise assist applicants seeking communications facilities. This provision authorizes the Commission to suspend licenses when serious violations occur.

LICENSING OF CERTAIN AIRCRAFT RADIO STATIONS AND OPERATORS

House bill

The House bill contained no provision.

Senate amendment

The Senate amended Section 303 of the Communications Act of 1934 and authorizes the recognition of certain aircraft radio licenses issued by foreign nations. It would authorize a means to permit a foreign aircraft operator who leases a U.S.-registered aircraft to have the aircraft radio equipment licensed by the foreign country.

Conference substitute

The conference substitute adopts the Senate provision.

The Conference substitute conforms the Communication Act to recently proposed amendments to the International Telecommunications Union Radio Regulations and to other international agreements which allow the State of Registry of an aircraft (operated under a lease, charter, or other such arrangement in a second country) to transfer certain functions and duties to that country.

Section 301(e) of the Communications Act of 1934 requires radio equipment on domestic aircraft to be licensed under the provisions of the Act. In light of the recent amendments to the Convention on International Civil Aviation and the ITU Radio Regulations (the ratification of which is pending in the United States), the Conferees intend by this amendment to Section 303 of the Act to provide an exception. Section 301(e) in situations where the Commission agrees to transfer licensing of United States aircraft and radio operators to another country.

REVISION OF LICENSE TERMS

House bill

The House bill contained no provision.

Senate amendment

The Senate amended redesignated Section 307(c) of the Act to expand the maximum license term for non-broadcast licenses from five to ten years, upon a Commission finding that the public interest would be served by such an action.

Conference substitute

The conference substitute adopts the Senate provisions.

A ten-year license term might be inappropriate, for example, in many of the Private Radio Services, where a current data base is necessary for accurate and current knowledge of spectrum availability and usage. In other services, however, where specific frequency assignments are not made to individual stations, ten-year license terms would not impede the Commission's spectrum management capabilities. The Conferees believe that, in authorizing the Commission to issue licenses for such terms where appropriate, the burden on the public and on the Commission will be lessened by reducing the number of renewal applications filed.

The Conference Substitute also eliminates the necessity for separate renewal of auxiliary broadcast station licenses, such as remote pickups, studio-transmitter links and intercity relay transmitters. Currently, over 10,000 auxiliary broadcast licenses outstanding must be renewed periodically by the Commission. A tremendous volume of paperwork is created in processing such licenses. Since these auxiliary licenses are contingent upon possession of the main station license, the terms for all related licenses should be concurrent.

AUTHORITY TO OPERATE CERTAIN RADIO STATIONS WITHOUT INDIVIDUAL LICENSES

House bill

The House bill contained no provision.

Senate amendment

The Senate amendment authorized the Commission to terminate the individual licensing of operators in the Citizens Band (CB) and radio control (RC) services if it determines that permitting the operation of these radio stations without individual licenses would serve the public interest, convenience, and necessity. The Commission would retain blanket licensing authority over CB and RC services and would continue to enforce its rules against and prohibit operation by any operator who violates these rules.

Conference substitute

The conference substitute adopts the Senate provision.

At present, CB and RC licenses are granted to virtually any person who files an application and, unlike broadcast and some other spectrum licenses granted by the Commission, confer no exclusive use of the spectrum. As a result, the grant of individual CB and RC licenses represent neither considered Commission approval nor the exclusive right to a particular frequency. Nonetheless, the cost of processing and granting the millions of license applications in these services has been substantial. Thus, the provision will produce significant savings without impairing important regulatory interests. Moreover, of the estimated million operators in the CB service, eight million are estimated to be operating without a license. This situation could create a regulatory nightmare for the Commission if serious attempts were made to remedy this situation.

The Conferees wish to emphasize that this provision authorizes only the "de-licensing" (of individual licenses) of the CB and RC services, and not the "deregulation" of such services. The Conferees fully intend the Commission to vigorously enforce the Communications Act and FCC rules relating to the CB and RC services, and to use its forfeiture authority against violators where necessary. Since the Commission would no longer have the ability to revoke a CB license if it chose to de-license the service, forfeiture authority should be exercised in a way that demonstrates a commitment to preserving the integrity of the CB service through enforcement. In addition, the authority granted the Commission in section 4 of this legislation to utilize CB volunteers to provide additional Commission resources to safeguard the integrity of the

the authority of the FCC to grant licenses or permits for the use of the electromagnetic spectrum through a system of random selection.

Conference substitute

The conference substitute adopts the Senate provision.

FCC discretion to use a system of random selection.—Section 309(i) of the Communications Act, as amended by this legislation, is intended to alleviate many of the delays and burdensome costs faced by both applicants and the Commission in an initial comparative licensing proceeding with mutually exclusive applicants. Use of a lottery system established pursuant to this subsection is discretionary with the Commission and such use is appropriate in the public interest within the parameters set forth below.

Relevant factors for the Commission's consideration in determining whether a lottery would serve the public interest would include: whether there is a large number of licenses available in the particular service under consideration; whether there is a large number of mutually exclusive applications for each license, for example, when a new service is initiated; whether there is a significant back-log of applications; whether employing a lottery would significantly speed up the process of getting service to the public; and whether selection of the licensee will significantly improve the level diversity of information available in the community versus the use of the traditional comparative hearing process. The Commission, in making this public interest assessment when deciding whether to utilize a lottery in a particular instance, should consider all of these factors.

With respect to the above criteria, if the traditional comparative process would provide a superior means of diversifying media ownership in particular instances, a service should not be subject to a lottery when to do so would undermine or thwart this policy goal, but all factors must be weighed. Diversification of media ownership and information are central goals of the traditional comparative licensing process, and continued promotion of these goals should not be sacrificed merely because a lottery may be more expedient. This concern takes on its greatest significance when the particular license grant involves a service over which the licensee exerts substantial content control, as opposed to strictly common carrier services where the licensee does not appreciably affect the content of the communication. For example, the Commission would have an extremely heavy burden to meet in attempting to justify use of a lottery for purposes of granting an individual license for a full-power station (e.g., the fourth full service television station in a community), the licensing of which is unrelated to the initial grants of licenses for a new service. There, the flood of new applicants for a multitude of licenses in a newly created service, with all of the administrative problems attendant thereto, have not to date confronted the Commission. On the other hand, the Commission would be perfectly justified in using, and is in fact encouraged to use, a lottery when awarding licenses for low power television stations, which involves huge backlogs which would otherwise significantly delay service to the public if the traditional comparative hearing process were relied upon.

The Conference Substitute provides that the Commission adopt implementing rules within 180 days of the date of enactment of this Act. The Conferees wish to emphasize that this is an absolutely mandatory requirement. Once these rules are established, the Commission shall have the authority to

modify them as necessary and the discretion, based upon an articulated assessment of the public interest factors discussed above, to apply them to particular proceedings or classes of proceedings before it. The Conferees wish to emphasize their strong expectation that the Commission will exercise carefully its discretion to use a lottery system by making a finding that the public interest would be significantly benefited by using a lottery instead of a comparative hearing to select licenses or permits with respect to those services or instances in which it determines that use of a lottery would be appropriate. Use of a lottery without identifying a substantial public interest benefit flowing therefrom would disserve the Commission's ultimate statutory goal of obtaining the best practicable information service from diverse sources.

The Conferees intend that the Commission, in making this public interest finding, should not apply the aforementioned factors mechanically or without regard to other salient considerations. For example, the Conferees note that the mere existence of a backlog of applications is not itself a sufficient reason for employing a lottery.

The Conferees also wish to emphasize as strongly as possible their firm intention and expectation that the Commission will use a lottery to expedite the processing of low power television service and translator facilities. Low power television and translator service is the ideal service for which to use a lottery, given the large number of licenses available, the large number of mutually exclusive applications for each license, the substantial backlog of applications on file with the Commission, the likelihood that the use of a lottery is essential to expediting the process of getting low power television service to the public, and the likelihood that bringing low power television service to the public quickly, through the use of a lottery, will result in a significant increase in the diversity of information sources available in many communities throughout the country.

The Conferees do not intend for this provision to be construed to prevent the Commission from granting licenses or permits in "blocks" of frequencies where it determines that this would serve the public interest (e.g. the proposed multi-channel multipoint distribution service).

Qualification of applicants in a random selection system.—It is the intent of the Conferees that, prior to the use of a lottery in a particular proceeding, the Commission conduct a preliminary review of each application submitted to determine that it is acceptable for filing. The Conferees expect that the Commission will use the standards for acceptability set out in *James River Broadcasting Corp. v. FCC*, 399 F.2d 581 (D.C. Cir. 1968), unless, by rule, it has adopted or shall adopt different standards. See, e.g., 47 C.F.R. 73.3564, 22.20. Following the lottery, the Commission shall determine that the applicant selected therein is fully qualified to become a licensee under 308(b) and 309(a). Should the applicant selected be found not to be so qualified, the Commission shall conduct another lottery, if necessary, and select another applicant. It is the intention of the Conferees that determinations under Section 308(b) and 309(a) need be made only as to the applicant who has been selected by lottery.

It is only at this latter, post-lottery stage that petitions to deny the application need be considered and that the right to a hearing may arise. This hearing may be a "paper hearing" unless the Commission determines, by rule or by decision in a particular case, that due process or other public interest considerations require some or all of the

AUTHORIZATION OF TEMPORARY OPERATIONS*House bill*

The House bill contained no provision.

Senate amendment

The Senate lengthened the duration of Special Temporary Authority (STA) from 90 to 180 days, and allows the Commission to renew an STA for additional terms of 180 days each.

Conference substitute

The Conference substitute adopts the Senate provision.

While the Conferees recognize that multiple STA renewals may be appropriate in extraordinary circumstances, it is emphasized that an applicant for STA renewal bears a heavy burden of showing, consistent with the test in Section 309(f), that a renewal should be granted.

RANDOM SELECTION SYSTEM FOR CERTAIN LICENSES AND PERMITS*House bill*

The House bill contained no provision.

Senate amendment

The Senate bill amends Section 309(i) of the Communications Act of 1934, relating to

hearing to be conducted by any responsible employee or employees, including Bureau Chiefs or their delegates, to whom the Commission shall, by rule, delegate such functions. If the Commission chooses to delegate the function of presiding over these paper hearings to employees other than Administrative Law Judges (ALJ), the Commission must assure that the examiner or reviewer is truly independent in order to avoid any undue influence in the fact-finding process. Here the Conferees wish to emphasize that use of non-ALJs to govern hearings is strictly limited to post-lottery hearings. This does not imply that similar delegation would be acceptable with respect to the traditional comparative hearing process.

The Conferees wish to emphasize that the qualifications set out in Section 308(b) are not diminished in importance. By permitting the FCC to make the findings after an applicant is selected, it is intended that the Commission will be able to conduct a more thorough and in-depth inquiry than it could if it had to make a finding as to the qualifications of all applicants. Moreover, to preserve the incentives of the other applicants to raise questions concerning their competitors' qualifications, if the initial "winner" is determined to be unqualified, the subsequent lottery must be conducted with the same applicant pool with each applicant's selection probabilities recomputed as necessary (see below).

The Conferees note that requiring the Commission to find the applicant selected by the lottery fully qualified prior to the grant of the license to that applicant protects the public from unqualified licensees, while affording the Commission the relief from the burden of having to pass on the full range of qualifications of every applicant. As with the use of non-ALJs to conduct hearings, the post-selection assessment of qualifications process is strictly limited to the lottery context and should not be utilized in the traditional comparative process.

Application of preferences in a random selection system.—It is the firm intent of the Conferees that traditional Commission objectives designed to promote the diversification of control of the media of mass communications be incorporated in the administration of a lottery system under section 309(1), as amended by this legislation. The Commission's application of its Policy Statement on Comparative Broadcast Hearings, 1 F.C.C.2d 393 (1965), has resulted in significant comparative advantages to minority-controlled applicants and to applicants with a low degree of ownership interest in mass communications media. While the degree of advantage, merit, or preference heretofore awarded to such applicants need not be precisely duplicated in the administration of a random selection system, the Conferees expect that the Commission's lottery rules will provide significant preferences to applicants (especially those who are minority-controlled), the grant to whom of the license or permit sought would increase the diversification of the media of mass communications. The Conferees intend that two distinct diversity preferences be applied where appropriate: a media ownership preference and a minority ownership preference.

The underlying policy objective of these preferences is to promote the diversification of media ownership and consequent diversification of programming content. This diversity principle is grounded in the First Amendment, as illuminated in a line of cases in large part stemming from *Associated Press v. United States*, where the Supreme Court stated that the First Amendment "rests on the assumption that the widest possible dissemination of information

from diverse and antagonistic sources is essential to the welfare of the public." 326 U.S. 1, 20 (1945). Thus, in finding that the "public interest, convenience, and necessity" would be served by granting a given mass communications media license, "the Commission simply cannot make a valid public interest determination without considering the extent to which the ownership of the media will be concentrated or diversified by the grant of one or another of the applications before it." *Citizens Communications Center v. FCC*, 447 F.2d 1201, 1213 n. 36 (D.C. Cir. 1971).

The nexus between diversity of media ownership and diversity of programming sources has been repeatedly recognized by both the Commission and the courts. For example, in promulgating its "concentration of control" regulations, the Commission stated that "the fundamental purpose of this facet of the multiple ownership rules is to promote diversification of program and service viewpoints as well as to prevent any undue concentration of economic power contrary to the public interest." Amendment of Sections 3.35, 3.240, and 3.636, Report and Order, 18 F.C.C. 288 (1953), aff'd, *United States v. Storer Broadcasting Co.*, 351 U.S. 192 (1956). In its rulemaking on low power television, the Commission noted that it has received expressions of interest from minorities wishing to develop new services and that it "specifically encourages this interest, and fully intends that the inauguration of this new broadcast service be the occasion for assuring enhanced diversity of ownership and of viewpoints in television broadcasting." Low Power Television Broadcasting, Notice of Proposed Rulemaking, 82 F.C.C. 2d 47, 77 (1980). In *TV 9, Inc. v. FCC*, a landmark case dealing with comparative merit for minority applicants, the court stated "that it is upon ownership that public policy places primary reliance with respect to diversification of content, and that historically has proved significantly influential with respect to editorial comment and the presentation of news." 495 F.2d 929, 938 (D.C. Cir. 1973), cert. denied, 418 U.S. 986 (1974).

Common carrier licensees are often not engaged in the provision of information or mass media services over their facilities which they control. When common carrier licensees do exert such control, by definition they do not exclusively control the content of the information or programming which is transmitted over their facilities. Thus, Section 309(1), as amended by this bill, only requires significant preferences to be applied to licenses or construction permits for any media of mass communications. This permits the Commission to use a lottery without preferences for services such as common carrier "beepers," for which there is a large back-log of applications.

A question arises as to the administration of a lottery in services which may be neither clearly common carrier nor broadcast entities (such as multipoint distribution service), or services in which the applicant may be able to self-select either common carrier or broadcast status (such as the Commission's treatment of the direct broadcast satellite service). The Conferees intend that the Commission apply significant preferences, if it decides to use a lottery system for these services, to the extent that the licensees have the ability to provide under their direct editorial control a substantial proportion of the programming or other information services over the licensed facilities. If such services are treated by the Commission in the future strictly as common carrier services with no ability on the part of the licensee to exercise direct editorial control over a substantial proportion of the

programming offered over its facilities, no preferences need be applied in using a lottery system for those services.

Characteristics of the preferences.—One important factor in diversifying the media of mass communications is the degree of applicants' ownership interest in other media of mass communications. The definition of media of mass communications relevant here includes the entities listed in section 309(1)(3)(C)(i), as amended by this Act, plus daily newspapers, which the Commission has long regarded as important in considering the diversification of the media. See, e.g., Multiple Ownership of Standard, FM and Television Broadcast Stations, Second Report and Order, 50 F.C.C.2d 1046, modified, Memorandum Report and Order, 53 F.C.C.2d 589 (1975), aff'd sub nom., *FCC v. Nat'l Citizens Comm. for Broadcasting*, 436 U.S. 775 (1978); Policy Statement on Comparative Broadcast Hearings, 1 F.C.C.2d 393, 394-95 (1965).

To the degree an applicant for a license or permit for the media of mass communications has controlling interest in no other, or few other, media entities, the policy of diversifying media ownership would be promoted by the grant of the license to such an applicant. Thus, the Conferees intend that in the administration of a lottery to be for granting licenses or construction permits for any media of mass communications, the Commission award a significant media ownership preference to those applicants whose owners control no other media of mass communications. The Conferees believe that the amount of this preference must be no less than a fixed relative preference of 2:1 for each such application. Thus, each such situated applicant must be awarded a preference so that its chances of being granted the license in a lottery are at least doubled from what its chances would be if a straight random selection process without preferences were conducted. Similarly, a media ownership preference should be awarded to those applicants whose owners, when aggregated, have controlling interest (over 50%) in 1, 2, or 3 other media of mass communications. The Conferees believe that the amount of this preference must be no less than a fixed relative preference of 1.5:1 for each such application. No media ownership preference should be awarded to applicants whose owners, when aggregated, have controlling interest (over 50%) in more than other media of mass communications entities.

The Conferees are concerned that the objectives of this media ownership preference scheme might be diluted where there are large numbers of applicants in a given use of a lottery. To help insure that these preferences have appreciable impact on the results of the lottery, adjustments in the preferences awarded may be required where there is a relatively large number of total applicants compared to the number of applicants deserving of the media ownership preference.

The Conferees intend that the Commission assign applicants to groups based on the number of other media of mass communications owned. A specific multiplier (preference) factor should be applied to each applicant in a given group, the factor varying inversely with the number of media of mass communications owned by the applicants in that particular group. After the appropriate preference factor is applied to each preferred applicant, the overall likelihood of selecting an applicant from one of the preferred groups should be calculated. If this probability does not meet or exceed .4, the individual applicant selection probabilities should be recomputed to bring the com-

bined preferred group probabilities to no less than 4 (See *Administering the System of Random Selection, infra*).

A second important factor in diversifying the media of mass communications is the degree of applicants' ownership interest in other media of mass communications which are in, or close to, the community being applied for. See *Policy Statement on Comparative Broadcast Hearings*, 1 F.C.C. 2d 393, 395 (1965). The Commission has recognized the importance of this factor in promulgating local cross-ownership rules barring the common ownership of a VHF television station and an aural (AM or FM radio) station in the same community, *Multiple Ownership of Standard, FM and Television Broadcast Stations, First Report and Order*, 22 F.C.C. 2d 308 (1970), modified, *Memorandum Opinion and Order*, 28 F.C.C. 2d 662 (1971), and barring daily newspaper—broadcast station combinations under common ownership in the same community, *Multiple Ownership of Standard, FM and Television Broadcast Stations, Second Report and Order*, 50, F.C.C. 2d 1046, modified, *Memorandum Report and Order*, 53 F.C.C. 2d 589 (1975), *aff'd sub nom. FCC v. Nat'l Citizens Comm. for Broadcasting*, 436 U.S. 775 (1978).

The Conferees strongly believe that the absence of local ownership concentration should continue to be a factor of major significance in promoting diversity in the licensing process. Where an applicant for a license or permit has controlling interest (over 50 percent) in any other medium of mass communications which would be co-located with the licensed facility sought, it would not promote diversity to give such an applicant a preferred status relative to other applicants. Thus, in the administration of a lottery system to be used for licenses or permits in the media of mass communications, no media ownership preference should be awarded to any applicant whose owners, when aggregated, have controlling interest (over 50 percent) in any medium of mass communications which is licensed to serve, franchised to serve (in the case of a cable television system), or primarily serves (in the case of a daily newspaper) the community of license for which of the grant is sought.

The Conferees expect that the Commission will make certification as to whether or not an applicant has a controlling interest in any media of mass communications in the community of license of the grant sought a prerequisite for an acceptable application for a license or permit for a medium of mass communications. Applicants who do have such ownership interests should be ineligible for a media ownership preference, notwithstanding the possibility that they might otherwise receive a preference by virtue of owning only a few media of mass communications. In sum, awards of licenses which would increase local media ownership concentration, by definition would not further the goal of diversifying media ownership, and thus the Conferees intend that such applications not be eligible for a diversity preference.

A third important factor in diversifying the media of mass communications is promoting ownership by racial and ethnic minorities—groups that traditionally have been extremely underrepresented in the ownership of telecommunications facilities and media properties. The policy of encouraging diversity of information sources is best served by not only awarding preferences based on the number of properties already owned, but also by assuring that minority and ethnic groups that have been unable to acquire any significant degree of media ownership are provided an increased

opportunity to do so. It is hoped that this approach to enhancing diversity through such structural means will in turn broaden the nature and type of information and programming disseminated to the public. The Conferees find that the effects of past inequities stemming from racial and ethnic discrimination have resulted in a severe underrepresentation of minorities in the media of mass communications, as it has adversely affected their participation in other sectors of the economy as well. We note that the National Association of Broadcasters recently reported that of 8,748 commercial broadcast stations in existence in December 1981, only 164, or less than two percent, were minority owned. Similarly, only 32 of the 1,386 noncommercial stations, slightly over two percent, were minority owned.

One means of remedying the past economic disadvantage to minorities which has limited their entry into various sectors of the economy, including the media of mass communications, while promoting the primary communications policy objective of achieving a greater diversification of the media of mass communications, is to provide that a significant preference be awarded to minority-controlled applicants in FCC licensing proceedings for the media of mass communications. The narrowly-drawn preference scheme established in section 309(i), as it is amended by this legislation, is intended to achieve such a purpose. Evidence of the need for such preferential treatment has been amply demonstrated by the Commission, the Congress, and the courts. See, in this regard, *Statement of Policy on Minority Ownership of Broadcast Facilities*, 68 F.C.C.2d 979 (1978); *FCC Minority Ownership Taskforce, Report on Minority Ownership in Broadcasting* (May 17, 1978) at 3, 7-9; and *Fullilove v. Klutznick*, 448 U.S. 448 (1980), and reports cited therein at 467 n.55. As the court stated in *Citizens Communications Center v. FCC*:

The Commission . . . may also seek in the public interest to certify as licensees those who would speak out with fresh voice, would most naturally initiate, encourage, and expand diversity of approach and viewpoint. . . . As new interest groups and hitherto silent minorities emerge in our society, they should be given some stake in and chance to broadcast on our radio and television frequencies.

447 F.2d 1201, 1213 n.36 (D.C. Cir. 1971) (citation omitted).

The Conferees intend that in the administration of a lottery to be used for granting licenses or construction permits for any media of mass communications, the Commission award a significant minority ownership preference to those applicants, a majority of whose ownership interests are held by a member or members of a minority group. The Conferees believe that the amount of this preference must be no less than a fixed relative preference of 2:1 for each such application. For purposes of becoming eligible for this minority ownership preference, individuals who are participants in a group, partnership or corporate entities and who are members of different minority or ethnic groups should be allowed to aggregate their ownership interests to achieve a majority interest in any given application.

It is clear that the current comparative hearing process has not resulted in the award of significant numbers of licenses to minority groups. Many minority applicants are simply unable to participate in comparative hearings which often take a considerable period of time and require substantial economic resources. The Conferees believe that a lottery preference scheme will greatly speed the process of initial licensing awards, and will permit not only greater

numbers of minority groups to apply for licenses, but also will result in the award of a greater proportion of available licenses to minorities than has been the case to date.

It should be noted that such groups as women, labor unions, and community organizations which were mentioned in the legislative history of the lottery statute that was originally adopted, Conference Report on H.R. 3982, Omnibus Budget Reconciliation Act of 1981—Book 2, H.R. Rep. No. 97-208, 97th Cong., 1st Sess. 897 (1981), are all significantly underrepresented in the ownership of telecommunications facilities. Such applicant groups would, of course, be eligible for both media ownership and minority ownership preferences if they meet the eligibility guidelines. The Conferees expect that such groups will also substantially benefit from this lottery preference scheme, and, consequently, the American public will benefit by having access to a wider diversity of information sources.

The operative definition of minority group is found in section 309(i)(3)(ii), as amended by this bill. It is the Conferees' intention that the definitions in Office of Management and Budget Statistical Policy Directive No. 15, "Race and Ethnic Standards for Federal Statistics and Administrative Reporting," be utilized for guidance with regard to any dispute as to an individual's membership in a named group.

The Conferees direct the Commission to report to the Congress annually on the effect of section 309(i)(3) and whether it serves the purposes stated. See generally *Fullilove v. Klutznick*, 448 U.S. 448, 510, 513 (1980). This report should include a statistical breakdown of the characteristics of applicants involved in lottery proceedings, those receiving preferences, and those actually awarded licenses.

The Conferees intend that both a media ownership preference and a minority ownership preference will be available to all eligible applicants. Thus, for example, an applicant, a majority of which is owned by minorities, and whose owners have no controlling ownership interests in the media of mass communications, would receive no less than a cumulative, 3:1 preference over an applicant without preferences. Moreover, an applicant, a majority of which is owned by minorities, but whose owners have controlling interest in four media of mass communications properties or a medium of mass communications serving the community of license of the grant sought, would still receive a minority ownership preference (though not being eligible for a media ownership preference).

With respect to both the media ownership and minority ownership preferences, the Conferees expect that the Commission shall evaluate ownership in terms of the beneficial owners of the corporation, or the partners in the case of a partnership. Similarly, trusts will be evaluated in terms of the identity of the beneficiary.

The Conferees expect that the preferences which will be awarded in the administration of a lottery will result in a real and substantial increase in the diversity of ownership in the media of mass communications and consequent diversification of media viewpoints. The Conferees note that this carefully designed preference scheme could be undermined by the rapid re-assignment or transfer of stations, construction permits, or licenses granted by a lottery. Thus, it is the firm intent of the Conferees that for any mass communications media service in which the Commission determines use of a lottery is appropriate, it should retain its present anti-trafficking rules (47 C.F.R. 73.3597 (1981)) or devise similar protections

to help ensure that the very purposes sought to be achieved by the preference scheme be fulfilled. Moreover, the Commission should require that the applicant that is actually awarded the license certifies that they have not entered into any agreement, explicit or implicit, to transfer to another party after a period of time any station construction permit or license awarded. If those eligible for preferences were simply applying for licenses for the purpose of obtaining a quick profit on the sale of the station once the license is awarded, the entire lottery preference mechanism would be undermined.

Administering the System of Random Selection.—The Commission's administration of the random selection system will differ depending on whether the licenses are to be granted for the media of mass communications or for non-media services. The lottery procedure for the latter is extremely simple, with each applicant for a given license receiving a selection probability of $1/x$, where x equals the total number of applicants.

The random selection system for mass communications media licenses, on the other hand, must take into account preferences for ownership of few or no mass communications media entities, and preferences for minority ownership, along with the total number of applicants for a given license.

The Conferees intend that the media ownership preference be computed prior to the minority ownership preference. Those applicants with no controlling ownership in mass communications media should receive a fixed relative preference of 2:1; applicants with controlling interest in one, two, or three mass communications media entities should receive a fixed relative preference of 1.5:1. Applicants with controlling interest in more than three mass communications media entities or in at least one entity serving the city of license should receive no media ownership preference. Following the award of media ownership preferences (where applicable), each applicant's selection probability should be normalized (i.e., adjusted to reflect its actual probability of being selected), taking into account the total number of applicants in the lottery.

The Conferees are concerned that their objective of increasing media diversity by granting preferences in the administration of a lottery system will be diluted in instances where the number of applicants for a given license is large. It is important to ensure that the media ownership preference will have an appreciable impact on the results of the selection process. The award of preferences, therefore, is not only intended to ensure that the lottery process is conducted in a way which guarantees the consideration of certain criteria which are of primary significance in the comparative hearing process, but it is also intended to create a process which is highly outcome-oriented in terms of furthering the actual granting of licenses to those applicants who would most further diversity objectives.

Thus, the Commission must ensure that the sum of the selection probabilities of all applicants deserving of a media ownership preference be no less than .40 for any given instance in which the lottery is being used, even if after the award of the media ownership preference the aggregated selection probabilities of all such applicants awarded this preference totals less than 40 percent. The Conferees intend that this be accomplished by adjusting the normalized selection probabilities of each applicant deserving of a media ownership preference, where necessary, to ensure that the sum of the selection probabilities for all such applicants be at least .40. Following this adjustment (where applicable), the selection probability

of applicants not deserving of a media ownership preference should again be normalized.

After making all the necessary adjustments for ownership preferences (where applicable), each minority controlled applicant should receive a fixed relative preference of 2:1. This minority ownership preference should be awarded in addition to any media ownership preference to which a particular applicant may be entitled. Following the award of minority ownership preferences (where applicable), each applicant's selection probability should again be normalized to arrive at the final selection probability for that particular use of the lottery.

The following step-by-step procedure, to which the Conferees and the Commission have agreed following extensive staff discussions, establishes the process for the Commission to follow in the administration of a lottery to be used for granting licenses for any media of mass communications. This detailed procedure offers the Commission guidance to correct its previous failure to implement a lottery system.

A. Divide the total number of applicants into 100 to find the individual applicant selection probabilities without adjustment for preferences.

B. Identify all applicants by ownership group according to the following table:

<i>Group, ownership of mass communications media, and preference factor</i>	
1—no controlling ownership interest.	2.0
2—controlling interest in 1-3 entities	1.5
3—controlling interest in more than 3 entities or in at least 1 entity	1.0

C. Multiply the selection probabilities for each applicant from Step A by the appropriate preference factor from Step B.

D. Normalize all probabilities using the following formula: Intermediate probability for each applicant = applicant's Step C probability divided by sum of all applicants' Step C probabilities.

E. Sum the probabilities from Step D by group. Then sum the probability totals from Groups 1 and 2. If this sum is greater than .40, skip Step F and go on to Step G. If this sum is less than .40, each applicant in Groups 1 and 2 will have its intermediate probability raised as follows:

(1) Compute the quotient of .4 divided by sum of the probability totals from Groups 1 and 2;

(2) the new intermediate probabilities are then computed as: intermediate probability for each applicant = applicant's Step D probability times quotient from (1) above.

F. Normalize the probabilities not altered in Step E (i.e., Group 3—those with no media ownership preference) using the following formula: intermediate probability for each Group 3 applicant = .6 divided by number of Group 3 applicants.

G. Identify minority controlled applicants. H. Multiply the intermediate probabilities of the minority controlled applicants by 2.0.

I. Normalize all probabilities using the following formula: Final probability of selecting any applicant = intermediate probability of applicant divided by sum of all intermediate probabilities.

The following hypothetical situation illustrates this procedure. Assume that there are ten mutually exclusive applications for a given license for a medium of mass communications, with the following characteristics:

<i>Applicant and minority status</i>	<i>Media ownership</i>
1—nonminority ...	owns 1 other media property.
2—nonminority ...	owns 4 other media properties.

<i>Applicant and minority status</i>	<i>Media ownership</i>
3—nonminority ...	owns 4 other media properties.
4—nonminority ...	owns 4 other media properties.
5—nonminority ...	owns 4 other media properties.
6—nonminority ...	owns 4 other media properties.
7—nonminority ...	owns 4 other media properties.
8—nonminority ...	owns 4 other media properties.
9—minority	owns no other media properties.
10—minority	owns 4 other media properties.

Step A: Total number of applicants equals 10. Individual applicant selection probabilities without preferences equals 10/100 equals .10

STEP B

<i>Applicant</i>	<i>Number of media properties owned</i>	<i>Group</i>
1.....	1	
2 to 8.....	4	
9.....	0	
10.....	4	3

Step C.—Applicant and selection probability multiplied by preference factor

1.....	.1(1.5) = .15
2.....	.1(1.0) = .10
3.....	.1(1.0) = .10
4.....	.1(1.0) = .10
5.....	.1(1.0) = .10
6.....	.1(1.0) = .10
7.....	.1(1.0) = .10
8.....	.1(1.0) = .10
9.....	.1(2.0) = .20
10.....	.1(1.0) = .10
Total	1.15

Step D.—Applicant and step C probabilities divided by sum of all probabilities

1.....	.15/1.15 = .1304
2 to 8.....	.10/1.15 = .087
9.....	.20/1.15 = .1739
10.....	.10/1.15 = .087

Step E: Group 1 probabilities and Group 2 probabilities = .1739 + .1304 = .3043

Since .3043 < .40, each Group 1 and Group 2 applicant will have its intermediate probability adjusted as follows:

(1) .4 divided by the sum of the probability totals for Groups 1 and 2 equals .4 divided by .1739 + .1304 equals .4 divided by .3043 equals 1.314.

(2) For Group 1: .1739(1.314) equals .2285. For Group 2: .1304(1.314) equals .1713.

Step F: Each Group 3 applicant's probability equals .6 divided by the number of Group 3 applicants equals .6 divided by 8 equals .075.

Step G: Only applicants 9 and 10 are minority controlled.

Step H.—Applicant and probability with minority ownership factor

1.....	.1713(1.0) = .1713
2.....	.075(1.0) = .075
3.....	.075(1.0) = .075
4.....	.075(1.0) = .075
5.....	.075(1.0) = .075
6.....	.075(1.0) = .075
7.....	.075(1.0) = .075

Step H.—Applicant and probability with minority ownership factor—Continued

8.....	.075(1.0) = .075	
9.....	.2285(2.0) = .457	
10.....	.075(2.0) = .150	
Total.....		1.3033

Step I.—Applicant and final probability

1.1713/1.3033 = .1314 ...		
2.....	.075/1.3033 = .0575	
3.....	.075/1.3033 = .0575	
4.....	.075/1.3033 = .0575	
5.....	.075/1.3033 = .0575	
6.....	.075/1.3033 = .0575	
7.....	.075/1.3033 = .0575	
8.....	.075/1.3033 = .0575	
9.....	.457/1.3033 = .3506	
10.....	.150/1.3033 = .1151	
Total.....		.9996

AGREEMENTS RELATING TO WITHDRAWAL OF CERTAIN APPLICATIONS

House bill

The House bill contained no provision

Senate amendment

This provision amends Section 311(c) of the Act to impose identical standards and further the same goals in proceedings involving competing applications for new broadcast facilities as those used when applications are withdrawn during renewal proceedings.

Conference substitute

The conference substitute adopts the Senate provision.

Section 311(d) of the Act was amended by the Omnibus Budget Reconciliation Act of 1981 to provide that, in broadcast renewal proceedings involving mutually exclusive applications, the Commission shall approve any agreement between the applicants where one or more of the applicants agrees to withdraw its application in return for valuable consideration. However, the Commission first must determine that the agreement is consistent with the public interest and that no party to the agreement filed its application for the purpose of entering such an agreement. Section 311(d) was intended to prevent the filing of frivolous applications calculated to harass an incumbent or coerce payment of expenses to the competing applicant. This provision imposes identical standards and furthers the same goals in proceedings involving competing applications for new broadcast facilities.

The Conferees recognize that in relative terms there are more Commission proceedings involving competing applicants for new facilities than there are proceedings involving license renewal applicants and competing applicants. Similarly, there are relatively more dismissal agreements between competing applicants for new facilities than there are between incumbent licensees and their competing applicants. These dismissal agreements generally serve the public interest because they often avoid lengthy hearing appeals, thus expediting the start of the new broadcast service involved in the proceeding. This public interest benefit would be substantially reduced, if not eliminated altogether, were the Commission required in every case to incur the costs and delays of determining whether the application to be dismissed was filed for the purpose of entering into a dismissal agreement.

It is not the intention of the Conferees that such proceedings be held in every case involving a dismissal agreement. Accordingly, in enacting regulations to implement this provision, the Conferees expect the Commission to create a procedure whereby this question can be resolved expeditiously. For example, Section 73.3525(a) of the Commission's rules, 47 C.F.R. 73.3525(a), currently requires each party to a dismissal agreement to submit an affidavit setting forth all relevant facts about the agreement (i.e., nature of consideration paid, history of negotiations, etc.). These parties also could be required to state the circumstances surrounding the filing of their respective applications. Further proceedings would be required only if, after reviewing these affidavits, there remained a question of whether the applications had been filed in good faith for the purpose of actually obtaining the license.

This provision also makes a clarifying change to Section 311(d) of the Act.

WILLFUL OR REPEATED VIOLATIONS

House bill

The House bill contained no provision.

Senate amendment

This provision defines the terms "willful" and "repeated" for purposes of Section 312, and for any other relevant section of the Act (e.g., Section 503).

Conference substitute

The conference substitute adopts the Senate provision.

Section 312 of the Communications Act of 1934 presently provides in part that the Commission may revoke any station license or construction permit for willful or repeated failure to operate substantially as set forth in the license, for willful or repeated violation of any provision of the Communications Act of 1934, Commission rule, or treaty, and for willful or repeated failure to allow reasonable access to legally qualified candidates for Federal elective office. Section 503 provides in part that the Commission may impose forfeitures for willful or repeated failure to comply with license terms and conditions, or for willful or repeated failure to comply with the Act, any Commission rule, or treaty.

As defined in the Conference Substitute, "willful" means that the licensee knew that he was doing the act in question, regardless of whether there was an intent to violate the law. "Repeated" means more than once, or where the act is continuous, for more than one day. Whether an act is considered to be "continuous" would depend upon the circumstances in each case. The definitions are intended primarily to clarify the language in Sections 312 and 503, and are consistent with the Commission's application of those terms in Midwest Radio-Television Inc., 43 F.C.C. 1137 (1963).

The Conferees intend that these new statutory definitions as applied to Section 312(a)(7) of the Act be read in conjunction with past Commission decisions and court precedent with respect to providing reasonable access to Federal candidates.

APPLICABILITY OF CONSTRUCTION PERMIT REQUIREMENTS TO CERTAIN STATIONS

House bill

The House bill contained no provision.

Senate amendment

This provision deletes obsolete language from Section 312(a) of the Communications Act of 1934.

Conference substitute

The conference substitute adopts the Senate provision.

AUTHORITY TO ELIMINATE CERTAIN CONSTRUCTION PERMITS

House bill

The House bill contained no provision.

Senate amendment

The Senate provided that construction permits shall not be required for public coast stations, privately owned fixed microwave stations, or stations licensed to common carriers, unless the Commission makes a public interest finding that such permits are necessary.

Conference substitute

The conference substitute adopts the Senate provision.

Currently, most prospective radio licenses must follow a two-step procedure to obtain operating authority—first applying for a construction permit and then for a station license. The Conferees believe this requirement in some cases may delay market entry and place an unnecessary administrative and financial burden on both the potential licensee and on the Commission.

The present procedures for government stations, amateur stations, and mobile stations—for which construction permits are not required—remain unchanged by the Conference Substitute. Broadcasting stations must still comply with the existing two-step procedure. With respect to any other station or class of stations, the Commission shall not waive the construction permit requirement unless it determines that the public interest would be served by such a waiver.

PRIVATE LAND MOBILE SERVICES

House bill

The House bill contained no provision.

Senate amendment

The Senate clarified the treatment of land mobile services under the Communications Act of 1934.

Conference substitute

The conference substitute adopts the Senate provision.

This provision makes a number of additions and revisions to Sections 3 and 331 of the Communications Act of 1934, which will be discussed by subsections.

Subsection 331(a).—The Communications Act of 1934 contains no guidelines for the FCC to follow in managing the spectrum to be made available for the private land mobile services, other than its broad statutory authority to promote the "public interest, convenience, and necessity." The Conferees believe such guidelines are necessary since these services have a direct and substantial impact on the public welfare and the economy. Subsection 331(a) sets forth general principles that are to guide the Commission in taking actions to manage the spectrum made available for use by the private land mobile services, as defined in new subsection 3(gg) of the Communications Act. Private land mobile service includes those services described in new paragraph 331(c)(1).

In managing these services, the Commission should take actions which will promote safety, improve spectrum efficiency, reduce the users' regulatory burden, encourage competition, provide services to the largest number of users, or increase interservice sharing opportunities with these and other services. These guiding principles are not intended to be exclusive. The Commission may consider, consistent with the other provisions of the Act, any other relevant factors in the public interest. Moreover, not all of these guidelines need be considered in each individual case. All are important goals. The Commission may wish to focus

its efforts on one or more in each instance, varying its emphasis with each particular case.

The Commission should be ever vigilant to promote the private land mobile spectrum needs of police departments and other public agencies which need to use such radio services to fulfill adequately their obligations to protect the American public. The Conferees are particularly concerned about radio services which are necessary for the safety of life and property and urges the Commission to carefully consider the legitimate needs of public safety agencies in managing the private land mobile spectrum.

The Conferees believe that implicit in the guidelines enumerated in subsection 331(a) is the principle that the Commission may not employ auctions in managing the spectrum made available for use by the private land mobile services. The Conferees are concerned that use of an auction—that is, selling frequency space to the highest bidder—or a similar method which turns upon a user's monetary ability to pay for a frequency allocation will work to the detriment of an efficient and competitive private land mobile spectrum. Thus, by providing the guidelines in this subsection, the Conferees intend to specifically prohibit the Commission from employing auctions or similar economic methods in managing the private land mobile spectrum. However, this prohibition should not be construed to limit the ability of the Commission to use lottery procedures for purposes of granting private land mobile licenses, or to impose reasonable fees upon a private land mobile licensee after the grant of the license.

Subsection 331(b).—The Conferees recognize the value of the assistance provided to the Commission by non-Federal Government advisory coordinating committees in the frequency assignment process for the private land mobile and fixed services. Subsection 331(b) specifically authorizes the Commission to utilize the services of such committees.

The number of licensees and users in the private land mobile and fixed services is already large. There are now approximately 850,000 stations in these services and there are almost 25,000 applications received each month for private land mobile and fixed station licenses. The number of licenses is expected to increase even more dramatically in the future. See *Future Private Land Mobile Requirements*, Notice of Inquiry, FCC 82-2, PR Docket No. 82-10, released January 26, 1982.

From the data on record with the FCC, the Conferees are convinced that the frequency coordinating committees not only provide for more efficient use of the congested land mobile spectrum, but also enable all users, large and small, to obtain the coordination necessary to place their stations on the air. Without such frequency coordinating committee activity, some of these applicants would not be able to afford the engineering required in the applications process. Thus, by essentially equalizing the frequency selection process for all applicants, the applicants are placed on a competitive parity, with no one applicant operating on a better or more commercially advantageous frequency than his or her competitor. The Conferees note that this pro-competitive aspect of frequency coordination is of particular importance to small business operators.

To further promote fairness in frequency allocation, the Conferees encourage the Commission to recognize those frequency coordinating committees for any given service which are most representative of the users of that service. The Conferees also encourage the Commission to develop rules or

procedures for monitoring the performance of coordinating committees.

The Conferees note that the Commission presently accepts applications for private land mobile services licenses which are based on appropriate field study coordination techniques. See 47 C.F.R. 90.175 (1981). In adopting these provisions authorizing the Commission's use of advisory coordinating committees for coordinating the assignment of frequencies to stations in private land mobile service and in the fixed services, the Conferees do not intend to mandate the elimination of frequency coordination by way of field study engineering reports. The FCC would thus have the discretion to conduct frequency coordination through use of a frequency coordinating committee or by accepting the submission of a field study report, as the Commission determines best serves the public interest.

The section also makes it clear that advisory committee personnel retain their private sector status. They are not to be considered employees of the United States Government and they are not covered by the provisions of either 5 U.S.C. 2101 et. seq. or 31 U.S.C. 685(b) (1978). Finally, this section makes it clear that any committee which assists the Commission in this regard is not subject to the provisions of the Federal Advisory Committee Act.

Subsections 331(c) and 3(gg).—The purpose of adding Subsections 3(gg) and 331(c) to the Communications Act of 1934, as amended, is threefold:

(1) to provide a definition of private land mobile service;

(2) to delineate the distinction between private and common carrier land mobile services; and,

(3) to specify the appropriate authorities empowered to regulate these same services.

The Communications Act of 1934, as amended, does not include a definition of the private land mobile services. New subsection 3(gg) adds this definition and thereby provide explicit Congressional support and guidance for existing and future FCC regulation of these services. The definition adopted herein encompasses the myriad of radio systems utilized by these governmental, commercial, industrial and transportation licensees which range from small relatively uncomplicated two-way dispatch systems, to complex ones involving multiple transmitters to cover wide areas. The private land mobile services currently consist of the following radio services: local government, police, fire, highway maintenance, forestry conservation, special emergency, power, petroleum, forest products, motion picture, relay press, special industrial, business, manufacturers, telephone maintenance, motor carrier, railroad, taxicab, automobile emergency, and radiolocation. The Conferees expect the Commission to add, modify, or delete private land mobile services as the need arises, consistent with the guidelines specified in subsection 331(a).

New Subsection 331(c) both establishes a clear demarcation between private and common carrier land mobile services and specifies that only the latter may be regulated on a common carriage basis. By contrast, no person, participating in the private land mobile services, whether as a licensee, equipment supplier or otherwise, shall be classified as a common carrier with respect to its participation in these services. The distinction between private and common carrier land mobile services is the subject of considerable litigation between private land mobile operators and radio common carriers before the FCC and the courts. The Conferees believe that establishing this demarcation in the Communications Act of 1934

would serve the public interest by resolving much of this litigation.

The basic distinction set out in this legislation is a functional one, i.e., whether or not a particular entity is engaged functionally in the provision of telephone service or facilities of a common carrier as part of the entity's service offering.¹ If so, the entity is deemed to be a common carrier. If not, it clarifies that private systems may be interconnected with the public switched telephone network under the tests in subsections 331(c)(1) (A) and (B), and the entity providing the base station facility or service is nonetheless providing private land mobile service. With respect to the land mobile services, this test supersedes the traditional common law test of indifferent service to the public established in *National Association of Regulatory Utility Commissioners v. ECC*, 525 F.2d 630 (1976), cert. denied, 425 U.S. 992 (1976).

To implement this distinction, subsection 331(c)(1) provides for the following: (a) classifies the various types of shared radio systems currently licensed in the private land mobile services (e.g., specialized mobile radio and multiple licensed systems) as "private" (i.e., non-common carrier) radio systems; (b) authorizes the entrepreneurs involved in such systems (i.e., licensees, equipment suppliers or any other third party) to offer their services or facilities to eligible users "indiscriminately" or otherwise, as their discretion and marketplace forces may dictate; and (c) prohibits such shared systems from being interconnected with common carrier facilities if the licensees or entrepreneurs are engaging in the resale of telephone service or facilities.

Section 331(c)(2) further specifies that radio dispatch systems are not authorized in the domestic public (common carrier) land mobile service with the exception of those stations authorized as of January 1, 1982.² In substance, the bill deregulates dispatch service, except for "grandfathered" common carrier stations, and requires that it be provided on an unregulated basis in the private land mobile services. The Conferees are informed that current use of common carrier stations to provide dispatch service is de minimis. Thus, while such stations licensed in the domestic public land mobile radio service (47 C.F.R. 22.500, et seq. (1981)) prior to January 1, 1982, may continue to add customers and locations, this limited exception should not impair the Conferees' objective of assuring that frequencies allocated for use by radio common carriers are not devoted to dispatch service to any significant extent.

Nothing in Subsection 331(c), however, should be construed to bar persons who are otherwise licensed as common carriers from providing dispatch service in the private land mobile services; nor should it be construed to impair the ability of common carriers to compete for any class or type of customer for their services. Thus, for example, if a plumber or taxi company or a police department has radio communication needs that can be satisfied through service provided by a cellular radio operator, this section interposes no objection. Moreover, Sec-

¹ See, e.g., *Resale and Shared Use of Common Carrier Services*, 60 F.C.C.2d 361 (1976), on recon. 62 F.C.C.2d 538 (1977), aff'd sub nom. *American Tel. & Tel. Co. v. ECC*, 572 F.2d 17 (2d Cir. (1978)), cert. denied, 439 U.S. 875 (1978).

² Common carriers are presently authorized to provide both "general" and "dispatch" two-way communication services. See 47 C.F.R. 22.501(a), (b), (c); 22.911(d) (1981). Only "dispatch" service would not be permitted by the Conference Substitute; neither "general" service nor one-way paging service is affected.

tion 331(c) does not bar common carriers from providing interconnected services or facilities to users of licensees of stations licensed in the private land mobile services, via a base station or through interconnection on the user's premises. Only if a private land mobile operator or licensee is reselling for profit interconnected common carrier services is the interconnection prohibited. This will assure that frequencies allocated essentially for purposes of providing dispatch services are not significantly used to provide common carrier message service.

Subsection 331(c)(3) delineates the jurisdiction of state and local governments with respect to the land mobile services, consistent with the demarcation between private and common carrier service established by the bill. State and local authority is entirely preempted with respect to the activities of any person operating within the private land mobile services. Conversely, however, the states retain full jurisdiction to engage in the economic regulation of common carrier stations (i.e., regulation of entry, rates and practices) consistent with Sections 2(b) and 221(b) of the Communications Act of 1934 (47 U.S.C. 2(b), 221(b) (1976)), to the extent they deem it necessary in the public interest to do so. Similarly, the Commission's exclusive radio licensing authority under Title III of the Communications Act is maintained. Nothing in this subsection shall be construed as prohibiting the Commission from forbearing from regulating common carrier land mobile services; however, the Commission may not use its licensing powers to circumvent limitations in its economic regulatory jurisdiction over common carrier stations.

Subsection 3(n).—Finally, the definition of mobile service presently contained in Section 3(n) of the Communications Act of 1934 (47 U.S.C. 153(n) (1976)) would be amended so as to include clearly one-way paging service as well as two-way radio communication services.

NOTICES OF APPEAL

House bill

The House bill contained no provision.

Senate Amendment

The Senate shifted the burden from the Commission to the appellant or petitioner when a Commission action is appealed.

Conference substitute

The conference substitute adopts the Senate provision.

The Conferees believe that since the Commission is the appellee in proceedings filed with the U.S. Court of Appeals to review Commission actions, the party seeking review of a Commission decision is the party best able to carry out the relevant notice obligations, and thus should be required to notify all interested parties.

The Conferees intend that the term "interested parties" include only the formal participants in a Commission action, i.e., informal commentators in a rulemaking proceeding need not be individually notified of an appeal of a final order in that proceeding. The Conferees direct the Commission to assist appellants and petitioners in compiling lists of formal participants in order to facilitate the notification process.

This section also removes the requirement that the Commission present the decision-making record to the court within 30 days after an appeal is filed, leaving such procedures to be controlled by the Federal Rules of Appellate Procedure, which provides that the record must be filed with the court within 40 days after the Commission is served with the notice of appeal. F.R.A.P. Rule 17, 28 U.S.C. (1976).

COMPUTATION OF CERTAIN FILING DEADLINES

House bill

The House bill contained no provision.

Senate amendment

The Senate amended Section 405 of the Communications Act by providing that specified pleading periods for seeking agency reconsideration or judicial review of Commission decisions commence from the date on which the Commission gives "public notice" of its decisions.

Conference substitute

The conference substitute adopts the Senate provision.

Recently, the Commission adopted rules which refine the meaning of "public notice." Addition of New Section 1.103 to the Commission's Rules, Amendments to Section 1.4(b), Report and Order, 85 F.C.C.2d 681 (1981).

By adopting these rules, the Commission determined that public notice, as that term is used in Section 405, only can take the form of a written document. See Section 1.4(b) of the Commission's rules as amended, 47 C.F.R. 1.4(b) (1981). The kind of written document constituting public notice will be governed generally by the kind of proceeding that is involved. For example, in notice and comment rulemaking proceedings, public notice of a final Commission decision will occur on the date such decision is published in the Federal Register. See Section 1.4(b)(1) (1981). For most non rulemaking proceedings, public notice of a final Commission decision will occur when the full text of that decision is made available to the public at the Commission's headquarters. See Section 1.4(b)(2) (1981). See also, Section 1.4(b) (3) and (4) (1981) which describe the other two kinds of written public notice the Commission may give. The Conferees believe that in rulemaking proceedings it is important that the public have the opportunity to obtain a copy of the full text of the Commission decisions before pleading periods for appeal begin. See 47 C.F.R. 1.4(b)(1) (1981). The provision of the Conference Substitute is premised on the present FCC rules remaining in effect.

EFFECTIVE DATE OF CERTAIN COMMISSION ORDERS

House bill

The House bill contained no provision.

Senate amendment

The Senate amended Section 408 of the Communications Act of 1934 and clarifies the Commission's authority to specify the effective date of its decisions.

Conference substitute

The conference substitute adopts the Senate provision.

Absent this provision, the unamended language of Section 408 appears to provide that no orders of the Commission (other than orders involving the payment of money) could become effective until thirty days after such orders became final. However, the legislative history shows that Section 408 was not intended to totally restrict Commission flexibility with respect to such matters. The Conferees intend that Section 408, as amended by this provision, will make clear that Commission decisions shall become effective 30 days after public notice is given unless the Commission, in its discretion, specifies a different effective date. The Conferees also note that current Commission rules are consistent with this provision.

APPLICATION OF FORFEITURE REQUIREMENTS TO CABLE TELEVISION SYSTEM OPERATORS

House bill

The House bill contained no provision.

Senate amendment

The Senate amended Section 503(b)(6) of the Communications Act of 1934 to make clear that the Commission may impose forfeitures on cable system operators without first, among other steps, issuing a warning and providing the opportunity for comment. It is not clear under current law whether the Commission must comply with these and other procedures before taking forfeiture action against cable system operators.

Conference substitute

The conference substitute adopts the Senate provision.

This amendment to Section 503(b)(5) makes clear that, for purposes of the forfeiture provisions of the act, cable system operators are to be treated in the same manner as licensees or other holders of Commission authorizations. This amendment ratifies current Commission practice.

FORFEITURE OF COMMUNICATIONS DEVICES

House bill

The House bill contained no provision.

Senate amendment

The Senate added a new Section 510 to the act to permit courts to be directed to seize and retain illegal radio equipment or unlicensed equipment used in violation of the act, thus preventing its continued operation.

Conference substitute

The conference substitute adopts the Senate provision.

Section 302 of the Communications Act of 1934 empowers the Commission to prohibit the manufacture, import, sale, shipment or use of radio equipment that may cause severe interference problems. Additionally, Section 301 requires the Commission to license radio stations in the United States. In carrying out these statutory responsibilities, the Commission has repeatedly encountered situations where, notwithstanding the conviction or judgment against an individual for violating one of these sections, the court has returned the illegal equipment to the defendant.

The Conference Substitute provision remedies this problem. This new authority will apply only in cases where warrants are properly obtained and served by law enforcement officers and upon a judgment rendered in United States District Court. The Conferees intend this provision to apply only to those violations that involve willful and knowing intent or gross negligence.

EXEMPTION APPLICABLE TO AMATEUR RADIO COMMUNICATIONS

House bill

The House bill contained no provision.

Senate amendment

The Senate permitted self-enforcement of non-compliance of Commission policies by amateur radio operators.

Conference substitute

The conference substitute adopts the Senate provision.

The amateur radio service has long enjoyed the reputation of being largely self-regulating. The amateurs have kept their bands in order with minimal enforcement activity by the Commission. It is critical that amateurs be allowed to continue this self-enforcement because the number of amateurs is increasing at a steady rate, and because the Federal Communications Commission's Field Operations Bureau is unable to monitor amateur radio to any great extent due to its limited resources. From time to time enforcement problems do arise, to which amateurs must and do respond

with efforts to bring any noncompliant action into full compliance with amateur rules. For example, one amateur operator might inform another that he was engaging in prohibited transmission of commercial traffic or use of indecent language which should be discontinued. This has worked in an overwhelming number of cases.

There are very few cases involving continued noncompliant behavior, and those have in the past been handled by amateur operators. However, even here amateurs can be helpful through proficient use of direction-finding techniques. Utilizing these techniques and taping on-air conversations on unlicensed or licensed persons on amateur bands, amateurs have saved countless hours of FCC Field Operations staff time in identifying the source of illegal transmissions on the amateur bands.

Questions have arisen from time to time concerning the applicability of Section 605 of the Communications Act to amateur radio. Section 605, which is intended to protect the privacy of persons engaged in wire or radio communications, expressly exempts certain communications, as follows: "This section shall not apply to the receiving, divulging, publishing, or utilizing the contents of any radio communication which broadcast or transmitted by amateurs or others for the use of the general public, or which relates to ships in distress."

Amateurs in the past have been considered exempt for the privacy provisions of Section 605 by virtue of the language cited. However, recent interpretations have held that amateur transmissions, other than general calls for a contact from any other station, are subject to the secrecy provisions of Section 605. *Reston v. F.C.C.*, 492 F. Supp. 697 (D.D.C. 1980). The U.S. District Court for the District of Columbia in *Reston* painstakingly reviewed the legislative history of Section 605 in the hope of ascertaining Congressional intent with regard to amateur transmissions as referenced in the last sentence of that section. The Court, frustrated at the lack of clear expression of legislative intent regarding the matter, held that amateur radio transmissions are not exempt from Section 605 unless they are transmissions "for the use of the general public."

The problem with this interpretation is that it precludes amateur radio operators from disclosing the contents of transmissions heard on the amateur bands, even illegal transmissions. Thus, amateurs are prohibited from working together to locate and monitor illegal transmissions and unlicensed operators. Nor can amateurs be of as much assistance to Commission enforcement personnel, because amateurs cannot disclose to Commission personnel the content of transmissions received. This has already had an adverse effect on amateur self-policing efforts.

All amateur and CB radio operators may use any of the channels allocated to their services. Thus, these operators do not enjoy any reasonable expectation of privacy, a right which Section 605 is intended to protect. Therefore, this section of the Conference Substitute expressly exempts the amateur and CB radio services from the prohibitions in Section 605. The Conferees believe that self-enforcement efforts on both the amateur and CB radio services should be encouraged, and that this provision will promote such self-regulation without unduly infringing upon individuals' privacy rights.

TECHNICAL AMENDMENTS

House bill

The House bill contained no provision.

Senate amendment

The Senate made certain technical modifications to the Communications Act of 1934, including Section 405 and its heading, where the term "reconsideration" is substituted for the term "rehearing."

Conference substitute

The conference substitute adopts the Senate provision.

The term "reconsideration" has come to be used customarily in Commission practice and is used in the Commission's rules. The modification of terms will not change the operation of this section 405.

AMENDMENTS TO OTHER LAW

House bill

The House bill contained no provision.

Senate amendment

The Senate provided that offenses against Commission officers or employees assigned to perform investigative, inspection or law enforcement functions will be punished in the same manner and to the same degree as are offenses against the federal employees now specified in this section.

Conference substitute

The conference substitute adopts the Senate provision.

Section 1114 of Title 18 of the U.S. Code imposes specific sanctions against individuals who interfere with or harm certain federal employees who may be assaulted, intimidated or interfered with in the performance of their duties. Commission employees are not now specifically entitled to the protection offered under this statute.

TITLE II

NTIA AUTHORIZATION

House bill

The House bill contained no provision.

Senate amendment

The Senate authorized appropriations for NTIA at \$12.4 million for FY 1983.

Conference substitute

The Conference Substitute adopts the Senate provisions with the following change. The Conferees agreed that NTIA would be authorized for two years at \$12.9 million for FY 1983 and \$11.8 million for FY 1984. The amounts authorized are below that currently authorized for NTIA. The reduction is based on a change in the functions of the agency; NTIA's level of involvement in Federal regulatory proceedings will be substantially lower than that in prior years.

The Conferees do not expect NTIA to eliminate the Public Telecommunications Facilities Program (PTFP), and expect that the authorization of \$15 million in fiscal year 1983 for the PTFP as contained in Public Law 97-35, will be appropriated by Congress.

The PTFP has brought public broadcasting service to states like Arizona, South Dakota, New Mexico, Nevada, and Colorado, where no service would otherwise exist. The Committee expects this program to continue since many areas of the country are yet to be served. An adequate level of funding has to exist to accomplish this end.

There are a number of functions currently performed by NTIA which are either inappropriate for that particular agency, or expendable in light of constraints upon federal funds. In particular, both the Telecommunications Protection program and the Federal Facilities Review program are eliminated under the Administration's request. The Conferees do not object to the elimination of these programs. However, the Conferees are disturbed that the Biomedical Feedback Group, which is concerned with

non-ionizing radiation, is being eliminated under the Administration's request. The Conferees agree that this type of biological research should not fall within the purview of NTIA, which has no authority to issue a standard on non-ionizing radiation. However, the Conferees believe that research should continue, under the auspices of a more appropriate agency, such as the National Institute of Health or the Environmental Protection Agency. The Conferees are aware of the budgetary constraints upon each of these agencies, but encourage NTIA to make available its research and experience so that the effects of non-ionizing radiation are better understood.

STUDY OF LONG-TERM TELECOMMUNICATIONS GOALS

House bill

The House bill contained no provision.

Senate amendment

The Senate required that NTIA conduct a study of the long term telecommunications and information goals of the United States, and the policies which are necessary to achieve them.

Conference substitute

The Conference Substitute adopts the Senate provisions with certain changes. The Conferees accepted the Senate provision regarding a study on the telecommunications and information goals of the United States, but included stipulations which serve to focus the study on international telecommunications and information policies. The Conference Agreement also contains a restriction on the release of information which could harm U.S. commercial interests in international trade.

The Conferees agreed that ascertaining the goals and objectives of its international telecommunications and information policies by the United States is of great importance. The Conferees also agreed that the U.S. government should be organized in such a way so as to maximize the ability of the United States to realize its goals in international negotiations.

The Conferees expect NTIA to play a significant role in the formulation of international telecommunications policy by the Executive Branch. The United States faces a rising challenge to its technological telecommunications leadership from foreign firms, many of them directly or indirectly supported by their governments. In the area of information services, there has been an increase in barriers to U.S. service offerings, limits on transmission facilities, problems of entry into foreign markets and restrictions on the flow of information across the national boundaries.

The U.S. government must establish a long range strategy that will promote and protect U.S. interests. NTIA must exercise leadership in the development of that strategy.

The Conferees were concerned that, in the course of conducting the study, data might be released which could enable foreign PTT administrations to harm U.S. commercial interests in international trade. This concern is grounded in the increasing potential for restrictions on the transmission of data across national boundaries; and in various restrictions to telecommunications facilities under discussion in other countries.

In the event that usage or traffic data is released to the public, it would then be possible for these PTT administrations to target restrictions on those industries or sectors which are most vulnerable. The Conferees admonish the Administration to respect the need to avoid giving foreign PTT

administrations any information which could be used against American companies doing business abroad. Such information must be kept confidential.

JOHN D. DINCCELL,
TIMOTHY E. WIRTH,
JAMES T. BROYHILL,
Managers on the Part of the House.
BARRY GOLDWATER,
TED STEVENS,
HOWARD W. CANNON,
Managers on the Part of the Senate.

PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 4961, TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Mr. BOLLING, Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 569 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 569

Resolved, That upon the adoption of this resolution, it shall be in order, any rule of the House to the contrary notwithstanding, to consider the conference report on the bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes, all points of order against said conference report are hereby waived, and said conference report shall be considered as having been read when called up for consideration. After debate in the House on said conference report, which shall continue not to exceed four hours, three hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, 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 Public Works and Transportation, the previous question shall be considered as ordered on the adoption of the conference report without intervening motion, except one motion to recommit which may not contain instructions, on which the previous question shall be considered as ordered.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, this rule, which makes in order the tax bill, is a very straightforward, very tight rule. It waives all points of order against the conference report. It does not allow amendments. It therefore is a closed rule. It allows the minority to offer a motion to recommit without instructions.

Perhaps at a later date I will talk a little bit about the philosophy with regard to that, but I should not think that thoughtful Members will give very serious consideration to changing this rule. The reason I say this is that it is very much in line with the philosophy of considering a conference report.

We are at the end of a complicated and difficult process, a process in which most of the difficult work is done by a great many people whose names are not even known, who worked in both committees. I am talking about Members, as well as staff, and I do not deny for a minute that there were plenty of lobbyists involved. But the leaders of this effort were four people that I have never seen work together before. I think that is terribly important. The leaders of this effort were BOB DOLE, RUSSELL LONG, DAN ROSTENKOWSKI, and BARBER CONABLE. You could hardly put together four people with more divergent views.

This is the product of the kind of compromise that has made this country function well. It is supported by people who are precise opposites in the political process. It is supported by the leadership of the House and the Senate, TIP O'NEILL and HOWARD BAKER. Joining them in the process is the President of the United States.

I submit to you that those seven people, when they agree on a matter as in the public interest, ought to be given very careful consideration. This country operates by the compromise of people who differ.

Now, I have no criticism of the people who oppose the tax bill. That is their right, but a little analysis will indicate that in virtually every case they are heavily involved in a specific interest, a perfectly legitimate interest. All of the interests in this country are legitimate as far as this Member is concerned, except those that are illegal, and I know of no position on this bill by those people who are illegal and support illegal interests.

This is a classic example—and the rule faces up to this—of the difference between the public interest and the mere sum of the special interests. This rule and the previous question deserve your support. The tax bill deserves the opportunity to be voted up or down.

I believe the rule is a good rule, a good rule for a conference report of any kind, a good rule for this particular conference report. I urge the Members to support the rule.

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

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

Mr. QUILLEN. Mr. Speaker, the able gentleman from Missouri (Mr. BOLLING) has explained the provisions of the rule, and I agree with him that it has bipartisan support. It is time that we here in the House put America before politics. What needs to be done needs to be done now, and we are facing up to that today.

This is a fair rule, a reasonable rule, a closed rule, permitting an up or down vote on the tax conference report. I would hope that there would be no effort to vote down the previous question. If there is, let us defeat that

movement and vote for the previous question and the rule.

Now, what do we face? We face here in America a very critical situation. Only in the last 2 days have things begun really turning around. Our financial market is now on the upturn. We have seen that happen. We have seen interest rates drop to the lowest point in 2 years. Our deficit must be reduced, and this conference report does that.

And how does it do it? The opponents of the measure say that it is the greatest tax increase in history. Let us look at the facts. Actually, what it does is put the freeloaders on the tax-paying rolls. The freeloading should be eliminated. I read in the paper the other day where one corporation listed a total profit of over \$1 billion and paid no taxes whatsoever. But in addition to that, they filed a tax form for a tax refund of over \$40 million under the rules and regulations that we are using today. Other corporations are in the same category, is that fair to the American worker, the American taxpayer, who pays through the nose?

Some 80 percent of this conference report is reworking the Tax Code and closing the loopholes and making the freeloaders pay their fair share. Only \$19 billion represents a tax increase.

So when the opponents say that the tax increase is the greatest in history, look at the facts. And, besides, the 5, 10, and 10 tax break for the American worker is still in effect.

So let us confront the problem. Let us face it head on. Let us adopt this rule. Let us adopt the conference report for the benefit of all of the American people.

Of course, there are things in it I do not like.

□ 1100

My district is one of the largest burly tobacco growing districts in this country. I do not like the tax on tobacco. I do not like some of the other things in the conference report, but overall, let us take it as a package; let us do what is right for America and get things going even better than they are now.

The trend is favorable. I plead with the Members and I urge the Members to vote for the rule and vote for the conference report when it is on the floor of the House, because it is right for America.

Mr. Speaker, I reserve the balance of my time.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from New Hampshire (Mr. D'AMOURS).

(Mr. D'AMOURS asked and was given permission to revise and extend his remarks.)

Mr. D'AMOURS. Mr. Speaker, I thank the chairman of the Rules Committee for having allowed me this 5 minutes, because I rise in opposition to the rule as it is presently drafted and I rise to ask that we defeat the previous

Benjamin
Berreuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Billey
Boggs
Boland
Boiling
Boner
Bonior
Bonker
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Burgener
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chapple
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Conan
Conable
Conte
Conyers
Coughlin
Coynne, James
Coynne, William
Crockett
D'Amours
Daniel, Dan
Daniel, R. W.
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dorman
Dougherty
Dowdy
Dunh
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Emerson
Emery
English
Erdahl
Erlenborn
Ertel
Evans (DE)
Evans (GA)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Findley
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)

Foraythe
Fountain
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Geldenson
Gephardt
Gibbons
Gillman
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Guarini
Gunderson
Hamilton
Hammerschmidt
Harkin
Hatcher
Hawkins
Heckler
Hefner
Hendon
Hertel
Hightower
Hiller
Hillis
Holland
Hollenbeck
Hopkins
Horton
Howard
Hoyer
Huckaby
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jones (NC)
Jones (OK)
Kastenmeier
Kazan
Kemp
Kennelly
Kildee
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Leach
LeBoutillier
Lee
Lehman
Leland
Lent
Levitas
Livingston
Long (LA)
Long (MD)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Markey
Marriott
Martin (NC)
Martin (NY)
Martinez
Matsui
Mattox
Mavroules
Mazoli
McClory
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKinney
Mica
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minian

Mitchell (MD)
Moakley
Molinari
Mollohan
Morrison
Mottl
Murphy
Murtha
Napier
Natcher
Neal
Neilligan
Nelson
Nichols
Nowak
Oaker
Oberstar
Obey
Ottlinger
Oxley
Panetta
Parris
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Purcell
Quillen
Rahall
Rallsback
Rangel
Ratchford
Reagans
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Rogers
Rose
Rosenthal
Rostenkowski
Roth
Roukema
Roybal
Rudd
Russo
Sabo
Santini
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Shamansky
Shannon
Sharp
Shaw
Shelby
Siljander
Simon
Skeon
Skelton
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Solars
Solomon
St Germain
Stangeland
Stark
Staton
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauxin
Trauxler
Trible
Udall

Vander Jagt
Vento
Walgren
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weiss
White
Archer
Ashbrook
Atkinson
Badham
Barnard
Barnett
Bouquard
Broyhill
Cheney
Collins (TX)
Corcoran
Craig
Crane, Daniel
Crane, Philip
Dannemeyer
Derwinski
Dreier
Edwards (OK)
Fields
Fronzel
Gingrich
Gramm
Gregg
Bafalis
Brown (CO)
Brown (OH)
Burton, John
Chappell
Courtner
Fish
Ginn
Heftel
Holt
Madigan
Marks
Mitchell (NY)
Moffett
O'Brien
Paahayan
Stanton
Volkmer
Weber (OH)

Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wyllie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti
McDonald
Michel
Montgomery
Moore
Moorhead
Patman
Paul
Roemer
Rousselot
Sensenbrenner
Shumway
Shuster
Smith (AL)
Smith (OR)
Snyder
Spence
Stenholm
Stump
Taylor
Thomas
Walker

NAYS—67

NOT VOTING—19

□ 1610

do? The Chair hears none, and, with-out objection, appoints the following conferees: Messrs. DINGELL, WIRTH, and BROYHILL.

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT AND MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT ON H.R. 3239, FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION ACT OF 1981

Mr. WIRTH. Mr. Speaker, I ask unanimous consent that the conference report on the bill, H.R. 3239, may be filed with the House by midnight tonight, and that it be in order to consider the conference report on the bill, H.R. 3239, at any time after it is filed.

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

There was no objection.

Mr. FRENZEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 521, the consideration of which has been postponed indefinitely.

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

There was no objection.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT THURSDAY, AUGUST 19, 1982, DURING 8-MINUTE RULE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may be permitted to sit tomorrow, August 19, 1982, for the purpose of considering legislation during the time that the House is sitting under the 5-minute rule.

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

There was no objection.

CONFERENCE REPORT ON H.R. 6863, SUPPLEMENTAL APPROPRIATIONS ACT, 1982

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the first amendment in disagreement.

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Senate amendments numbered 1, 3, 4, 5, 8, 10, 11, 12, 13, 15, 18, 19, 21, 22, 37, 44, 47, 49, 50, 51, 55, 67, 74, 83, 88, 89, 93, 96, 100, 103, 107, 108, 114, 120, 121, 123, 124, 126, 128, 135, 137, 140, 143, 145, 146, 151, 153, 166, and 178 be considered en bloc and printed in the RECORD.

This does not include the controversial items we discussed earlier. I have

The Clerk announced the following pairs:

On this note:
Mr. Courter for, with Mr. Brown of Colorado against.

Mr. TAYLOR, Mr. ATKINSON, Mrs. MARTIN of Illinois, and Messrs. GINGRICH, HERTEL, SAM B. HALL, JR., JONES of Tennessee, and BADHAM changed their votes from "yea" to "nay."

Messrs. JEFFORDS, SKELTON, EMERSON, SOLOMON, and HERTEL changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 3239, FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION ACT OF 1981

Mr. WIRTH. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3239) to amend the Communications Act of 1934 to authorize appropriations for the administration of such act, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. KAZEN). Is there objection to the request of the gentleman from Color-