THE EVENING STAR and DAILY NEWS
Washington, D. C., Monday, May 14, 1973

Cramer's 9 to 4:30

Court Views Equal Opportunity Act Broadly

BY JOHN CRAMER
Star-News Staff Writer

A recent decision by a U.S. district court here, first of its kind under the '72 Equal Opportunity Act, which gave federal workers easier access to courts in job discrimination cases, will be good news to some minority group employes in government.

March 24, 1972, effective date.

It further held that it makes no difference whether the appeals were pending before the Civil Service Commission or at a lower level.

The decision was won by attorney Wilhelmina Jackson on behalf of Dr. Dollie Walker of Baltimore, a GS-14 ($25,620) social worker in Justice Department's Community Relations Service. It was her second victory on Dr. Walker's behalf.

Earlier — as was reported here in January — Civil Service Commission's Board of Appeals and Review ordered Dr. Walker restored to duty after Justice fired her, and kept her off the job for several months, on thinnish charges which just didn't stand up on appeal.

BUT EARLIER still, on July 20, 1971, Dr. Walker, who has degrees from Iowa, Minnesota and Pennsylvania, had filed a discrimination complaint charging she had been denied promotion because of her race and sex.

Justice, supported by the Board of Appeals and Review, threw out that complaint on grounds it no longer was valid after she was fired — but was forced to abandon that position when the board ordered her restored.

Justice then was left with essentially only one argument to the court: That the 1972 act was not intended to be retroactive.

Judge John Lewis Smith Jr., held to the contrary, construing the act as a remedial statute applying "to all cases pending at the time of its enactment unless some vested right would be impaired as a result."

THE COURT ordered Justice to reconsider Dr. Walker's complaint under its own anti-discrimination procedures.

Her problems aren't over yet. Community Relations Service is in the midst of a major personnel cutback, and she's been served with a layoff notice, to take effect in early June.

Obviously, there'll be a sequel. Read about it here later.

RETIREE BILL — The Senate Civil Service Committee, slow to grab the ball, probably will act tomorrow on that House approved bill offering early retirement to older federal employes whose agencies find themselves in "major" layoffs.

When such layoffs occur, it would let those at least 40 years old and with 20 years of service, or those with 25 years of service regardless of age, retire on immediate Civil Service annuities — reduced by 2 percent for each year of age under 55.

This would lessen the impact of coming June layoffs.

I PROMISED to obtain General Services Administration's explanation of an intriguing new change in GSA travel expense rules for federal employes, which was announced this way:

"Expenses for shipment of household goods for deceased employes at the same level paid living employes."

Well, it turns out it was just a great big mistake, involving employes overseas. Living employes returning from overseas have the right to bring back, at government expense, the same up to 11,000 pounds of household goods they took with them. Families of deceased employes have that right, too.

That's been the rule for years. Despite GSA's strange announcement, nothing has been changed, its officials say.

Not for the living, not for the dead.

EEOC

JOBS RIGHTS BILL VOTED AS SENATE ENDS FILIBUSTER

Measure Lets Federal Unit Ask Courts to Order Halt in Bias in Employment

WEAKENING MOVES FAIL

Debate Cut Off on a Tally of 73-21 Before Legislation Wins Passage, 73-16

By DAVID E. ROSENBAUM

Special to The New York Times

WASHINGTON, Feb. 2 — After five weeks of debate, the Senate broke a Southern filibuster today and passed legislation giving the Equal Employment Opportunity Commission power to move against job discrimination.

The measure would allow the commission to ask Federal courts to order employers or unions to stop discriminating.

The bill, which has been before the Senate since it convened Jan. 18, now goes to the House, which passed a similar measure last year. The House could adopt the Senate bill directly, but more than likely it will send the legislation to a conference of the two houses.

Shortly after noon today, the Senate voted, 73 to 21, to invoke closure, or cut short debate, on the civil rights bill. Then, after defeating several attempts to weaken the legislation, the Senate passed the bill by a vote of 73 to 16 and then in a procedural vote of 72 to 17.

Jurisdiction Is Widened

For the first time, the measure would place the Federal Government, state and local governments and educational institutions within the commission's purview.

The Equal Employment Opportunity Commission was created by the Civil Rights Act of 1964 but, as part of the compromise that led to the passage of that landmark legislation, the commission was left without enforcement powers.

It can receive complaints about job discrimination and attempt to persuade the employer or union involved to end the practice. But if voluntary conciliation fails, the commission is powerless.

The measure adopted by the Senate today would permit the commission to file suit in Federal court against employers or unions that it believed were discriminating on the basis of sex, race or religion.

If the commission believed a case was in "the general public interest," it could ask that the case be heard by a three-judge panel, with the line of appeal directly to the Supreme Court. This procedure is aimed to speed important discrimination cases through the courts.

The legislation, which is supported by the Nixon Administration, represents a middle ground between Senate liberals, who wanted to give the commission power to issue cease-and-desist orders against companies and unions that discriminated, and Southerners, who believed the commission should have no enforcement authority.

The liberals, who were backed by organized labor, civil rights groups and women's rights organizations, were apparently successful three weeks ago in locking into the bill language that would have allowed the commission to order employers to stop discrimination.

But, with this provision in the bill, the liberals could not muster the two-thirds majority necessary to end the Southerners' dealaying tactics, and two attempts to invoke closure failed by 9 and 6 votes, respectively.

Hailed by N.A.A.C.P. Aide

The legislation that was passed today is one of the last of a series of civil rights measures that began with the Civil Rights Acts of 1957 and 1964 and continued through the Voting Rights Act of 1965 and the Open Housing Act of 1968.

Clarence Mitchell, head of the Washington office of the National Association for the Advancement of Colored People, who has been the chief lobbyist on all these civil rights mesaures, said after the vote today that the Senate's bill would provide "a very effective instrument for fighting discrimination in employment."

Today, closure was adopted with 10 votes to spare.

Including state and local governments in the commission's jurisdiction was especially odious to such Southerners as Sam J. Evin Jr., Democrat of North Carolina, who declared it a violation of states' rights.

Role of Attorney General

This provision would allow the commission, for instance, to delve into discrimination in police and fire departments.

In the case of state and local governments, the commission could not, under the bill, take discrimination cases directly to court but would have to refer them to the Attorney General, who could initiate court action.

The bill would also allow the commission to move against companies with as few as 15 employes and unions representing only 15 workers. At present, there must be at least 25 employes or members before a company or union falls under the commission's jurisdiction.

The bill the House passed last year does not extend the commission's jurisdiction to governments and educational institutions, nor does it lower the minimum size of the companies and unions covered.

The House bill, furthermore, prohibits the commission from bringing class-action suits on behalf of large groups of workers, while the Senate measure contains no such prohibition.

proach which would have enabled EEOC to conduct administrative hearings and issue judicially enforceable cease-and-desist orders. We debated this issue for 4 weeks. We had a number of votes on the subject. The final vote came last Tuesday, on an amendment offered by the Senator from Colorado (Mr. DOMINICK). That amendment provided an enforcement mechanism which would allow the Equal Employment Opportunity Commission to seek injunctive relief in the Federal district courts for charges of unlawful employment practices.

Mr. President, I vigorously opposed that method of enforcement because I felt that it would lead to unwarranted delays in the Federal courts and would not provide the kind of agency expertise and guidance needed in employment discrimination cases. However, Mr. President, the Senate made its judgment. I fully recognize, as I have stated on several occasions, that the enforcement mechanism that was so stanchly advocated by the distinguished Senator from Colorado was a workable mechanism. It was not a negative approach to this law. It was a positive effort. I commend him for his diligence. Although I strongly prefer the administrative mechanism, I think that the court enforcement mechanism can work. However, it can only work if Congress provides the commission and the courts with the resources that are going to be necessary to make that program work.

Second, as to coverage. The bill will extend the coverage to three classes of employees. It will assure to employees of State and local governments the protections of title VII of the Civil Rights Act. It does so, with one proviso, which exempts from coverage the elected officials and their most personal advisers. I believe that the coverage of governmental employees is a monumentally important step for the cause of equal employment opportunity. It was a hotly contested issue. I am gratified that the Senate, by an overwhelming vote of 59 to 16, took this historical opportunity to assure a protective mechanism for the more than 10 million workers employed in such capacities.

The bill also extends coverage to millions of teachers in our educational system by eliminating the present exemption for employees of those institutions. It goes without saying that the opportunity to become a teacher in our society is one that should be cherished and valued. Arbitrary and artificial restraints, which deny that opportunity, must be abolished. Inclusion of teachers, in this bill, is a major step toward obtaining that goal. Finally, coverage is extended to employers with 15 or more employees and unions with 15 or more members instead of 25 or more. This figure represented a compromise between those of us who advocated coverage of employers and unions with even fewer employees and members and those who were concerned with the impact of additional federal regulations on smaller businessmen. I think it is clear that no one really disputes the need for equal employment opportunity at every level of our society. I do not believe that those who were advocating higher levels of coverage were suggesting that small businessmen or unions should be engaged in discrimination on the basis of race, color, religion, sex, or national origin. I think, however, that there was a concern about the ability of the commission to digest the new coverage that we are providing. I think, therefore, that the 15 level will be a useful and workable device and the extension of coverage in the future can be reconsidered at an appropriate time.

Another significant part of the bill and one that has not had very much debate because it was so clearly accepted at the committee level, concerns our Federal Government employees. The requirement of equal employment opportunity is extended by statute to these employees, and for the first time a clear remedy is provided enabling them to pursue their claims in the district courts following a Civil Service Commission or agency hearing.

Moreover, and very importantly, the Civil Service Commission is given additional responsibilities to see that job discrimination in the Federal service is brought to a halt. I cannot emphasize the concern that was expressed in our committee over the need to have the Federal Government as the model employer. Provision for a noncontroversial method is due to the extensive efforts of the Senator from Colorado (Mr. DOMINICK) and the Senator from California (Mr. CRANSTON), and the good faith and desire for improvement and change reflected on the part of the Civil Service Commission during our committee consideration of this matter.

Lastly, the bill makes a number of modifications in the administrative operation of EEOC. This includes the very important provisions for deferral of cases to State agencies, modification of the recordkeeping and investigative authority of the commission and other similar housekeeping changes.

Mr. President, I ask unanimous consent that a section-by-section explanation of the scope of the bill that I have prepared be printed in the RECORD at the end of my remarks.

I firmly believe that we have a good bill before us. I believe this legislation is long overdue. I hope that we can look forward to its enactment in the very near future.

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

SECTION-BY-SECTION ANALYSIS OF S. 2515, THE EQUAL EMPLOYMENT OPPORTUNITIES ACT OF 1972

The following analysis seeks to explain the major provisions of S. 2515, the Equal Employment Opportunities Act of 1972, as amended by the Senate during its debate on the bill. These explanations, which reflect the changes adopted by the Senate from the original bill as reported by the Committee, encompass the enforcement provisions of Title VII as now adopted by the Senate and the various procedural and jurisdictional changes which are also encompassed the within provisions of S. 2515.

In any area where the new law does not address itself, or in any areas where a specific contrary intention is not indicated, it is assumed that the present case law as developed by the courts shall continue to determine the applicability of Title VII. It is also the intent of this legislation to remedy deficiencies in the current law.

SECTION 2

This section amends certain definitions contained in section 701 of the Civil Rights Act of 1964.

Section 701(a)—This subsection defines "person" as used in Title VII. Under the provisions of S. 2515, the term is now expanded to include State and local governments, governmental agencies, and political subdivisions.

Section 701(b)—This subsection defines the term "employer" as used in Title VII. This subsection would now include, within the meaning of the term "employer", all State and local governments, governmental agencies, and political subdivisions, and the District of Columbia departments or agencies (except those subject by statute to the procedures of the Federal competitive service as defined in 5 U.S.C. § 2102, who along with all other Federal employees would now be covered by section 717 of the Act).

This subsection would extend coverage of the term "employer", one year after enactment, to those employers with 15 or more employees. The standard for determining the number of employees of an employer, i.e. "employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year," would apply immediately upon enactment to all employers of 25 or more employees during the first year, as well as to the final coverage of 15 or more employees thereafter.

Section 701(c)—This subsection eliminates the exemption for agencies of the United States, States, or the political subdivisions of States from the definition of "employment agency" in order to conform with the expanded coverage of State and local governments in section 701 (a) and (b) above, State agencies, previously covered by reference to the United States Employment Service, continue to be covered as employment agencies.

Section 701(e)—This subsection is revised to include labor organizations with 15 or more members within the coverage of Title VII, one year after the enactment of the present bill.

Section 701(f)—This subsection is intended to exclude from the definition of "employee" as used in Title VII those persons elected to public office in any State or political subdivision of any State by the qualified voters of such State or political subdivision. An additional exemption from the definition of "employee" is also provided for persons chosen by such officers as personal assistants or as immediate advisors in respect to the exercise of the Constitutional or legal powers of the office held by such elected officer. This exemption is intended to be read very narrowly and is in no way intended to establish an overall narrowing of the expanded coverage of State and local governmental employees as set forth in section 701(a) and (b) above.

Section 701(j)—This subsection, which is new, defines "religion" to include all aspects of religious observance, practive and belief, so as to prohibit discrimination against employees whose "religion" requires observances, practices and beliefs which differ from the employer's or potential employer's norm. Discrimination on this basis would be unlawful unless an employer can demonstrate that he cannot reasonably accomodate beliefs without undue hardship on the conduct of his business.

SECTION 3

This section amends the exemptions allowed in section 702 of the Civil Rights Act of 1964.

Section 702—This section is amended to eliminate the exemption for employees of educational institutions. Under the pro-

I hope this meets with the approval of the leadership on the Republican side. I am sure it will but I would appreciate it if it would be possible for them to give their approval to the unanimous consent request I am about to make.

Mr. President, I ask unanimous consent that immediately after the final passage of S. 2515, for which a conference will not be asked in the Senate until the House so requests, the Senate proceed without debate to the consideration of H.R. 1746, that the text of S. 2515, as passed by the Senate, be substituted for the text of H.R. 1746; that H.R. 1746, as amended, proceed immediately to third reading and then immediately to final passage; and that a motion to reconsider the vote on final passage of both be waived. I also ask unanimous consent that rule XII be waived.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. JAVITS. I wonder about the motion to reconsider being waived. Why is that included? We are perfectly agreeable to sending both bills to the other body but why waive a motion to reconsider?

Mr. MANSFIELD. If the Senator will allow me, knowing the rules of procedure of this body as he does, if such a motion were made it could be held up, I understand, for 2 days. This way it rides up to the issue immediately.

Mr. JAVITS. Both bills would go over at once?

Mr. MANSFIELD. Yes.

Mr. JAVITS. Do we understand, however, and in good faith we should know, there is no intent to make any motion to reconsider in the 2 days?

Mr. MANSFIELD. Not that I know of.

Mr. JAVITS. This is a situation where everybody is agreeing?

Mr. MANSFIELD. This is in good faith. There are no cards under the table, no angles, no openings.

Mr. ALLOTT. Mr. President, I have no objection to the request except the one part about a motion to reconsider. I have nothing in my mind and I do not know that anybody else would, but if a motion to reconsider is made immediately, a motion to table can be made at any time, as we have done hundreds of times. I must say I am very, very reluctant to waive this right by unanimous consent. If it were left to the Senator from Colorado alone I would ask the Senator if he would consider deleting that. Heaven knows I have no desire to delay the progress of this legislation.

Mr. MANSFIELD. I appreciate what the distinguished Senator from Colorado, the acting Republican leader, just said. If I may make a personal request, I hope the Senator will allow me to proceed in this manner, with my assurance to him that this is no subterfuge, there is nothing under the table, and it is one way of bringing this proposal, which has encountered some difficulty, to a head, with the idea that this would not set a precedent.

Mr. ALLOTT. I am sure the Senator does not have anything under the table, or anything like that, but I stated my own view. If the Senator thinks it is necessary, I would be perfectly willing not to object, but I must say this should not be considered a precedent.

Mr. MANSFIELD. I agree. This is something that is not to be considered a precedent.

Mr. ALLOTT. I thank the Senator.

Mr. ALLEN. Mr. President, reserving the right to object and I do not object, as I understand the agreement, House bill, H.R. 1746, would not be called up until after the passage of the Senate bill.

Mr. MANSFIELD. The Senator is correct.

Mr. ALLEN. Then, the Senate bill would go over to the House for further consideration. Then the House bill, amended to conform to the Senate bill as passed, would then be passed and also sent to the House so that the House would have the option of acting again on the House bill or to take up the Senate bill from the start, if it saw fit. It would give the House an option.

Mr. MANSFIELD. The Senator is correct, although the substance of both bills would be the same.

Mr. ALLEN. Yes, but the House could proceed to act again by using the Senate bill.

Mr. MANSFIELD. The Senator is correct.

Mr. ALLEN. I have no objection.

Mr. ERVIN. As I understand the request, there would be two votes, one on the passage of the Senate bill and one on the passage of the House bill as amended to conform to the Senate bill.

Mr. MANSFIELD. The Senator is correct.

Mr. ERVIN. I thank the Senator.

Mr. MANSFIELD. I ask for the yeas and nays on both.

The PRESIDING OFFICER. Without objection, rule XII will be waived.

Mr. MANSFIELD. I ask that it be in order at this time to ask for the yeas and nays, not only on the pending bill, which I understand is ready for third reading, but on H.R. 1746.

The PRESIDING OFFICER. First, is there objection to the unanimous-consent request?

Mr. MANSFIELD. What unanimous-consent request does the Chair refer to?

The PRESIDING OFFICER. The one the Senator just made.

Mr. MANSFIELD. That we vote on both?

The PRESIDING OFFICER. No; that we proceed to the House bill afterwards.

Is there objection? The Chair hears no objection, and it is so ordered.

Mr. MANSFIELD. I ask for the yeas and nays on both bills.

The PRESIDING OFFICER. Is there a sufficient second to the request for the yeas and nays?

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, I desire to speak for a moment on the committee substitute. I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I plan to vote for the committee substitute. I shall not call for the yeas and nays on the adoption of the committee substitute, but I shall vote for it because it is a vast improvement over the bill as introduced, because it does have the Dominick amendment in it. It has the increase from eight to 15 as the required number of employees to put employers under the provisions of the EEOC. It eliminates religious schools and educational institutions from the religious aspect of discrimination. It is a vast improvement over the bill as introduced, and I shall support the committee substitute.

Mr. DOMINICK. Mr. President, I yield myself 2 minutes.

We have engaged in a pretty tough debate on this bill for a very long period of time. I had thought when the bill came out that we would have completed it long before this. I feel, however, that the debate itself and the amendments which have been adopted have substantially improved the bill. We now have all classifications of employees having the right to redress employment grievances in the Federal courts. We have not unfairly harassed the very small employers by going to the extreme of extending the coverage of the bill to employers of eight or more employees. The present bill coverage of employers with 15 or more employees is much more reasonable. We have taken care of the situation brought out by the Senator from North Carolina and the Senator from Alabama on elected officials and their personal staffs.

A number of other amendments have been adopted that, in my opinion, have so substantially improved the bill that I think we can work it out either by action of the House or in conference. As a result, I intend to support the bill on final passage.

In conclusion, I would like to thank colleagues who, despite strong pressures to the contrary, exercised great degrees of allegiance to principle to make this bill truly a representative Senate bill. Additionally, I wish to compliment my assistant, Mr. Daniel T. Moyle, Jr., for his excellent and persistent efforts on my behalf.

Mr. WILLIAMS. Mr. President, as I stated earlier, this is the 21st full day of debate. We have had more than 30 rollcalls. But the Senate, in invoking cloture, has determined that it is time to get on with the passage of this bill. In a very few minutes we will be voting on the final passage of that bill. I think it is clear to everyone here that the bill represents the overwhelming will of the majority of the U.S. Senate.

I believe that this bill, as amended in the Senate, will assure a greater measure of equality in employment opportunities to the Nation's women workers and to its minorities. I believe it represents a major step forward in the struggle to end job discrimination in our society.

I think it would be useful to review some of the steps that have been taken in the Senate in modifying this bill and the significant changes in the existing law made by this bill when it is finally passed.

First, as to the method of enforcement. This was a long and hard-fought issue. The simple question was the appropriate and best method of enforcement powers for the Equal Employment Opportunity Commission. Many of us felt that the best method of enforcement was the time-honored administrative agency ap-

visions of this section, all private and public educational institutions, which are not religious educational institutions, would now be covered under the provisions of Title VII. With the elimination of the exemption, the employment practices of such institutions most of which have previously been covered by other relevant state and federal laws, would now be expected to conform to the standards of equal employment opportunity as established under Title VII, and employment practices such as hiring, promotion, transfer, and termination would be subject to strict equal employment standards.

The exemption in this section for religious corporations, associations, educational institutions, or societies to allow such entities to employ individuals of a particular religion to perform work connected with the particular corporation, association, educational institution or society, has been broadened to allow such religious preference regardless of the particular job which the individual is being considered.

SECTION 4(a)

This section of the bill contains the major provisions for the enforcement functions which are provided to the EEOC for the prevention of unlawful employment practices. S. 2515 revises the present section 706 of Title VII of the Civil Rights Act of 1964 to enable the EEOC to process a charge of employment discrimination through the investigation and conciliation stages of voluntary compliance. In addition, however, the provisions or S. 2515 provide that if such should prove unsuccessful, then the EEOC would be empowered to file an action against the respondent in the appropriate Federal District Court.

The accomplishment of the stated purpose of Title VII, the elimination of employment discrimination in all areas of employment in this Nation, has not been accomplished under the present system of voluntary compliance through EEOC procedures or, in the alternative, the private law suit. Under the provisions of section 4 of the bill, the overriding public interest in equal employment opportunity would be asserted through direct Federal enforcement. Accordingly, this section amends sections 706(a) through (g) of the Civil Rights Act of 1964.

Section 706(a)—This subsection would empower the Commission to prevent persons from engaging in unlawful employment practices under sections 703 and 704 of Title VII of the Civil Rights Act of 1964. As these noted sections remain largely unchanged, the unlawful employment practices which were enumerated in 1964 in the original Act, and as defined and expanded by the courts in litigation since that time, and by these amendments, remain in effect.

Section 706(b)—This subsection sets out the procedures to be followed when a charge of an unlawful employment practice is filed with the Commission. The present requirement that charges must be in writing and under oath or affirmation has been retained. In order to accord respondents fair notice that charges are pending against them, this subsection provides that the Commission must serve a notice of the charge on the respondent within ten days; further, the Commission would be expected to investigate the charge as quickly as possible and to make its determination on whether there is reasonable cause to believe that the charge is true. It is not intended that failure to give notice of the charge to the respondent within ten days should prejudice the rights of the aggrieved party.

If the Commission finds no reasonable cause, it must dismiss the charge; if it finds reasonable cause, it must attempt to conciliate the case. During the Commission's investigation of the charge, the allegations would not be made public by the Commission, and if it finds that there is not reasonable cause to believe that the charge is true, it shall dismiss the charge and notify the complainant and the respondent of its decision.

This subsection also makes a number of other changes in existing law:

1. Under present law, a charge may be filed only by a person aggrieved under oath or by a member of the Commission where that member has reasonable cause to believe a violation has occurred. This subsection would permit a charge to be filed under oath or affirmation by or on behalf of a person aggrieved, or by an officer or employee of the Commission upon the request of a person claiming to be aggrieved. The purpose of this provision would enable aggrieved persons to have charges processed under circumstances where they are unwilling to come forward publicly for fear of economic or physical reprisals. In this connection, it is intended that the device of a Commission charge may be used to maintain the confidential identity of the persons aggrieved and that no disclosure need be made of the identity of person aggrieved.

2. The Commission would be required to make its determination on reasonable cause as promptly as possible and, "so far as practicable," within 120 days from the filing of the charge or from the date upon which the Commission is authorized to act on the charge under section 706(c) or (d). The Commission, where appropriate, would be required in its determination of reasonable cause to accord substantial weight to final findings and orders made by State or local authorities under State and local laws.

3. This subsection and section 8(c) of the bill add appropriate provisions to carry out the intent of the present statute to provide full coverage for joint labor-management committees controlling apprenticeship or other training or retraining, including on-the-job training programs. While these joint labor-management committees are prohibited under section 703(d) of the present act from discriminating, they were not expressly included in the prohibition against discriminatory advertising or retaliation against persons participating in Commission proceedings (sec. 704(a) and (b)) or in the procedures for filing changes in section 706(a).

Section 706(c)—This subsection retains the present requirement that the Commission defer for a period of 60 days to State or local agencies which have a State or local law prohibiting the unlawful employment practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto (this period for deferral is 120 days during the first year after the effective date of such law).

The present law is changed by deleting the phrase "no charge may be filed" with the Commission by an aggrieved person in such State or locality until the deferral period has expired. The present law is somewhat unclear respecting the nature of Commission action on charges filed with it prior to resort to the State or local agency. The new language clarifies the present law by permitting a charge to be filed but prohibiting the Commission from taking any action with respect thereto until the prescribed deferral period has elapsed (see a similar holding by the Supreme Court in *Love* v. *Pullman Co.* decided on January 17, 1972 (No. 70-5033), where the Court held that a complaint filed with the Commission, then orally deferred to the State agency for the required deferral period, and then reactivated automatically after the deferral period had expired was proper procedure under the provisions of § 706(b) and (d) of the present Act.

Section 706(d)—This subsection requires deferral to State or local anti-discrimination agencies, similar to provisions contained in subsection 703(c), in the case of charges filed by an officer or employee of the Commission.

Section 706(e)—This subsection sets forth the time limits controlling certain actions by the Commission under the provisions of the bill.

Under the present law, charges must be filed within 90 days after an alleged unlawful employment practice has occurred. In cases where the Commsision defers to a State or local agency under the provisions of section 706(c) or (d), the charge must presently be filed within 30 days after the person aggrieved receives notice that the State or local agency has terminated its proceedings, or within 210 days after the alleged unlawful employment practice occurred, whichever is earlier.

The amendments to this subsection would now provide that charges be filed within 180 days of the alleged unlawful employment practice, a limitation period similar to that contained in the Labor Management Relations Act, as amended (29 U.S.C. § 160(b)). In establishing the new time period for the filing of charges, it is not intended that existing law, which has shown an inclination to interpret this type of time limitation to give the aggrieved person the maximum benefit of the law, should be in any way circumscribed. Existing case law which has determined that certain types of violations are continuing in nature, thereby measuring the running of the required time period from the last occurrence of the discrimination and not from the first occurrence is continued, and other interpretations of the courts maximizing the coverage of the law are not affected. It is intended by expanding the time period for filing charges in this subsection that aggrieved individuals, who frequently are untrained laymen who are not always aware of the discrimination which is practiced against them, should be given a greater opportunity to prepare their charges and file their complaints, and that existent but undiscovered acts of discrimination should not escape the effect of the law through a procedural oversight.

Similarly, the time period allowing a determination by a State or local anti-discrimination agency has been extended to 300 days after the alleged unlawful employment practice occurred or within 30 days after the State or local agency has terminated proceedings under the State or local law, whichever is earlier.

This subsection also requires that notice of the charge be served on the respondent within 10 days after its having been filed.

Section 706(f)—This subsection, which is new, sets forth the procedures to be followed, in those cases where the Commission is unable to achieve a satisfactory conciliation after a finding of reasonable cause, for securing compliance with the provisions of Title VII. The procedures set forth in this subsection are intended to place the primary responsibility for enforcing violations of Title VII in the Commission and to shift them from the private plaintiff where they have been under the existing provisions of title VII.

Section 706(f)(1)—Under this subparagraph, if the Commission is unable to secure a conciliation agreement pursuant to section 706(b) that is acceptable to the Commission within 30 days from the filing of the charge or within 30 days after expiration of any period of reference under subsection (c) or (d), it would promptly so notify the General Counsel who may bring a civil action against the respondent in the appropriate district court, if the respondent is not a government, governmental agency, or political subdivision.

In the case of a respondent that is a government, governmental agency, or political subdivision, if conciliation fails, the Commission will take no further action and will refer the case to the Attorney General who

may bring a civil action in the appropriate district court.

With respect to cases arising under this subsection, if the Commission: (a) has dismissed the charge, or (b) 150 days have elapsed from the filing of the charge or period of reference to State agencies under subsection 706 (c) or (d), whichever is later, without the General Counsel or the Attorney General, as the case may be, having issued a complaint under section 706(f), or without the Commission having entered into a conciliation agreement to which the person aggrieved is a party, the person aggrieved may bring an action in the appropriate district court within 90 days after being notified thereof. Such civil actions are to be governed by sections 706 (f) through (k) as applicable. In providing this provision, it is intended that the individual who has been aggrieved by a violation of Title VII should not be forced to abandon his claim merely because of a decision by the agency that there is insufficient grounds upon which to file a complaint in court or that the person aggrieved should have to endure lengthy delays if the agency does not act with due diligence and speed. Accordingly, the provisions described above would allow the person aggrieved to elect to pursue his or her own remedy in the courts where agency action does not prove satisfactory.

In providing this remedy, it is intended that recourse to this form of remedy will be the exception and not the rule, and that the vast majority of complaints will be handled through the offices of the EEOC. However, as the individual's rights to redress are paramount under the provisions of Title VII, it is necessary that all avenues of relief be left open for quick and effective relief.

In providing for the individual right to sue in the event that action by the Commission is unsatisfactory or unresponsive, it is not intended that duplication of proceedings should be allowed. Therefore, in any proceeding where the General Counsel or the Attorney General, as the case may be, is proceeding with due diligence within the time limits specified in this subsection, the person aggrieved would be precluded from instituting an individual action until such time as one of the specific conditions of this subsection are not met.

In any such complaint brought by the person named in the charge as claiming to be aggrieved or in the case of a charge filed by an officer or employee of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice, the court may upon timely application of the complainant, appoint an attorney and authorize the commencement of the action without the payment of fees, costs, or security in such circumstances as it deems just. The Attorney General or the General Counsel, upon timely application and subject to the court's discretion, may intervene in such a private action if he certifies that the private action is of general public importance. In addition, the court is given discretion to stay proceedings for not more than 60 days pending the termination of State or local proceedings or efforts by the Commission to obtain voluntary compliance.

In establishing the enforcement provisions under this subsection and subsection 706(f) generally, it is not intended that any of the provisions contained therein are designed to affect the present use of class action lawsuits under Title VII in conjunction with Rule 23 of the Federal Rules of Civil Procedure. The courts have been particularly congizant of the fact that claims under Title VII involve the vindication of a major public interest, and that any action under the Act involves considerations beyond those raised by the individual claimant. As a consequence, the leading cases in this area to date have recognized that Title VII claims are necessarily class action complaints and that, accordingly, it is not necessary that each individual entitled to relief under the claim be named in the original charge or in the claim for relief.

Section 706(f)(2)—This subsection provides a procedure by which the General Counsel or the Attorney General in a case involving a government, governmental agency, or political subdivision, could secure a three-judge court to hear and determine an action brought by him under this section, if such request is accompanied by a certificate that the case is of general public importance. The chief judge of the court is responsible for appointing the three-judge court. Cases are to be expedited in every way, and appeals from the three-judge court are to be appealed directly to the Supreme Court.

Section 706(f)(3) and 706(f)(4)—Under these paragraphs, if a three-judge court is not requested, the chief judge is required to designate a district judge to hear the case. If no judge is available, then the chief judge of the circuit assigns the judge. Cases are to be heard at the earliest parcticable date and expedited in every way.

Section 706(f)(5)—This subsection authorizes the Comission or the Attorney General in a case involving a government, governmental agency or political subdivision based upon a preliminary investigation of a charge filed, to bring an action for appropriate temporary or preliminary relief, pending the final disposition of the charge. Such actions are to be assigned for hearing at the earliest possible date and expedited in everyway.

Section 706(g)(1)—This subsection, which is the same as the present section 706(f) of the Act, grants the district courts jurisdiction over actions brought under this title and provides the venue requirements.

It is also intended that one of the fundamental jurisdictional attributes exercised by the court under any actions brought before it under this Act includes the ability to grant such temporary or preliminary relief as it deems just and proper.

Section 706(g)(2)—This subsection is similar to the present section 706(g) of the Act. It authorizes the court, upon a finding that the respondent has engaged in or is engaging in an unlawful employment practice to enjoin the respondent from such unlawful conduct and order such affirmative relief including, but not limited to, reinstatement or hiring of employees, with or without back pay as will effectuate the policies of the Act. The court's award of back pay is limited to that which accrues from a date not more than two years prior to the filing of a charge with the Commission. Interim earnings or amounts earnable with reasonable diligence by the aggrieved person(s) would operate to reduce the back pay otherwise allowable.

The provisions of this subsection are intended to give the court wide discretion, as has been generally exercised by the courts under existing law, in fashioning the most complete relief possible. In dealing with the present section 706(g) the courts have stressed that the scope of relief under that section of the Act is intended to make the victims of unlawful discrimination whole, and that the attainment of this objective rests not only upon the elimination of the particular unlawful employment practice complained of but also requires that the consequences and effects of the unlawful employment practice be, so far as possible, restored to a position where they would have been were it not for the unlawful discrimination. This broad reading of the need for effective remedies under this subsection is intended to be preserved in this bill in order to effectively combat the presence of employment discrimination.

SECTION 4(B)

Section 706(k)—This subsection is similar to section 706(k) of the present Act allowing the award of attorney's fees. It adds a provision allowing a prevailing party, in an action brought by the General Counsel or the Attorney General, who is an employer with less than 25 employees or a labor union with less than 25 members to be indemnified by the United States Treasury upon certification of the Commission, in an amount not to exceed $5,000 for their defense, including all expenses and reasonable attorney's fees incurred subsequent to receiving notice of a charge filed against them. Any such prevailing party with 25 to 100 employees whose average income from such employment is less than $7,500, or in the case of a labor union with 25 to 100 members, would be indemnified for one-half of the cost of their defense in an amount not to exceed $2,500. Costs are to be submitted by application to the Commission evidenced by vouchers and are to be deemed reasonable so long as they are comparable to the total amount of the expenses and attorneys fees incurred by the Commission in its investigation and prosecution of the charge. Any district court with jurisdiction over the proceedings would have the authority to make the determination provided for by the subsection.

SECTION 5

This section amends section 707, concerning the Attorney General's "pattern or practice" action, to provide for a transfer of this function to the Commission two years after the enactment of the bill. The bill further provides for current "pattern or practice" jurisdiction for the commission from the date of enactment until the transfer is complete. The transfer is subject to change in accordance with a Presidential reorganization plan if not vetoed by Congress. The section would provide that currently pending proceedings would continue without abatement, that all court orders and decrees remain in effect, and that upon the transfer the Commission would be substituted as a party for the United States of America or the Attorney General as appropriate. The Commission would have authority to investigate and act on pattern or practice charges except that any action would follow the procedures of section 706.

SECTION 6

This section amends section 709 of the Civil Rights Act of 1964, entitled "Investigations, Inspections, Records, State Agencies."

Section 709(a)—This subsection, which gives the Commission the right to examine and copy documents in connection with its investigation of a charge, would remain unchanged.

Section 709(b)—This subsection would authorize the Commission to cooperate with State and local fair employment practice agencies in order to carry out the purposes of the title, and to enter into agreements with such agencies under which the Commission would refrain from processing certain types of charges or relieve persons from the record keeping requirements. This subsection would make two changes in the present statute. Under this subsection, the Commission could, within the limitations of funds appropriated for the purpose, also engaged in and contribute to the cost of research and other projects undertaken by these State and local agencies and pay these agencies in advance for services rendered to the Commission. The subsection also deletes the reference to private civil actions under section 706(e) of the present statute.

Section 709(c)—This subsection, like the present statute, would require employers, employment agencies, labor organizations, and joint labor-management apprenticeship committees subject to the title to make and keep certain records and to make reports therefrom to the Commission. Under the present statute, a party required to keep records could seek an exemption from these requirements on the ground of undue hardship either by applying to the Commission

or bringing a civil action in the district court. This subsection would require the party seeking the exemption first to make an application to the Commission and only if the Commission denies the request could the party bring an action in the district court. This subsection would also authorize the Commission to apply for a court order compelling compliance with the recordkeeping and reporting obligations set forth in the subsection.

Section 709(d)—This subsection would eliminate the present exemption from recordkeeping requirements for those employers in States and political subdivisions with fair employment practice laws or for employers subject to Federal executive order or agency recordkeeping requirements. Under this subsection, the Commission would consult with interested State and other Federal agencies in order to coordinate the Federal recordkeeping requirement under section 709(c) with those adopted by such agencies. The subsection further provides that the Commission furnish to such agencies information pertaining to State and local fair employment agencies, on condition that the information would not be made public prior to the institution of State or local proceedings.

Section 709(e)—Under this subsection, the Commission or the Attorney General would have the authority to direct the person having custody of any record or paper required by section 709(c) to be preserved or maintained to make such record or paper available for inspection or copying by the Commission or the Attorney General. The district court of the judicial district where the demand is made or the papers are located would have jurisdiction by appropriate process to compel the production of such record or paper. The subsection further provides that the members of the Commission and its representatives or the Attorney General and his representatives, could not, unless ordered by the court, disclose any record or paper produced except to Congress or a congressional committee, to other government agencies, or in the presentation of cases before a court or a grand jury.

SECTION 7

This section would amend section 710 of the Civil Rights Act of 1964 to make section 11 of the National Labor Relations Act (29 U.S.C. § 161), to the extent appropriate, applicable to Commission investigations. The person served by the Commission with the subpoena could petition the Commission to revoke the subpoena within 5 days. On application of the Commission, an appropriate district court could order a person to obey a subpoena and failure to comply with the court order would be punishable in contempt proceedings. Section 11 of the National Labor Relations Act also contains provisions relating to privileges of witnesses, immunity from prosecution, fees, process, service, and return, and information and assistance from other agencies.

SECTION 8 (A) AND (B)

These subsections would amend sections 703(a) and 703(c)(2) of the present statute to make it clear that discrimination against applicants for employment and applicants for membership in labor organizations is an unlawful employment practice. This subsection would merely be declaratory of present law.

SECTION 8(C) (1) AND (2)

These subsections would amend section 704 (a) and (b) of the present statute to make clear that joint labor-management apprenticeship committees are covered by those provisions which relate to discriminatory advertising and retaliation against individuals participating in Commission proceedings.

SECTION 8(d)

This subsection would amend section 705(a) of the present statute to permit a member of the Commission to serve until his successor is appointed but not for more than 60 days when Congress is in session unless the successor has been nominated and the nomination submitted to the Senate, or after the adjournment *sine die* of the session of the Senate in which such nomination was submitted.

The rest of the subsection provides that the Chairman of the Commission on behalf of the Commission, would be responsible, except as provided in section 705(b), for the administrative operations of the Commission and for the appointment of officers, agents, attorneys, hearing examiners, and other employees of the Commission, and Regional Directors, with the concurrence of the General Counsel, in accordance with Federal law, as he deems necessary.

SECTION 8(e)

This subsection would provide a new section 705(b) of the Act which establishes a General Counsel appointed by the President, with the advice and consent of the Senate, for a four (4) year term. The responsibilities of the General Counsel would include, in addition to those the Commission may prescribe and provided by law, the prosecution and the conduct of all litigation as so provided in sections 706 and 707 of the Act. The General Counsel would appoint regional attorneys with the concurrence of the Chairman and other employees in the Office of the General Counsel in order to effectively carry out his functions and responsibilities.

Furthermore, this subsection would continue the General Counsel on the effective date of the act in that position until a successor has been appointed and qualified. Subsections (b) through (j) of section 705 of the act are redesignated as Subsections (e) through (k), respectively.

SECTION 8(f)

This subsection would amend section 705(g)(1) of the present Act to permit the Commission to accept uncompensated services for the purpose of publicizing its activities in the media.

SECTION 8(g)

This subsection would eliminate the provision in present section 705(g) authorizing the Commission to request the Attorney General to intervene in private civil actions and instead permit the Commission itself to intervene in such civil actions as provided in section 706.

SECTION 8(h)

This subsection would, subject to one exception, permit the Commission to delegate any of its functions, duties and powers to such persons as it may designate by regulation. A number of other Federal agencies have similar broad authority to delegate functions, e.g., the Securities and Exchange Commission (15 U.S.C. § 78(d)(1), the Interstate Commerce Commission (49 U.S.C. § 17(5)), and the Federal Communications Commission (47 U.S.C. § 155(d)). The exception is as follows:

The Commission could not delegate its authority under section 709(b) to make agreements with States under which the Commission agrees to refrain from processing certain charges or to relieve certain persons from the recordkeeping requirements. The Commission would however be authorized to delegate this power or any of its other powers to groups of three or more members of the Commission.

SECTION 8(I)

This subsection would afford additional protection to officers, agents, and employees of the Commission in the performance of their official duties by making 18 U.S.C. 1114 applicable to them.

SECTION 9 (A), (B), (C), AND (D)

These subsections would make certain modifications in the position of the Chairman of the Commission and the members of the Commission and include the General Counsel in the executive pay scale, so as to place them in a position of parity with officials in comparable positions in agencies having substantially equivalent powers such as the National Labor Relations Board, the Federal Trade Commission and the Federal Power Commission.

SECTION 10

Section 715—This section, which is new, establishes an Equal Employment Opportunity Council (Council) composed of the Secretary of Labor, the Chairman of the Equal Employment Opportunity Commission, the Attorney General, the Chairman of the United States Civil Service Commission and the Chairman of the United States Civil Rights Commission or their respective designees. The Council will have the responsibility to coordinate and implement programs to promote the efficiency of all the various branches of government with responsibility for equal employment opportunities. The Council will submit an annual report to the President and Congress including a report of its activities and recommendations as to legislative or administrative changes it considers desirable.

SECTION 11

Section 717(a)—This subsection would make clear that all personnel actions of the U.S. Government affecting employees or applicants for employment shall be made free from any discrimination based on race, color, religion, sex, or national origin. All employees of any agency, department, office or commission having positions in the competitive service are covered by this section.

Section 717(b)—Under this subsection, the Civil Service Commission is given the authority to enforce the provisions of subsection (a) through appropriate remedies. These remedies may include but are not limited to back pay for applicants as well as employees denied promotion opportunities, reinstatement, hire, and immediate promotion. Any remedy needed to fully recompense the employee for his loss, both financially and professionally is considered appropriate under this subsection. The Civil Service Commission is also given authority to issue rules and regulations necessary to carry out its responsibilities under this section. The Civil Service Commission also shall annually review national and regional equal employment opportunity plans and be responsible for review and evaluation of all agency equal employment opportunity programs. Finally, agency and executive department heads and officers of the District of Columbia shall comply with such rules and regulations, submit an annual equal employment opportunity plan and notify any employee or applicant of any final action taken on any complaint of discrimination filed by him.

Section 717 (c) and (d)—The provisions of sections 706(f) through (k) as applicable, concerning private civil actions by aggrieved persons, are made applicable to aggrieved Federal employees or applicants. They could file a civil action within 30 days of notice of final action on a complaint made pursuant to section 717(b), or after 180 days from the filing of an initial charge, or an appeal with the Commission. The authority given to the Commission or the limitations placed upon the Commission under sections 706(f) through (k) would apply to the Civil Service Commission or the agencies, as appropriate, in connection with a civil action brought under section 707(c). So, for example, if the Civil Service Commission or agency does not issue an order within 180 days after a complaint or appeal is filed, the aggrieved person may also instiute a civil action. If such action is instituted within one year of the filing of the complaint or appeal, the Civil Service Commission or agency may request that the action be stayed or dismissed upon a showing that it has been acting with due diligence, that it anticipates issuance of an order within a reasonable time on the com-

plaint or appeal, that the case or proceeding is exceptional and that extension of exclusive jurisdiction of the Civil Service Commission or agency is warranted.

Section 717(e)—This subsection provides that nothing in this act relieves any Government agency or official of his existing nondiscriminating obligations under the Constitution, other statutes, or his or its responsibilities under Executve Order 11478 relating to equal employment opportunity in the Federal Government.

SECTION 12

Section 716 is amended to provide for consultation of the Attorney General, the Chairman of the Civil Service Commission, and the Chairman of the Equal Employment Opportunity Commission regarding rules, regulations and policy in the performance of their responsibilities under this act. It does not in any way limit each of the officials in independently carrying out ther respective obligations under this title.

SECTION 13

Ths section provides that the amended provisions of Section 706 would apply to charges filed with the Commission prior to the effective date of this Act. In addition, those new or amended sections of Title VII not specifically made inapplicable to current charges, would be applicable to such existing charges.

SECTION 14

This section provides that no government contract, or portion thereof, can be denied, withheld, terminated, or superseded by a government agency under the Executive Order 11246 or any other order of law without according the respective employer a full hearing and adjudication pursuant to 5 U.S.C. § 554 et. seq where such employer has an affirmative action program for the same facility which had been accepted by the Government within the prior twelve months. Such plan shall be deemed to be accepted by the Government if the appropriate compliance agency has accepted such plan and the Office of Federal Contract Compliance has not disapproved of such plan within 45 days. However, an employer who substantially deviates from the previously accepted plan is excluded from the protection afforded by this section.

The PRESIDING OFFICER. The question now is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question now is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The question is on final passage of S. 2515. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), and the Senator from Arkansas (Mr. FULBRIGHT) are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Maine (Mr. MUSKIE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is absent by leave of the Senate on official committee business.

The Senator from Wyoming (Mr. HANSEN) and the Senator from Iowa (Mr. MILLER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 73, nays 16, as follows:

[No. 56 Leg.]

YEAS—73

Aiken	Fong	Nelson
Allott	Gambrell	Packwood
Anderson	Gravel	Pastore
Beall	Griffin	Pearson
Bellmon	Gurney	Pell
Bennett	Harris	Percy
Bentsen	Hart	Proxmire
Bible	Hatfield	Randolph
Boggs	Hollings	Ribicoff
Brooke	Hruska	Roth
Buckley	Hughes	Saxbe
Burdick	Humphrey	Schweiker
Byrd, W. Va.	Inouye	Scott
Cannon	Javits	Smith
Case	Jordan, Idaho	Spong
Chiles	Kennedy	Stafford
Church	Magnuson	Stevens
Cook	Mansfield	Stevenson
Cooper	Mathias	Symington
Cotton	McGee	Taft
Cranston	McIntyre	Tunney
Curtis	Metcalf	Weicker
Dole	Mondale	Williams
Dominick	Montoya	
Eagleton	Moss	

NAYS—16

Allen	Fannin	Talmadge
Brock	Goldwater	Thurmond
Byrd, Va.	Jordan, N.C.	Tower
Eastland	Long	Young
Ellender	Sparkman	
Ervin	Stennis	

NOT VOTING—11

Baker	Hartke	Miller
Bayh	Jackson	Mundt
Fulbright	McClellan	Muskie
Hansen	McGovern	

So the bill (S. 2515) was passed, as follows:

S. 2515

An act to further promote equal employment opportunities for American workers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Equal Employment Opportunities Enforcement Act of 1972".

SEC. 2. Section 701 of the Civil Rights Act of 1961 (78 Stat. 253; 42 U.S.C. 2000e) is amended as follows:

(1) In subsection (a) insert "governments, governmental agencies, political subdivisions," after the word "individuals".

(2) Subsection (b) is amended to read as follows:

"(b) The term 'employer' means a person engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or any department or agency of the District of Columbia subject by statute to procedures of the competitive service (as defined in section 2102 of title 5 of the United States Code), or (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954, except that during the first year after the date of enactment of the Equal Employment Opportunities Enforcement Act of 1971, persons having fewer than twenty-five employees (and their agents) shall not be considered employers."

(3) In subsection (c) beginning with the semicolon strike out through the word "assistance".

(4) In subsection (e) strike out between "(A)" and "and such labor organization," and insert in lieu thereof "twenty-five or more during the first year after the date of enactment of the Equal Employment Opportunities Enforcement Act of 1972, or (B) fifteen or more thereafter,".

(5) In subsection (f), change the period at the end of the subsection to a colon, and add thereafter the following words: *"Provided, however,* That the term 'employee' shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be a personal assistant, or an immediate adviser in respect to the exercise of the constitutional or legal powers of the office."

(6) At the end of subsection (h) insert before the period a comma and the following: "and further includes any governmental industry, business, or activity".

(7) After subsection (i) insert the following new subsection (j):

"(j) The term 'religion' includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's, religious observance or practice without undue hardship on the conduct of the employer's business."

SEC. 3. Section 702 of the Civil Rights Act of 1964 (78 Stat. 255: 42 U.S.C. 2000e–1) is amended to read as follows:

"EXEMPTION

"SEC. 702. This title shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its religious activities."

SEC. 4. (a) Subsections (a) through (g) of section 706 of the Civil Rights Act of 1964 (78 Stat. 259; 42 U.S.C. 2000e–5(a)–(g)) are amended to read as follows:

"(a) The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 703 or 704 of this title.

"(b) Whenever a charge is filed by or on behalf of a person claiming to be aggrieved, or by an officer or employee of the Commission upon the request of any person claiming to be aggrieved, alleging that an employer, employment agency, labor organiaztion, or joint labor-management committee controlling: apprenticeship or other training or retraining, including on-the-job training programs, has engaged in an unlawful employment practice, the Commission shall serve a notice of the charge (including the date, place, and circumstances of the alleged unlawful employment practice) on such employer, employment agency, labor organiza-

tion, or joint labor-management committee (hereinafter referred to as the 'respondent') within ten days, and shall make an investigation thereof. Charges shall be in writing under oath or affirmation and shall contain such information and be in such form as the Commission requires. Charges shall not be made public by the Commission. If the Commission determines after such investigation that there is not reasonable cause to believe that the charge is true, it shall dismiss the charge and promptly notify the person claiming to be aggrieved and the respondent of its action. In determining whether reasonable cause exists, the Commission shall accord substantial weight to final findings and orders made by State or local authorities in proceedings commenced under State or local law pursuant to the requirements of subsections (c) and (d). If the Commission determines after such investigation that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such informal endeavors may be made public by the Commission, its officers or employees, or used as evidence in a subsequent proceeding without the written consent of the persons concerned. Any person who makes public information in violation of this subsection shall be fined not more than $1,000 or imprisoned for not more than one year, or both. The Commission shall make its determination on reasonable cause as promptly as possible and, so far as practicable, not later than one hundred and twenty days from the filing of the charge or, where applicable under subsection (c) or (d), from the date upon which the Commission is authorized to take action with respect to the charge.

"(c) In the case of a charge filed by or on behalf of a person claiming to be aggrieved alleging an unlawful employment practice occurring in a State or political subdivision of a State which has a State or local law prohibiting the unlawful employment practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof the Commission shall take no action with respect to the investigation of such charge before the expiration of sixty days after proceedings thave been commenced under the State or local law, unless such proceedings have been earlier terminated, except that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law. If any requirement for the commencement of such proceedings is imposed by a State or local authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered or certified mail to the appropriate State or local authority.

"(d) In the case of any charge filed by an officer or employee of the Commission alleging an unlawful employment practice occurring in a State or political subdivision of a State which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof the Commission shall, before taking any action with respect to such charge, notify the appropriate State or local officials and, upon request, afford them a reasonable time, but not less than sixty days (provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law), unless a shorter period is requested, to act under such State or local law to remedy the practice alleged.

"(e) A charge under this section shall be filed within one hundred and eighty days after the alleged unlawful employment practice occurred and notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) shall be served upon the person against whom such charge is made within ten days thereafter, except that in a case of an unlawful employment practice with respect to which the person aggrieved has initially instituted proceedings with a State or local agency with authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, such charge shall be filed by or on behalf of the person aggrieved within three hundred days after the alleged unlawful employment practice occurred, or within thirty days after receiving notice that the State or local agency has terminated the proceedings under the State or local law, whichever is earlier, and a copy of such charge shall be filed by the Commission with the State or local agency.

"(f) (1) If within thirty days after a charge is filed with the Commission or within thirty days after expiration of any period of reference under subsection (c) or (d), the Commission has been unable to secure from the respondent a conciliation agreement acceptable to the Commission, the Commission shall so notify the General Counsel who may bring a civil action against any respondent not a government, governmental agency, or political subdivision named in the charge. In the case of a respondent which is a government, governmental agency, or political subdivision, the Commission shall take no further action and shall refer the case to the Attorney General who may bring a civil action against such respondent in the appropriate United States district court. The person or persons aggrieved shall have the right to intervene in a civil action brought by the General Counsel or the Attorney General in a case involving a government, governmental agency, or political subdivision. If a charge filed with the Commision pursuant to subsection (b) is dismissed by the Commission, or if within one hundred and fifty days from the filing of such charge or the expiration of any period of reference under subsection (c) or (d), whichever is later, the General Counsel has not filed a civil action under this section or the Attorney General has not filed a civil action in a case involving a government, governmental agency, or political subdivision, or the Commission has not entered into a conciliation agreement to which the person aggrieved is a party, the Commission or the Attorney General in a case involving a government, governmental agency, or political subdivision shall so notify the person aggrieved and within ninety days after the giving of such notice a civil action may be brought against the respondent named in the charge (1) by the person named in the charge as claiming to be aggrieved or (2) if such charge was filed by an officer or employee of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action if he certifies that the case is of general public importance. Upon request, the court may, in its discretion, stay further proceedings for not more than sixty days pending the termination of State or local proceedings described in subsections (c) or (d) of this section or further efforts of the Commission to obtain voluntary compliance.

"(2) In any such proceeding the General Counsel or the Attorney General in a case involving a government, governmental agency or political subdivision may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the General Counsel or the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk, to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

"(3) In the event the General Counsel or the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

"(4) It shall be the duty of the judge designated pursuant to this subsection to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

"(5) Whenever a charge is led with the Commission and the Commission concludes on the basis of a preliminary investigation that prompt judicial action is necessary to carry out the purposes of this Act, the Commission or the Attorney General in a case involving a government, governmental agency, or political subdivision, may bring an action for appropriate temporary or prelimnary relief pending final disposition of such charge. It shall be the duty of a court having jurisdicton over proceedings under this section to assign cases for hearing at the earliest practicable date and to cause such cases to be in every way expedited.

"(6) The provisions of section 706 (f) through (k), as applicable, shall govern civil actions brought hereunder.

"(g) (1) Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this title. Such an action may be brought in any judicial district in the State in which the unlawful employment practice as alleged to have been committed, in the judicial district in which the employment records relevant to such practice are maintained and administered, or in the judicial district in which the injured person would have worked but for the alleged unlawful employment practice, but if the respondent is not found within any such district, such an action may be brought within the judicial district in which the respondent has his principal office. For purposes of sections 1404 and 1406 of title 28 of the United States Code,

the judicial district in which the respondent has his principal office shall in all cases be considered a district in which the action might have been brought.

"(2) If the court finds that the respondent has engaged in or is engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include, but is not limited to, reinstatement or hiring of employees, with or without backpay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), or any other equitable relief as the court deems appropriate. Backpay liability shall not exceed that which accrues from a date more than two years prior to the filing of a charge with the Commission. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the backpay otherwise allowable."

"(b) Subsection (k) of section 706 of such Act is amended to read as follows:

"(k) In any action or proceeding under this title the Commission or court, as the case may be, may allow the prevailing party, other than the Commission or the United States, a reasonable attorney's fee as part of the costs, and the Commission and the United States shall be liable for costs the same as a private person. Any prevailing party in any proceeding brought by or against the Commission of the United States under this title, that is an employer of less than twenty-five employees or a labor organization of less than twenty-five members shall, upon application to the Commission, be indemnified by the United States for the cost of his defense against the charge in an amount not to exceed $5,000, including all reasonable expenses and attorney's fees incurred after the serving of notice on him of the charge.

"Any prevailing party in such a proceeding that is an employer of twenty-five to one hundred employees whose average income from such employment is less than $7,500, or a labor organization with twenty-five to one hundred members, shall, upon application to the Commission, be indemnified by the United States for one-half of the cost of his defense against the charge not to exceed $2,500, including all reasonable expenses and attorney's fees incurred after the serving of notice on him of the charge. The costs evidenced by respondent's vouchers of his expenses and attorney's fees shall be deemed reasonable so long as they are comparable to the total amount of the expenses and attorney's fees incurred by the Commission in investigating and prosecuting the charge. Disallowance of any part of such request shall be made a part of the Commission's order in such proceedings. Any United States court before which a proceeding under this title shall be brought may upon request by the respondent make the determination provided for in this subsection. The Treasurer of the United States shall indemnify the respondent as provided for herein upon certification by the Commission."

SEC. 4A. The fifth sentence of section 706 (f)(1) of the Civil Rights Act of 1964, as amended by the previous section, is amended to read as follows: "Upon timely application, the court may, in its discretion, permit the General Counsel, or the Attorney General in a case involving a government, government agency, or political subdivision, to intervene in such civil action if he certifies that the case is of general public importance."

SEC. 4B. Section 706 of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new subsection:

"(l) If the judge designated pursuant to subsection (f)(3) of this section has not assigned the case for trial within one hundred and twenty days after issue has been joined, that judge may appoint a master pursuant to rule 53 of the Federal Rules of Civil Procedure."

SEC. 5. Section 707 of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new subsection:

"(c) Effective two years after the date of enactment of the Equal Employment Opportunities Enforcement Act of 1972, the functions of the Attorney General under this section shall be transferred to the Commission, together with such personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with such functions unless the President submits, and neither House of Congress vetoes, a reorganization plan pursuant to chapter 9, of title 5, United States Code, inconsistent with the provisions of this subsection. The Commission shall carry out such functions in accordance with the provisions of subsection (d) and (e) of this section.

"(d) Upon the transfer of functions provided for in subsection (c) of this section, in all suits commenced pursuant to this section prior to the date of such transfer, proceedings shall continue without abatement, all court orders and decrees shall remain in effect, and the Commission shall be substituted as a party for the United States of America, the Attorney General, or the Acting Attorney General, as appropriate.

"(e) Subsequent to the date of enactment of the Equal Employment Opportunities Enforcement Act of 1972, the Commission shall have authority to investigate and act on a charge of a pattern or practice of discrimination, whether filed by or on behalf of a person claiming to be aggrieved or by an officer or employee of the Commission. All such actions shall be conducted in accordance with the procedures set forth in section 706."

SEC. 6. (a) Subsections (b), (c), and (d) of section 709 of the Civil Rights Act of 1964 (78 Stat. 263; 42 U.S.C. 2000e-8(b)-(d)) are amended to read as follows:

"(b) The Commission may cooperate with State and local agencies charged with the administration of State fair employment practices laws and, with the consent of such agencies, may, for the purpose of carrying out its functions and duties under this title and within the limitation of funds appropriated specifically for such purpose, engage in and contribute to the cost of research and other projects of mutual interest undertaken by such agencies, and utilize the services of such agencies and their employees, and, notwithstanding any other provision of law, pay by advance or reimbursement such agencies and their employees for services rendered to assist the Commission in carrying out this title. In furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or local agencies and such agreements may include provisions under which the Commission shall refrain from processing a charge in any cases or class of cases specified in such agreements or under which the Commission shall relieve any person or class of persons in such State or locality from requirements imposed under this section. The Commission shall rescind any such agreement whenever it determines that the agreement no longer serves the interest of effective enforcement of this title.

"(c) Every employer, employment agency, and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purposes of this title, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which applications were received, and to furnish to the Commission upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may apply to the Commission for an exemption from the application of such regulation or order, and, if such application for an exemption is denied, bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief. If any person required to comply with the provisions of this subsection fails or refuses to do so, the United States district court for the district in which such person is found, resides, or transacts business, shall, upon application of the Commission, or the Attorney General in a case involving a government, governmental agency or political subdivision, have jurisdiction to issue to such person an order requiring him to comply.

"(d) In prescribing requirements pursuant to subsection (c) of this section, the Commission shall consult with other interested State and Federal agencies and shall endeavor to coordinate its requirements with those adopted by such agencies. The Commission shall furnish upon request and without cost to any State or local agency charged with the administration of a fair employment practice law information obtained pursuant to subsection (c) of this section from any employer, employment agency, labor organization, or joint labor-management committee subject to the jurisdiction of such agency. Such information shall be furnished on condition that it not be made public by the recipient agency prior to the institution of a proceeding under State or local law involving such information. If this condition is violated by a recipient agency, the Commission may decline to honor subsequent requests pursuant to this subsection."

(b) Section 709 or the Civil Rights Act of 1964 is amended by: (1) redesignating subsection (e) as subsection (f) and (2) by adding immediately after section 709(d) as amended, the following subsection (e):

"(e) Any record or paper required by section 709(c) of this title to be preserved or maintained shall be made available for inspection, reproduction, and copying by the Commission or its representative, or by the Attorney General or his representative, upon demand in writing directed to the person having custody, possession, or control of such record or paper. Unless otherwise ordered by a court of the United States, neither the members of the Commission or its representative nor the Attorney General or his representative shall disclose any record or paper produced pursuant to this title, or any reproduction or copy, except to Congress or any committee thereof, or to a governmental agency, or in the presentation of any case or proceeding before any court or grand jury. The United States district court for the district in which a demand is made or in which a record or paper so demanded is located, shall have jurisdiction to compel

by appropriate process the production of such record or paper."

SEC. 7. Section 710 of the Civil Rights Act of 1964 (78 Stat. 264; 42 U.S.C. 2000e–9) is amended to read as follows:

"INVESTIGATORY POWERS

"SEC. 710. For the purpose of all hearings and investigations conducted by the Commission or its duly authorized agents or agencies, section 11 of the National Labor Relations Act (49 Stat. 455 29 U.S.C. 161) shall apply."

SEC. 8. (a) Section 703(a)(2) of the Civil Rights Act of 1961 (78 Stat. 255; 42 U.S.C. 2000e–2(a)(2)) is amended by inserting the words "or applicants for employment" after the words "his employees".

(b) Section 703(c)(2) of such Act is amended by inserting the words "or applicants for membership" after the word "membership".

(c)(1) Section 704(a) of such Act is amended by inserting "or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs," after "employment agency" in section 704(a).

(2) Section 704(b) of such Act is amended by (A) striking out "or employment agency" and inserting in lieu thereof "employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs,", and (B) inserting a comma and the words "or relating to admission to, or employment in, any program established to provide apprenticeship or other training by such a joint labor-management committee" before the word "indicating".

(d) Section 705(a) of the Civil Rights Act of 1964 (785 Stat. 258, 42 U.S.C. 200e–4(a)) is amended to read as follows:

"SEC. 705. (a) There is hereby created a Commission to be known as the Equal Employment Opportunity Commission, which shall be composed of five members, unless additional members are appointed as hereinafter provided in this subsection. Not more than the least number of members sufficient to constitute a majority of the members of the Commission shall be members of the same political party. Members of the Commission shall be appointed by the President by and with the advice and consent of the Senate for a term of five years. Any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed, and all members of the Commission shall continue to serve until their successors are appointed and qualified, except that no such member of the Commission shall continue to serve (1) for more than sixty days when the Congress is in session unless a nomination to fill such vacancy shall have been submitted to the Senate, or (2) after the adjournment sine die of the session of the Senate in which such nomination was submitted. The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and, except as provided in subsection (b), shall appoint, in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, such officers, agents, attorneys, hearing examiners, and employees, except that regional directors of the Commission shall be appointed by the Chairman with the concurrence of the General Counsel, as he deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates: *Provided*, That assignment, removal, and compensation of hearing examiners shall be in accordance with sections 3105, 3344, 5362, and 7521 of title 5, United States Code. At any time after one year from the effective date of the Equal Employment Opportunities Enforcement Act of 1972, the Chairman of the Commission, if he determines that the appointment of additional members of the Commission would help to effectuate the purposes of this title, may request the President to appoint up to four additional members of the Commission. Upon receiving such a request, the President may appoint up to four additional members of the Commission by and with the advice and consent of the Senate. Such additional members shall be appointed for a term of five years. Upon the expiration of the term of appointment of any such additional member no further appointment to the same position shall be made, and the total number of members of the Commission shall be reduced accordingly unless the Chairman of the Commission determines that the appointment of one or more additional members of the Commission continues to be necessary to better effectuate the purposes of this title and so advises the President."

(c)(1) Section 705 of the Act is amended by inserting the following new subsection (b):

"(b) There shall be a General Counsel of the Commission appointed by the President, by and with the advice and consent of the Senate, for a term of four years. The General Counsel shall have responsibility for the filing of complaints and the conduct of litigation as provided in sections 706 and 707 of this title. The General Counsel shall have such other duties as the Commission may prescribe or as may be provided by law. The General Counsel shall appoint regional attorneys with the concurrence of the Chairman, and shall appoint such other employees in the Office of the General Counsel as may be necessary to assist in carrying out the General Counsel's responsibilities and functions under this title. The General Counsel of the Commission on the effective date of this Act shall continue in such position and perform the functions specified in this subsection until a successor is appointed and qulified."

(2) Subsections (b) through (j) of section 705 of such Act are redesignated as subsections (c) through (k), respectively.

(f) Section 705(h)(1) of such Act is amended by inserting at the end thereof the following: ", and to accept voluntary and uncompensated services, for the limited purpose of publicizing in the media the Commission and its activities notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))".

(g) Section 705(h)(6) of such Act, as redesignated by this section, is amended to read as follows:

"(6) to intervene in a civil action brought by an aggrieved party under section 706."

(h) Section 713 of such Act is amended by adding at the end thereof the following new subsections:

"(c) Except for the rulemaking power as defined in subchapter II of chapter 5 of title 5, United States Code, with reference to general rules as distinguished from rules of specific applicability, and the power to enter into or rescind agreements with State and local agencies, as provided in subsection (b) of section 709, under which the Commission agrees to refrain from processing a charge in any cases or class of cases or under which the Commission agrees to relieve any person or class of persons in such State or locality from requirements imposed by section 709, the Commission may delegate any of its functions, duties, and powers to such person or persons as the Commission may designate by regulation, including functions, duties, and powers with respect to hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter. Nothing in this subsection authorizes the Commission to provide for persons other than those referred to in clauses (2) and (3) of subsection (b) of section 556 of title 5 of the United States Code to conduct any hearing to which that section applies.

"(d) The Commission is authorized to delegate to any group of three or more members of the Commission any or all of the powers which it may itself exercise."

(i) Section 714 of such Act is amended by striking out "section 11" and inserting in lieu thereof "sections 111 and 1114".

SEC. 9. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new clause:

"(58) Chairman, Equal Employment Opportunity Commission."

(b) Clause (72) of section 5315 of such title is amended to read as follows:

"(72) Members, Equal Employment Opportunity Commission (8)."

(c) Clause (111) of section 5316 of such title is repealed.

(d) Section 5316 of such title is amended by adding at the end thereof the following new clause:

"(131) General Counsel of the Equal Employment Opportunity Commission."

SEC. 10. Section 715 of the Civil Rights Act of 1964 is amended to read as follows:

"SEC. 715. There shall be established an Equal Employment Opportunity Coordinating Council (hereinafter referred to in this paragraph as the Council) composed of the Secretary of Labor, the Chairman of the Equal Employment Opportunity Commission, the Attorney General, and the Chairman of the United States Civil Rights Commission, or their respective delegates. The Council shall have the responsibility for developing and implementing agreements, policies and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication and inconsistency among the operations, functions and jurisdictions of the various departments, agencies and branches of the Federal Government responsible for the implementation and enforcement of equal employment opportunity legislation, orders, and policies. On or before July 1 of each year, the Council shall transmit to the President and to the Congress a report of its activities, together with such recommendations for legislative or administrative changes as it concludes are desirable to further promote the purposes of this section."

SEC. 11. Title VII of the Civil Rights Act of 1964 (78 Stat. 253; 42 U.S.C. 2000e et seq.) is amended by adding at the end thereof the following new section:

"NONDISCRIMINATION IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 717. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units of the Government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on race, color, religion, sex, or national origin.

"(b) Except as otherwise provided in this subsection, the Civil Service Commission shall have authority to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without back pay, as will effectuate the policies of this section,

and shall issue such rules, regulations, orders and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

"(1) be responsible for the annual review and approval of a national and regional equal employment opportunity plan which each department and agency and each appropriate unit referred to in section 717(a) shall submit in order to maintain an affirmative program of equal employment opportunity for all such employees and applicants for employment;

"(2) be responsible for the review and evaluation of the operation of all agency equal employment opportunity programs, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit; and

"(3) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to equal employment opportunity.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. The plan submitted by each department, agency, and unit shall include, but not be limited to—

"(1) provisions for the establishment of training and education programs designed to provide a maximum opportunity for employees to advance so as to perform at their highest potential; and

"(2) a description of the qualifications in terms of training and experience relating to equal employment opportunity for the principal and operating officials of each such department, agency, or unit responsible for carrying out the equal employment opportunity program and of the allocation of personnel and resources proposed by such department, agency, or unit to carry out its equal employment opportunity program.

With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

"(c) Within thirty days of receipt of notice of final action taken by a department, agency, or unit referred to in subsection 717 (a), or by the Civil Service Commission upon an appeal from a decision or order of such department, agency, or unit on a complaint of discrimination based on race, color, religion, sex or national origin, brought pursuant to subsection (a) of this section, Executive Order 11478 or any succeeding executive orders, or after one hundred and eighty days from the filing of the initial charge with the department, agency, or unit or with the Civil Service Commission on appeal from a decision or order of such department, agency, or unit until such time as final action may be taken by a department, agency, or unit, an employee or applicant for employment, if aggrieved by the final disposition of his complaint, or by the failure to take final action on his complaint, may file a civil action as provided in section 706, in which civil action the head of the department, agency, or unit, as appropriate, shall be the defendant.

"(d) The provisions of section 706(f) through (k), as applicable, shall govern civil actions brought hereunder.

"(e) Nothing contained in this Act shall relieve any Government agency or official of its or his primary responsibility to assure nondiscrimination in employment as required by the Constitution and statutes or of its or his responsibilities under Executive Order 11478 relating to equal employment opportunity in the Federal Government."

SEC. 12. Section 716 of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)-15, 78 Stat. 266) is amended by adding at the end thereof the following new subsection:

"(d) In the performance of their responsibilities under this Act, the Attorney General, the Chairman of the Civil Service Commission and the Chairman of the Equal Employment Opportunity Commission shall consult regarding their rules, regulations, and policies."

SEC. 13. Section 5108(c) of title 5, United States Code, is amended by—

(1) striking out the word "and" at the end of paragraph (9);

(2) striking out the period at the end of paragraph (10) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding immediately after paragraph (10) the last time it appears therein the following new paragraph:

"(11) the Chairman of the Equal Employment Opportunity Commission, subject to the standards and procedures prescribed by this chapter, may place an additional ten positions in the Equal Employment Opportunity Commission in GS-16, GS-17, and GS-18 for the purposes of carrying out title VII of the Civil Rights Act of 1964."

SEC. 14. The amendments made by this Act to section 706 of the Civil Rights Act of 1964 shall be applicable with respect to charges pending with the Commission on the date of enactment of this Act and all charges filed thereafter.

SEC. 15. No Government contract, or portion thereof, with any employer, shall be denied, withheld, terminated, or suspended, by any agency or officer of the United States under any equal employment opportunity law or order, where such employer has an affirmative action plan which has previously been accepted by the Government for the same facility within the past twelve months without first according such employer full hearing and adjudication under the provisions of title 5, United States Code, section 554, and the following pertinent sections: *Provided*, That if such employer has deviated substantially from such previously agreed to affirmative action plan, this section shall not apply: *Provided further*, That for the purposes of this section an affirmative action plan shall be deemed to have been accepted by the Government at the time the appropriate compliance agency has accepted such plan unless within forty-five days thereafter the Office of Federal Contract Compliance has disapproved such plan.

SEC. 16. The Chairman of the United States Civil Service Commission, or his delegate, shall be a member of the Equal Employment Opportunity Coordinating Council established by section 715 of the Civil Rights Act of 1964, as amended by this Act.

The PRESIDING OFFICER. Under the previous unanimous-consent agreement, the Senate will now proceed to the consideration of H.R. 1746, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R 1746) to further promote equal opportunity for American workers.

The PRESIDING OFFICER. Under the agreement, all after the enacting clause is stricken, and the language of S. 2515 as passed by the Senate is substituted therefor.

The amendment was ordered to be engrossed and th bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announced that, if present and voting, the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Maine (Mr. MUSKIE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is absent by leave of the Senate on official committee business.

The Senator from Wyoming (Mr. HANSEN) and the Senator from Iowa (Mr. MILLER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 72, nays 17, as follows:

[No. 57 Leg.]

YEAS—72

Aiken	Fong	Moss
Allott	Gambrell	Nelson
Anderson	Gravel	Packwood
Beall	Griffin	Pastore
Bellmon	Gurney	Pearson
Bennett	Harris	Pell
Bentsen	Hart	Percy
Bible	Hatfield	Proxmire
Boggs	Hollings	Randolph
Brooke	Hruska	Ribicoff
Burdick	Hughes	Roth
Byrd, W. Va.	Humphrey	Saxbe
Cannon	Inouye	Schweiker
Case	Javits	Scott
Chiles	Jordan, Idaho	Smith
Church	Kennedy	Spong
Cook	Magnuson	Stafford
Cooper	Mansfield	Stevens
Cotton	Mathias	Stevenson
Cranston	McGee	Symington
Curtis	McIntyre	Taft
Dole	Metcalf	Tunney
Dominick	Mondale	Weicker
Eagleton	Montoya	Williams

NAYS—17

Allen	Ervin	Stennis
Brock	Fannin	Talmadge
Buckley	Goldwater	Thurmond
Byrd, Va.	Jordan, N.C.	Tower
Eastland	Long	Young
Ellender	Sparkman	

NOT VOTING—11

Baker	Hartke	Miller
Bayh	Jackson	Mundt
Fulbright	McClellan	Muskie
Hansen	McGovern	

So the bill (H.R. 1746) was passed.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that in the engrossment of the Senate amendments to H.R. 1746, the Secretary of the Senate be authorized to make necessary technical and clerical corrections.

The PRESIDING OFFICER (Mr. ROTH). Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that H.R. 1746 as amended by the Senate be printed as passed.

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

Mr. MANSFIELD. Mr. President, I simply wish to extend the gratitude of the Senate to the distinguished Senator

ADJOURNMENT OVER TO MONDAY NEXT

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that the business in order under the calendar Wednesday rule be dispensed with on Wednesday of next week, March 8.

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

There was no objection.

CORRECTION OF VOTE

Mr. MONAGAN. Mr. Speaker, I am informed that on the last rollcall of today I am recorded as not voting. I was present in the Chamber and voted "yea." I ask unanimous consent that the RECORD be corrected accordingly.

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

There was no objection.

CONFERENCE REPORT ON H.R. 1746, EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1972

Mr. PERKINS submitted the following conference report and statement on the bill (H.R. 1746) to further promote equal employment opportunities for American workers:

CONFERENCE REPORT (H. REPT. No. 92-899)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1746). An Act to further promote equal employment opportunities for American workers, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Equal Employment Opportunity Act of 1972".

SEC. 2. Section 701 of the Civil Rights Act of 1964 (78 Stat. 253; 42 U.S.C. 2000e) is amended as follows:

(1) In subsection (a) insert "governments, governmental agencies, political subdivisions," after the word "individuals".

(2) Subsection (b) is amended to read as follows:

"(b) The term 'employer' means a person engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or any department or agency of the District of Columbia subject by statute to procedures of the competitive service (as defined in section 2102 of title 5 of the United States Code), or (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954, except that during the first year after the date of enactment of the Equal Employment Opportunity Act of 1972, persons having fewer than twenty-five employees (and their agents) shall not be considered employers."

(3) In subsection (c) beginning with the semicolon strike out through the word "assistance".

(4) In subsection (e) strike out between "(A)" and "and such labor organization", and insert in lieu thereof "twenty-five or more during the first year after the date of enactment of the Equal Employment Opportunity Act of 1972, or (B) fifteen or more thereafter,".

(5) In subsection (f), insert before the period a comma and the following: "except that the term 'employee' shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policy making level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency or political subdivision."

(6) At the end of subsection (h) insert before the period a comma and the following: "and further includes any governmental industry, business, or activity".

(7) After subsection (i) insert the following new subsection (j):

"(j) The term 'religion' includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business."

SEC. 3. Section 702 of the Civil Rights Act of 1964 (78 Stat. 255; 42 U.S.C. 2000e-1) is amended to read as follows:

"EXEMPTION

"SEC. 702. This title shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities."

SEC. 4. (a) Subsections (a) through (g) of section 706 of the Civil Rights Act of 1964 (78 Stat. 259; 42 U.S.C. 2000e-5(a)-(g)) are amended to read as follows:

"SEC. 705. (a) The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 703 or 704 of this title.

"(b) Whenever a charge is filed by or on behalf of a person claiming to be aggrieved, or by a member of the Commission, alleging that an employer employment agency, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, has engaged in an unlawful employment practice, the Commission shall serve a notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) on such employer, employment agency, labor organization, or joint labor-management committee (hereinafter referred to as the 'respondent') within ten days, and shall make an investigation thereof. Charges shall be in writing under oath or affirmation and shall contain such information and be in such form as the Commission requires. Charges shall not be made public by the Commission. If the Commission determines after such investigation that there is not reasonable cause to believe that the charge is true, it shall dismiss the charge and promptly notify the person claiming to be aggrieved and the respondent of its action. In determining whether reasonable cause exists, the Commission shall accord substantial weight to final findings and orders made by State or local authorities in proceedings commenced under State or local law pursuant to the requirements of subsections (c) and (d). If the Commission determines after such investigation that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such informal endeavor may be made public by the Commission, its officers or employees, or used as evidence in a subsequent proceeding without the written consent of the persons concerned. Any person who makes public information in violation of this subsection shall be fined not more than $1,000 or imprisoned for not more than one year, or both. The Commission shall make its determination on reasonable cause as promptly as possible and, so far as practicable, not later than one hundred and twenty days from the filing of the charge or, where applicable under subsection (c) or (d), from the date upon which the Commission is authorized to take action with respect to the charge.

"(c) In the case of an alleged unlawful employment practice occurring in a State, or political subdivision of a State, which has a State or local law prohibiting the unlawful employment practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, no charge may be filed under subsection (a) by the person aggrieved before the expiration of sixty days after proceedings have been commenced under the State or local law, unless such proceedings have been earlier terminated, provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law. If any requirement for the commencement of such proceedings is imposed by a State or local authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered mail to the appropriate State or local authority.

"(d) In the case of any charge filed by a member of the Commission alleging an unlawful employment practice occurring in a State or political subdivision of a State which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, the Commission shall, before taking any action with respect to such charge, notify the appropriate State or local officials and, upon request, afford them a reasonable time, but not less than sixty days (provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective day of such State or local law), unless a shorter period is requested, to act under such State or local law to remedy the practice alleged.

Rooney, Pa.	Snyder	Waggonner
Rosenthal	Spence	Waldie
Roush	Staggers	Ware
Rousselot	Stanton,	Whalen
Roy	J. William	Whalley
Roybal	Stanton,	White
Ruppe	James V.	Whitehurst
Ruth	Steed	Whitten
Ryan	Steele	Widnall
St Germain	Steiger, Ariz.	Wiggins
Sandman	Steiger, Wis.	Williams
Sarbanes	Stratton	Wilson,
Satterfield	Stuckey	Charles H.
Saylor	Sullivan	Winn
Scherle	Symington	Wolff
Scheuer	Talcott	Wright
Schneebeli	Taylor	Wyatt
Schwengel	Teague, Calif.	Wydler
Scott	Teague, Tex.	Wylie
Sebelius	Terry	Wyman
Seiberling	Thompson, Ga.	Yates
Shriver	Thompson, N.J.	Yatron
Sikes	Thomson, Wis.	Young, Fla.
Sisk	Thone	Young, Tex.
Skubitz	Udall	Zablocki
Slack	Ullman	Zion
Smith, Calif.	Van Deerlin	Zwach
Smith, Iowa	Vander Jagt	
Smith, N.Y.	Vigorito	

NAYS—14

Bennett	Flynt	Rarick
Crane	Gross	Robinson, Va.
de la Garza	Hall	Runnels
Duncan	Mathis, Ga.	Schmitz
Findley	Nichols	

NOT VOTING—57

Anderson, Tenn.	Hébert	O'Hara
Andrews	Jonas	O'Neill
Annunzio	Kemp	Poage
Ashbrook	Kluczynski	Powell
Baring	Kyros	Pryor, Ark.
Blatnik	Landgrebe	Pucinski
Brasco	Latta	Purcell
Camp	Long, Md.	Riegle
Carey, N.Y.	McCloskey	Rostenkowski
Chisholm	McDonald,	Shipley
Clay	Mich.	Shoup
Collins, Ill.	McMillan	Springer
Dwyer	Macdonald,	Stephens
Eckhardt	Mass.	Stokes
Edwards, La.	Madden	Stubblefield
Frey	Mann	Tiernan
Galifianakis	Martin	Vanik
Goldwater	Metcalfe	Veysey
Grasso	Mitchell	Wampler
	Morgan	Wilson, Bob

So the bill was passed.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Andrews.
Mr. Stokes with Mr. Blatnik.
Mr. Annunzio with Mr. Bob Wilson.
Mr. Brasco with Mr. Goldwater.
Mr. Rostenkowski with Mr. McDonald of Michigan.
Mr. Hébert with Mr. Martin.
Mr. Carey of New York with Mr. Clay.
Mr. Kluczynski with Mr. Springer.
Mr. Collins of Illinois with Mr. Kyros.
Mr. Macdonald of Massachusetts with Mr. Kemp.
Mr. Stubblefield with Mr. Ashbrook.
Mr. Tiernan with Mr. Camp.
Mr. O'Hara with Mrs. Chisholm.
Mr. Long of Maryland with Mr. Metcalfe.
Mr. Shipley with Mr. Frey.
Mr. Stephens with Mr. Landgrebe.
Mr. Anderson of Tennessee with Mr. Latta.
Mr. Eckhardt with Mr. McCloskey.
Mr. Purcell with Mr. Riegle.
Mrs. Grasso with Mrs. Dwyer.
Mr. Vanik with Mr. Powell.
Mr. Mann with Mr. Jones.
Mr. Mitchell with Mr. Baring.
Mr. Pucinski with Mr. Shoup.
Mr. Madden with Mr. Veysey.
Mr. Morgan with Mr. Wampler.
Mr. McMillan with Mr. Galifianakis.

Mr. CONYERS changed his vote from "nay" to "yea."

The title was amended so as to read: "A bill to amend the Act of September 30, 1965, relating to high-speed ground transportation, to enlarge the authority of the Secretary to undertake research and development, to remove the termination date thereof, and for other purposes."

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 850, the Committee on Interstate and Foreign Commerce is discharged from further consideration of the bill S. 979.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to strike out all after the enacting clause of the bill S. 979 and to insert in lieu thereof the provisions of H.R. 11384, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the Act of September 30, 1965, relating to high-speed ground transportation, to enlarge the authority of the Secretary to undertake research and development, to remove the termination date thereof, and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 11384) was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to extend their remarks on the bill just passed.

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

There was no objection.

CORRECTION OF ROLLCALL

Mr. BIAGGI. Mr. Speaker, on rollcall No. 53, on February 29, a quorum call, I am recorded as absent. I was present and answered to my name. I ask unanimous consent that the permanent RECORD and Journal be corrected accordingly.

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

There was no objection.

CORRECTION OF VOTE

Mr. CARNEY. Mr. Speaker, on rollcall No. 60 I am recorded as not voting. I was present and voted "yea." I ask unanimous consent that the RECORD be corrected accordingly.

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

There was no objection.

LEGISLATIVE PROGRAM

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

Mr. GERALD R. FORD. Mr. Speaker, I take this time for the purpose of asking the distinguished majority leader the program for the remainder of the week, if any, and the schedule for next week.

Mr. BOGGS. Mr. Speaker, will the distinguished gentleman yield?

Mr. GERALD R. FORD. I yield to the distinguished gentleman from Louisiana.

Mr. BOGGS. Mr. Speaker, in reply to the distinguished minority leader, this completes the program for this week, and I shall ask unanimous consent to go over until Monday after adjournment today.

The program for next week is as follows:

Monday there will be a call of the Consent Calendar, to be followed by consideration of nine suspensions, as follows:

S. 1975, minimum age for Federal court jurors;

H.R. 2589, jury qualification form change;

Senate Joint Resolution 190, Commission on the Bankruptcy Laws Terms Extension;

H.R. 12828, veterans' education and training amendments;

S. 860, Trust Territory of the Pacific Islands;

H.R. 12749, saline water conversion program;

H.R. 10390, Indian Claims Commission;

H.R. 8763, Oregon Dunes National Recreation Area; and

H.R. 10834, authorizing Alaska to operate a ferry.

Tuesday there will be a call of the Private Calendar, and also a motion to send to conference S. 659, the Omnibus Education Amendments of 1972, with Senate amendment thereto.

For Wednesday and the balance of the week there will be consideration of the following:

H.R. 11624, Transpo 72 at Dulles Airport, authorization, subject to a rule being granted;

H.R. 1746, Equal Employment Opportunities Act, a conference report; and

H.R. 10420, Marine Mammal Protection Act, subject to a rule being granted.

Conference reports, of course, may be called up at any time, and any further program will be announced later.

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

Mr. GERALD R. FORD. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

What is the future for that long list of Member bills which were killed off yesterday or the day before yesterday, whichever it was?

Mr. BOGGS. I am unable to answer the gentleman's inquiry. I have not discussed the matter with the distinguished chairman of the Ways and Means Committee. I would think that the gentleman would be free to call them up again under unanimous consent, or, if necessary, to obtain rules.

I would not want to slow down any presidential candidate's campaign, but it might be helpful to know as soon as possible when we are going to be faced with that bunch of bills.

The gentleman might notice they are not called up for next Tuesday, at any rate.

"(e) A charge under this section shall be filed within one hundred and eighty days after the alleged unlawful employment practice occurred and notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) shall be served upon the person against whom such charge is made within ten days thereafter, except that in a case of an unlawful employment practice with respect to which the person aggrieved has initially instituted proceedings with a State or local agency with authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, such charge shall be filed by or on behalf of the person aggrieved within three hundred days after the alleged unlawful employment practice occurred, or within thirty days after receiving notice that the State or local agency has terminated the proceedings under the State or local law, whichever is earlier, and a copy of such charge shall be filed by the Commission with the State or local agency.

"(f) (1) If within thirty days after a charge is filed with the Commission or within thirty days after expiration of any period of reference under subsection (c) or (d), the Commission has been unable to secure from the respondent a conciliation agreement acceptable to the Commission, the Commission may bring a civil action against any respondent not a government, governmental agency, or political subdivision named in the charge. In the case of a respondent which is a government, governmental agency, or political subdivision, if the Commission has been unable to secure from the respondent a conciliation agreement acceptable to the Commission, the Commission shall take no further action and shall refer the case to the Attorney General who may bring a civil action against such respondent in the appropriate United States district court. The person or persons aggrieved shall have the right to intervene in a civil action brought by the Commission or the Attorney General in a case involving a government, governmental agency, or political subdivision. If a charge filed with the Commission pursuant to subsection (b) is dismissed by the Commission, or if within one hundred and eighty days from the filing of such charge or the expiration of any period of reference under subsection (c) or (d), whichever is later, the Commission has not filed a civil action under this section or the Attorney General has not filed a civil action in a case involving a government, governmental agency, or political subdivision, or the Commission has not entered into a conciliation agreement to which the person aggrieved is a party, the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, shall so notify the person aggrieved and within ninety days after the giving of such notice a civil action may be brought against the respondent named in the charge (A) by the person claiming to be aggrieved or (B) if such charge was filed by a member of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon timely application, the court may, in its discretion, permit the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, to intervene in such civil action upon certification that the case is of general public importance. Upon request, the court may, in its discretion, stay further proceedings for not more than sixty days pending the termination of State or local proceedings described in subsections (c) or (d) of this section or further efforts of the Commission to obtain voluntary compliance.

"(2) Whenever a charge is filed with the Commission and the Commission concludes on the basis of a preliminary investigation that prompt judicial action is necessary to carry out the purposes of this Act, the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, may bring an action for appropriate temporary or preliminary relief pending final disposition of such charge. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure. It shall be the duty of a court having jurisdiction over proceedings under this section to assign cases for hearing at the earliest practicable date and to cause such cases to be in every way expedited.

"(3) Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this title. Such an action may be brought in any judicial district in the State in which the unlawful employment practice is alleged to have been committed, in the judicial district in which the employment records relevant to such practice are maintained and administered, or in the judicial district in which the aggrieved person would have worked but for the alleged unlawful employment practice, but if the respondent is not found within any such district, such an action may be brought within the judicial district in which the respondent has his principal office. For purposes of section 1404 and 1406 of title 28 of the United States Code, the judicial district in which the respondent has his principal office shall in all cases be considered a district in which the action might have been brought.

"(4) It shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

"(5) It shall be the duty of the judge designated pursuant to this subsection to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited. If such judge has not scheduled the case for trial within one hundred and twenty days after issue has been joined, that judge may appoint a master pursuant to rule 53 of the Federal Rules of Civil Procedure.

"(g) If the court finds that the respondent has intentionally engaged in or is intentionally engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include, but is not limited to, reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), or any other equitable relief as the court deems appropriate. Back pay liability shall not accrue from a date more than two years prior to the filing of a charge with the Commission. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union, or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled, or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex, or national origin or in violation of section 704(a)."

(b) (1) Subsection (i) of section 706 of such Act is amended by striking out "subsection (e)" and inserting in lieu thereof "this section".

(2) Subsection (j) of such section is amended by striking out "subsection (e)" and inserting in lieu thereof "this section".

SEC. 5. Section 707 of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new subsection:

"(c) Effective two years after the date of enactment of the Equal Employment Opportunity Act of 1972, the functions of the Attorney General under this section shall be transferred to the Commission, together with such personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with such functions unless the President submits, and neither House of Congress vetoes, a reorganization plan pursuant to chapter 9 of title 5, United States Code, inconsistent with the provisions of this subsection. The Commission shall carry out such functions in accordance with subsection (d) and (e) of this section.

"(d) Upon the transfer of functions provided for in subsection (c) of this section in all suits commenced pursuant to this section prior to the date of such transfer, proceedings shall continue without abatement, all court orders and decrees shall remain in effect, and the Commission shall be substituted as a party for the United States of America, the Attorney General, or the Acting Attorney General, as appropriate.

"(e) Subsequent to the date of enactment of the Equal Employment Opportunity Act of 1972, the Commission shall have authority to investigate and act on a charge of a pattern or practice of discrimination, whether filed by or on behalf of a person claiming to be aggrieved or by a member of the Commission. All such actions shall be conducted in accordance with the procedures set forth in section 706 of this Act."

SEC. 6. Subsections (b), (c), and (d) of section 709 of the Civil Rights Act of 1964 (78 Stat. 263; 42 U.S.C. 2000e-8(b)-(d)) are amended to read as follows:

"(b) The Commission may cooperate with State and local agencies charged with the administration of State fair employment practices laws and, with the consent of such agencies, may, for the purpose of carrying out its functions and duties under this title and within the limitation of funds appropriated specifically for such purpose, engage in and contribute to the cost of research and other projects of mutual interest undertaken by such agencies, and utilize the services of such agencies and their employees, and, notwithstanding any other provision of law, pay by advance or reimbursement such agencies and their employees for services rendered to assist the Commission in carrying out this title. In furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or local agencies and such agreements may include provisions under which the Commission shall refrain from processing a charge in any cases or class of cases specified in such agreements or under which the Commission shall relieve any person or class of persons in such State or locality from requirements imposed under this section. The Commission shall rescind any such agreement whenever it determines that the agreement no longer serves the interest f effective enforcement of this title.

"(c) Every employer, employment agency, and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purposes of this title, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which applications were received, and to furnish to the Commission upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may apply to the Commission for an exemption from the application of such regulation or order, and, if such application for an exemption is denied, bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief. If any person required to comply with the provisions of this subsection fails or refuses to do so, the United States district court for the district in which such person is found, resides, or transacts business, shall, upon application of the Commission, or the Attorney General in a case involving a government, governmental agency or political subdivision, have jurisdiction to issue to such person an order requiring him to comply.

"(d) In prescribing requirements pursuant to subsection (c) of this section, the Commission shall consult with other interested State and Federal agencies and shall endeavor to coordinate its requirements with those adopted by such agencies. The Commission shall furnish upon request and without cost to any State or local agency charged with the administration of a fair employment practice law information obtained pursuant to subsection (c) of this section from any employer, employment agency, labor organization, or joint labor-management committee subject to the jurisdiction of such agency. Such information shall be furnished on condition that it not be made public by the recipient agency prior to the institution of a proceeding under State or local law involving such information. If this condition is violated by a recipient agency, the Commission may decline to honor subsequent requests pursuant to this subsection."

SEC. 7. Section 710 of the Civil Rights Act of 1964 (78 Stat. 264; 42 U.S.C. 2000e–9) is amended to read as follows:

"INVESTIGATORY POWERS

"SEC. 710. For the purpose of all hearings and investigations conducted by the Commission or its duly authorized agents or agencies, section 11 of the National Labor Relations Act (49 Stat. 455; 29 U.S.C. 161) shall apply."

SEC. 8. (a) Section 703(a)(2) of the Civil Rights Act of 1964 (78 Stat. 255; 42 U.S.C. 2000-e–2(a)(2)) is amended by inserting the words "or applicants for employment" after the words "his employees."

(b) Section 703(c)(2) of such Act is amended by inserting the words "or applicants for membership" after the word "membership".

(c)(1) Section 704(a) of such Act is amended by inserting a comma and the following: "or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs," after "employment agency".

(2) Section 704(b) of such Act is amended by (A) striking out "or employment agency" and inserting in lieu thereof "employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs,", and (B) inserting a comma and the words "or relating to admission to, or employment in, any program established to provide apprenticeship or other training by such a joint labor-management committee" before the word "indicating".

(d) Section 705(a) of the Civil Rights Act of 1964 (78 Stat. 253; 42 U.S.C. 2000e–4(a)) is amended to read as follows:

"SEC. 705. (a) There is hereby created a Commission to be known as the Equal Employment Opportunity Commission, which shall be composed of five members, not more than three of whom shall be members of the same political party. Members of the Commission shall be appointed by the President by and with the advice and consent of the Senate for a term of five years. Any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed, and all members of the Commission shall continue to serve until their successors are appointed and qualified, except that no such member of the Commission shall continue to serve (1) for more than sixty days when the Congress is in session unless a nomination to fill such vacancy shall have been submitted to the Senate, or (2) after the adjournment sine die of the session of the Senate in which such nomination was submitted. The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and, except as provided in subsection (b), shall appoint, in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, such officers, agents, attorneys, hearing examiners, and employees as he deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates: *Provided*, That assignment, removal, and compensation of hearing examiners shall be in accordance with sections 3105, 3344, 5362, and 7521 of title 5, United States Code."

(e)(1) Section 705 of such Act is amended by inserting after subsection (a) the following new subsection (b):

"(b)(1) There shall be a General Counsel of the Commission appointed by the President, by and with the advice and consent of the Senate, for a term of four years. The General Counsel shall have responsibility for the conduct of litigation as provided in sections 706 and 707 of this title. The General Counsel shall have such other duties as the Commission may prescribe or as may be provided by law and shall concur with the Chairman of the Commission on the appointment and supervision of regional attorneys. The General Counsel of the Commission on the effective date of this Act shall continue in such position and perform the functions specified in this subsection until a successor is appointed and qualified.

"(2) Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court, provided that the Attorney General shall conduct all litigation to which the Commission is a party in the Supreme Court pursuant to this title."

(2) Subsections (e) and (h) of such section 705 are repealed.

(3) Subsections (b), (c), (d), (i), and (j) of such section 705, and all references thereto, are redesignated as subsections (c), (d), (e), (h), and (i), respectively.

(f) Section 705(g)(6) of such Act, is amended to read as follows:

"(6) to intervene in a civil action brought under section 706 by an aggrieved party against a respondent other than a government, governmental agency or political subdivision."

(g) Section 714 of such Act is amended to read as follows:

"FORCIBLY RESISTING THE COMMISSION OR ITS REPRESENTATIVES

"SEC. 714. The provisions of sections 111 and 1114, title 18, United States Code, shall apply to officers, agents, and employees of the Commission in the performance of their official duties. Notwithstanding the provisions of sections 111 and 1114 of title 18, United States Code, whoever in violation of the provisions of section 1114 of such title kills a person while engaged in or on account of the performance of his official functions under this Act shall be punished by imprisonment for any term of years or for life."

SEC. 9. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new clause:

"(58) Chairman, Equal Employment Opportunity Commission."

(b) Clause (72) of section 5315 of such title is amended to read as follows:

"(72) Members, Equal Employment Opportunity Commission (4)."

(c) Clause (111) of section 5316 of such title is repealed.

(d) Section 5316 of such title is amended by adding at the end thereof the following new clause:

"(131) General Counsel of the Equal Employment Opportunity Commission."

SEC. 10. Section 715 of the Civil Rights Act of 1964 is amended to read as follows:

"EQUAL EMPLOYMENT OPPORTUNITY COORDINATING COUNCIL

"SEC. 715. There shall be established an Equal Employment Opportunity Coordinating Council (hereinafter referred to in this section as the Council) composed of the Secretary of Labor, the Chairman of the Equal Employment Opportunity Commission, the Attorney General, the Chairman of the United States Civil Service Commission, and the Chairman of the United States Civil Rights Commission, or their respective delegates. The Council shall have the responsibility for developing and implementing agreements, policies and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication and inconsistency among the operations, functions and jurisdictions of the various departments, agencies and branches of the Federal Government responsible for the implementation and enforcement of equal employment opportunity legislation, orders, and policies. On or before July 1 of each year, the Council shall transmit to the President and to the Congress a report of its activities, together with such recommendations for legislative or administrative changes as it concludes are desirable to further promote the purposes of this section."

SEC. 11. Title VII of the Civil Rights Act of 1964 (78 Stat. 253; 42 U.S.C. 2000e et seq.) is amended by adding at the end thereof the following new section:

"NONDISCRIMINATION IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 717. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units of the government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on race, color, religion, sex, or national origin.

"(b) Except as otherwise provided in this subsection, the Civil Service Commission shall have authority to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without back pay, as will effectuate the policies of this section, and shall issue such rules, regulations, orders and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

"(1) be responsible for the annual review and approval of a national and regional equal employment opportunity plan which each department and agency and each appropriate unit referred to in subsection (a) of this section shall submit in order to maintain an affirmative program of equal employment opportunity for all such employees and applicants for employment;

"(2) be responsible for the review and evaluation of the operation of all agency equal employment opportunity programs, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit; and

"(3) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to equal employment opportunity.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. The plan submitted by each department, agency, and unit shall include, but not be limited to—

"(1) provisions for the establishment of training and education programs designed to provide a maximum opportunity for employees to advance so as to perform at their highest potential; and

"(2) a description of the qualifications in terms of training and experience relating to equal employment opportunity for the principal and operating officials of each such department, agency, or unit responsible for carrying out the equal employment opportunity program and of the allocation of personnel and resources proposed by such department, agency, or unit to carry out its equal employment opportunity program.

With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

"(c) Within thirty days of receipt of notice of final action taken by a department, agency, or unit referred to in subsection 717(a), or by the Civil Service Commission upon an appeal from a decision or order of such department, agency, or unit on a complaint of discrimination based on race, color, religion, sex or national origin, brought pursuant to subsection (a) of this section, Executive Order 11478 or any succeeding Executive orders, or after one hundred and eighty days from the filing of the initial charge with the department, agency, or unit or with the Civil Service Commission on appeal from a decision or order of such department, agency, or unit until such time as final action may be taken by a department, agency, or unit, an employee or applicant for employment, if aggrieved by the final disposition of his complaint, or by the failure to take final action on his complaint, may file a civil action as provided in section 706, in which civil action the head of the department, agency, or unit, as appropriate, shall be the defendant.

"(d) The provisions of section 706 (f) through (k), as applicable, shall govern civil actions brought hereunder.

"(e) Nothing contained in this Act shall relieve any Government agency or official of its or his primary responsibility to assure nondiscrimination in employment as required by the Constitution and statutes or of its or his responsibilities under Executive Order 11478 relating to equal employment opportunity in the Federal Government."

SEC. 12. Section 5108(c) of title 5, United States Code, is amended by—

(1) striking out the word "and" at the end of paragraph (9);

(2) striking out the period at the end of paragraph (10) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding immediately after paragraph (10) the last time it appears therein in the following new paragraph:

"(11) the Chairman of the Equal Employment Opportunity Commission, subject to the standards and procedures prescribed by this chapter, may place an additional ten positions in the Equal Employment Opportunity Commission in GS–16, GS–17, and GS–18 for the purposes of carrying out title VII of the Civil Rights Act of 1964."

SEC. 13. Title VII of the Civil Rights Act of 1964 (78 Stat. 253; 42 U.S.C. 2000e et seq.) is further amended by adding at the end thereof the following new section:

"SPECIAL PROVISION WITH RESPECT TO DENIAL, TERMINATION, AND SUSPENSION OF GOVERNMENT CONTRACTS

"SEC. 718. No Government contract, or portion thereof, with any employer, shall be denied, withheld, terminated, or suspended, by any agency or officer of the United States under any equal employment opportunity law or order, where such employer has an affirmative action plan which has previously been accepted by the Government for the same facility within the past twelve months without first according such employer full hearing and adjudication under the provisions of title 5, United States Code, section 554, and the following pertinent sections: *Provided,* That if such employer has deviated substantially from such previously agreed to affirmative action plan, this section shall not apply; *Provided further,* That for the purposes of this section an affirmative action plan shall be deemed to have been accepted by the Government at the time the appropriate compliance agency has accepted such plan unless within forty-five days thereafter the Office of Federal Contract Compliance has disapproved such plan."

SEC. 14. The amendments made by this Act to section 706 of the Civil Rights Act of 1964 shall be applicable with respect to charges pending with the Commission on the date of enactment of this Act and all charges filed thereafter.

And the Senate agree to the same.

CARL D. PERKINS,
JOHN H. DENT,
AUGUSTUS F. HAWKINS,
PATSY T. MINK,
PHILLIP BURTON,
WM. L. (BILL) CLAY,
JOSEPH M. GAYDOS,
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Managers on the Part of the House.

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ROBERT T. STAFFORD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF MANAGERS AT THE CONFERENCE ON H.R. 1746 TO FURTHER PROMOTE EQUAL EMPLOYMENT OPPORTUNITIES FOR AMERICAN WORKERS

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1746) an Act to further promote equal employment opportunities for American workers, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The points in disagreement and the conference resolution of them are as follows:

The House bill provided the short title "Equal Employment Opportunity Act of 1971". The Senate amendment provided the short title "Equal Employment Opportunities Enforcement Act of 1972". The Senate receded with an amendment changing the date in the House provision to 1972.

Under the House bill, there was no provision for an expansion of coverage of Title VII.

The Senate amendment expanded coverage to include:

(1) State and local governments, governmental agencies, political subdivisions (except for elected officials, their personal assistants and immediate advisors) and the District of Columbia departments and agencies (except where such are subject by law to the Federal competitive service). State agencies previously covered by reference to the United States Employment Service continue to be covered; and

(2) employers who employ 15 or more full-time employees and labor organizations with 15 or more members beginning one year after enactment.

In addition, the Senate amendment included a new definition of "religion" to include all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

The House receded with an amendment exempting, in addition to State and local government elected officials, persons chosen by such officials to be on their personal staffs, appointees of such officials on a policymaking level or immediate advisors of such elected officials. The exemption does not include civil service employees.

It is the intention of the conferees to exempt elected officials and members of their personal staffs, and persons appointed by such elected officials as advisors or to policymaking positions at the highest levels of the departments or agencies of State or local governments, such as cabinet officers, and persons with comparable responsibilities at the local level. It is the conferees intent that this exemption shall be construed narrowly. Also, all employees subject to State or local civil service laws are not exempted.

The Senate amendment eliminated the present exemption from Title VII for educational institutions. Also, the Senate provision expanded the exemption for religious organizations from coverage under this title with respect to the employment of individuals of a particular religion in all their activities instead of the present limitation to religious activities. The House bill did not change the existing exemptions. The House receded.

Both the House bill and Senate amendment contained procedures for filing of charges. The Senate amendment provided for charges to be filed by or on behalf of a person claiming to be aggrieved, or by an officer or employee of the Commission upon request of any person claiming to be aggrieved. Charges were to be in writing under oath or affirmation and in the specific form required by the Commission. The Senate amendment further provided that the Commission serve a notice of the charge including the date, place and circumstances of the alleged unlawful employment practice on the respondent within 10 days. Under the Senate amendment, the Commission would dismiss the charge if it determined after investigation that there was not reasonable cause to believe the charge was true and would be required to accord substantial weight to the decision of state and local authorities under state and local equal employment opportunity laws in making such reasonable cause determination. The Senate amendment also required the Commission to make its determination so far as practicable not later than 120 days from the date the Commission was authorized to act on the charge.

The House bill provided for charges to be filed by the person claiming to be aggrieved or by a member of the Commission if he had reasonable cause to believe a violation occurred. The Commissioner's charge had to set forth the facts upon which it was based and the person or persons aggrieved. The House bill also provided that the Commission furnish the respondent with a copy of the charge within five days. Both the House bill and the Senate amendment prohibited disclosure of anything said or done during informal conciliation efforts without the consent of the parties.

The Senate receded with an amendment providing that charges be filed by or on behalf of the person claiming to be aggrieved or by a member of the Commission, alleging that an unlawful employment practice occurred. Charges are to be in writing under oath for affirmation and in such form as the Commission requires. A notice of a charge including the date, place and circumstances of the alleged unlawful employment practice is to be served on the respondent within 10 days. If the Commission determines after investigation that there is not reasonable cause to believe the charge is true, it shall dismiss the charge and notify the parties. The Commission is required to accord substantial weight to the decision of the state or local authorities under state or local equal employment opportunity laws and to make the determination on reasonable cause as promptly as possible and so far as practicable not later than 120 days from the date the Commission was authorized to act on the charge. If the Commission determines that there is reasonable cause to believe the charge is true, it shall attempt conciliation in conformity with the requirements of existing law. Nothing said or done during conciliation may be disclosed without the consent of the parties.

The Senate amendment contained two provisions allowing the Commission to defer to state and local equal employment opportunity agencies. It deleted the language of existing law providing that no charge may be filed during the 60-day period allowed for the deferral and substituted a provision prohibiting the Commission from acting on such a charge until the expiration of the 60-day period .The House bill made no change in existing law. The Senate receded with an amendment that would re-state the existing law on the deferral of charges to state agencies. The conferees left existing law intact with the understanding that the decision in *Love's* v. *Pullman,—U.S.*—(February 17, 1972) interpreting the existing law to allow the Commission to receive a charge (but not act on it) during such deferral period is controlling.

Both the House bill and the Senate amendment provided that charges be filed within 180 days. The Senate allowed an additional 120 days if a charge is deferred to a state agency and the House allowed only 30 additional days. The Senate amendment required that notice of the charge be served in 10 days. The House bill provided that charges under Title VII are the exclusive remedy for unlawful employment practices. The House receded.

Both the House bill and the Senate amendment authorized the bringing of civil actions in Federal district courts in cases involving unlawful employment practices.

The Senate amendment provided that the Attorney General bring actions against state and local governments. As to other respondents, suits were to be brought by the Commission. The Senate amendment permitted suits by the Commission or the Attorney General if the Commission was unable to secure from the respondent "a conciliation agreement acceptable to the Commission" while the House bill permitted the Commission to sue if it is unable to obtain "voluntary compliance." The Senate amendment permitted aggrieved persons to intervene in suits and allowed a private action if no case is brought by the Commission or Attorney General within 150 days. The House bill permitted a private action after 180 days. The Senate amendment allowed the General Counsel or Attorney General to intervene in private actions; the House bill permitted only the Attorney General to intervene. The Senate amendment permitted a private action in a case where the Commission entered into a conciliation agreement to which the aggrieved person was not a party (i.e. a signatory).

The conferees adopted a provision allowing the Commission, or the Attorney General in a case against a state or local government agency, to bring an action in Federal district courts if the Commission is unable to secure from the respondent "a conciliation agreement acceptable to the Commission." Aggrieved parties are permitted to intervene. They may bring a private action if the Commission or Attorney General has not brought suit within 180 days or the Commission has entered into a conciliation agreement to which such aggrieved party is not a signatory. The Commission, or the Attorney General in a case involving state and local governments, may intervene in such private action.

The Senate amendment provided for the appointment of a three judge district court in cases certified to be of general public importance, provided for the immediate designation of a single judge if no three judge court was requested, and required cases to be assigned for hearing at the earliest practicable date and to be expedited in every way. The House bill contained no such provision. The Senate receded with an amendment which provides that the chief judge of the district in which a case is filed designate the judge to hear the case which is to be assigned for hearing at the earliest practicable date and expedited in every way. The amendment deleted the provision for the three judge district court. Such a court is now provided for in "pattern or practice" cases.

The Senate amendment authorized the Commission or the Attorney General to seek preliminary injunctive relief. The House bill authorized the Commission to seek preliminary relief and required a showing that substantial and irreparable injury to the aggrieved party would be unavoidable. The Senate receded with an amendment that authorizes the Commission or the Attorney General to seek preliminary injunctive relief and a provision that Rule 65 of the Federal Rules of Civil Procedure should govern all actions brought under this subsection.

The Senate amendment restated existing law as to venue for civil actions except that the term "aggrieved person" was substituted for the word "plaintiff." The House bill left existing law intact. The House receded.

The House bill and the Senate amendment provided for the scope of relief that could be granted by the district courts. The differences were as follows:

1. The Senate amendment required a finding that the respondent engaged in an unlawful employment practice and the House bill required a finding that respondent "intentionally" engaged in such unlawful employment practice.

2. The Senate amendment added the phrase "or any other equitable relief that the court deems appropriate" to the description of the relief available from the court.

3. The Senate amendment limited back pay liability to that which accrues from a date not more than two years prior to the filing of a charge with the Commission; the House bill limited back pay liability to that which accrues not more than two years before the filing of a complaint with the court. Both the House bill and the Senate amendment provided that interim earnings shall operate to reduce the back pay otherwise allowable.

4. The House bill restated the provisions of existing law prohibiting court-ordered remedies based on any adverse action except unlawful employment practices prohibited under Title VII.

5. The House bill prohibited class action lawsuits.

The Senate receded with an amendment that provides the following:

1. A finding that the respondent has intionally engaged or is intentionally engaging in an unlawful employment practice, as the language of the current law reads.

2. Authority for the court to enjoin the respondent from such practices, order such affirmative action as may be appropriate and any other equitable relief that the court deems appropriate.

3. The court is authorized to award back pay except that such back pay liability is limited to that which accrues from the date not more than two years prior to the filing of a charge with the Commission. Interim earnings shall operate to reduce the back pay otherwise allowable.

4. The provisions of existing law prohibiting court ordered remedies based on any adverse action except unlawful employment practices under Title VII are retained.

The Senate amendment permitted payment of costs and counsel fees to small em-

ployers or labor organizations if they prevailed in actions brought against them by the Commission or the United States. An employer or union with 25 or fewer employees or members would have been entitled to up to $5000, and an employer or labor organization with from 25 to 100 employees or members whose average income from such employment was less than $7500, would have been entitled to one-half the cost of its defense up to $2500. The House bill had no comparable provisions. The Senate receded.

The Senate amendment authorized the courts to appoint a special master if the district court had not assigned a case for trial within 120 days after issue had been joined. There was no comparable House provision. The House receded.

The Senate amendment provided for a transfer of the Attorney General's "pattern or practice" jurisdiction to the Commission two years after enactment. In the interim period there would be concurrent jurisdiction. The transfer would be subject to change in accordance with a presidential reorganization plan if not vetoed by Congress. The House bill left pattern or practice jurisdiction with the Attorney General. The House receded.

The Senate amendment revised the Commission's procedures for cooperating with State and local agencies and in its record keeping requirements and provided procedures for compelling compliance with such requirements. The House bill did not amend the provisions of the current law. The House receded.

The Senate amendment simplified procedures for subpoenaing witnesses or records by providing the same investigative authority as is contained in the National Labor Relations Act. The House bill made no changes in existing authority. The House receded.

The Senate amendment provided for the appointment, with the advice and consent of the Senate, of up to four new commission members at any time after one year from the effective date of the act. The proportion of commissioners of one political party to another would remain the same. Regional Directors were to be appointed by the Chairman of the Commission with the concurrence of the General Counsel. The Senate amendment also placed a limit on the time that a Commissioner may serve after the appointment expires and the Senate has not acted. The House bill contained no such provisions. The Senate receded with an amendment limiting the time that a Commissioner may serve after the appointment expires and the Senate has not acted.

The Senate amendment established the office of General Counsel to be appointed by the President for a term of four years with the advice and consent of the Senate. The General Counsel was given the responsibility for filing complaints and the conduct of all litigation for the Commission. Also the General Counsel was given authority to appoint regional attorneys, with the concurrence of the Chairman, and other necessary employees. The House bill did not establish a General Counsel, and required that the Attorney General conduct all litigation to which the Commission is a party in the Supreme Court or in the United States Court of Appeals. All other litigation in which the Commission was a party was to be conducted by the Commission. The Senate receded with an amendment establishing the Office of General Counsel to be appointed by the President for a term of four years with the advice and consent of the Senate giving the General Counsel responsibility for litigation and concurrence with the Chairman in the appointment and supervision of regional attorneys but reserving to the Attorney General the conduct of all litigation to which the Commission is a party in the Supreme Court.

The Senate amendment permitted the Commission to accept uncompensated services for the limited purpose of publicizing in the media the Commission and its activities. The House bill did not provide such authority. The Senate receded.

The Senate amendment permitted the Commission to delegate certain functions, except for rulemaking and the power to make agreements with States. The House bill did not contain such a provision. The Senate receded.

The Senate amendment afforded additional protection to officers and employees of the Commission in the performance of their official duties by including them within section 1114 of Title 18, U.S.C. The House bill contained no such provision. The Senate receded with an amendment affording this new protection but excluding capital punishment for offenders.

The Senate amendment raised the level of the position of the Chairman and members of the Commission and established the position of General Counsel in the executive pay scale. The House bill made no provision for such change. The House receded.

The Senate amendment established an Equal Employment Opportunity Coordinating Council. The House bill had no such provision. The House receded.

The Committee of Conference believes that there are instances in which more than one agency may have legitimate interests in the employment standards applicable to a number of employees. So for example, the merit system standards of the Civil Service Commission should be considered by the Coordinating Council in relation to their effect on the conciliation and enforcement efforts of the Equal Employment Opportunity Commission and the Attorney General with respect to employees of governments, governmental agencies or political subdivisions.

The Senate amendment provided that all personnel actions involving Federal employees be free from discrimination. This policy was to be enforced by the United States Civil Service Commission. Each agency of the Federal Government would be responsible for establishing an internal grievance procedure and programs to train personnel so as to enable them to advance under the supervision of the Civil Service Commission. If final action had been taken by an agency or the Civil Service Commission, an aggrieved party could bring a civil action under the provisions of section 706. The House bill did not cover Federal employees. The House receded. In providing the statutory basis for such appeal or court access, it is not the intent of the Committee to subordinate any discretionary authority or final judgment now reposed in agency heads by, or under, statute for national security reasons in the interests of the United States.

The Senate amendment required consultation among the Executive branch agencies on Equal Employment matters. The House bill had no similar provision. The Senate receded in light of the action of the Conferees in establishing the Equal Employment Opportunity Coordinating Council.

The Senate amendment provided the Commission with authorization for an additional 10 positions at GS–16, GS–17, and GS–18 level. The House bill had no such provision. The House receded.

The Senate amendment provided that the new enforcement provisions of section 706 apply to charges pending before the Commission on enactment. The House bill was silent. The House receded.

The Senate amendment provided that no Government contract, whether subject to Executive Order 11246 or any other equal employment opportunity law such as section 3 of the Housing and Urban Development Act of 1968, as amended, could be terminated, denied, or withheld without a full hearing, where the employer had an affirmative action plan previously accepted within the past twelve months. The House bill had no such provision. The House receded.

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Managers on the Part of the Senate.

CONSUMERS NEED PROTECTION FROM DIRTY MEAT—NOT MORE OF IT

(Mr. MELCHER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MELCHER. Mr. Speaker, in my household we have stopped the use of any meat except American-produced domestic meat which we can examine, as cuts, before they are cooked and consumed.

My wife does not put on our breakfast, dinner, or supper tables any prepared meats, hamburger, meat soups, or other products which may contain imported meat.

As a veterinarian, I have no confidence that many kinds of imported meat can be trusted to be wholesome, healthful and fit for human consumption.

I know that in 1970 we admitted 11 million pounds of meat into the United States from just seven Australian plants which were found unfit to ship to the United States after the determination of unfitness had been made. I know there were hundreds more foreign plants found to be dirty and not fit to export to us but that many times the 11 million pounds were admitted from such substandard plants abroad before they were delisted, or cleaned up, because our review officers inspect only about once a year. Our review staff is inadequate to get around more often than that.

The practice in my home of using American meat only is going to continue until this country cleans up imported meats by establishing an imported meat

inspection system which provides consumer protection instead of a sort of diplomatic immunity from strictly enforced U.S. inspection requirements. That inspection is going to have to include testing for chemical residues which might be injurious to health. Our State Department is shielding the exporting countries from a requirement to set standards equal to ours concerning the use of pesticides and other chemicals that are hazards to human health.

The House Agriculture Committee knuckled under to overwhelming administration pressure from State and Agriculture Departments to delete from a bill equal standards for domestic and foreign food producers in the use of chemicals which leave residues injurious to the health of consumers. The miniscule residue sampling we do on foreign meat imports shows alarming increase of chlorinated hydrocarbon residues such as DDT and benzene hexachloride which are banned in this country for us on livestock.

It is quite shocking to me, Mr. Speaker, that this country is considering increasing meat import allowances to roll back th price of our domestic product, instead of talking with exporting countries about the cleanliness and healthfulness of what we are already getting.

The Comptroller General of the United States has recently supplied this Congress with a report on inspection of foreign packing plants and meat imports—both fresh, chilled, cooked, and canned—that should cause Members to demand suspension of all imports until their wholesomeness and healthfulness can be guaranteed, and we can be assured every pound of it was produced in plants that meet American inspection standards under the eyes of reliable inspectors, and not a corps of people overawed by diplomatic niceties. The report to me is like a rerun of a bad dream because I cited to the House early in 1970 the glaring shortcomings of inspection of foreign meats.

Let me call the House's attention to the sort of thing that is going on in the meatpacking plants that ship to the United States, and what our inspectors, who visit those plants about once a year, and doing about it, as reported by the General Accounting Office.

The GAO sent investigators along with our foreign review officers on visits to 80 plants in four countries that export to the United States.

In Australia, the source of 505 million pounds of imported beef and veal and 25 million pounds of mutton in 1971, they visited 35 plants—10 of them or nearly 30 percent so bad that they had to be delisted and denied the right to ship to the United States, but the meat they had already shipped us was not intercepted. Until the delisting was officially cleared in Washington and transmitted to the foreign government some 6 weeks later the plants continued to unload their unfit meat on us. One other plant was found not in compliance with our U.S. sanitation and health requirements, but not so bad that it was delisted. You can judge what the conditions must have been in the "delisted" plants by the description of the one allowed to continue in operation.

The GAO tells us:

The (U.S.) Consumer and Marketing Service foreign programs officer reported that the (Australian) inspectors at this plant—

Did not require that grossly contaminated carcasses be trimmed before going to the coolers or boning rooms.

Did not require that carcasses be dressed in a sanitary manner.

In performing examinations on beef heads, passed heads even though there were big balls of ingesta in the mouths.

Failed to detect a diseased head which should have been condemned and should have served as the basis for a more complete inspection of the carcass. When the foreign programs officer pointed out the condition to the Australian inspection officials, the carcass was inspected further and the carcass and parts were condemned.

The foreign programs officer reported also that the preoperative sanitation inspection of the plant showed that almost all equipment looked at was dirty and that the filth on some equipment was obviously of many days duration. He stated that the Australian inspector inspected some of the same equipment but took no action to have the equipment cleaned before operations started. The foreign programs officer reported further that he found slaughtering operations in process about 1 hour after the preoperative inspection, that he rechecked some of the equipment and found it to be still dirty and that the Australian inspector permitted the slaughtering operations to continue.

Despite the above-cited deficiencies, and the fact that no action was taken at the time of the review, C&MS gave Australian inspection officials the option of correcting the deficiencies or delisting the plants. C&MS officials told us they did not require the plant to be delisted because the deficiencies pertained mainly to improper inspection by Australian inspectors and could be readily corrected.

A C&MS foreign programs officer's review of the plant about 2½ months later, in July, 1970, showed that deficiencies still existed. The plant was delisted at that time, and as of November, 1972 it had not been recertified for exporting to the United States. Until it was delisted, the plant remained eligible to export meat products to the United States even though it was not in compliance with U.S. requirements.

C&MS records relating to plants in Australia showed that C&MS had not always required inspection officials to correct promptly certain deficiencies in the Australian inspection system or in approved plants.

This episode, which means that American consumers ate dirty and possibly unhealthy meat from a dirty packing plant in Australia for months after our people knew about it, in addition to 10 plants they did not know about for months prior to inspection, is only one of scores of known and unknown cases of this kind, and it is only one of a series of instances of official negligence, resulting in dirty and unwholesome meat reaching our consumers, which reach right here into this House of Representatives.

This House of Representatives has had the laxity of meat inspection called to its attention in the past. I have a bill before it, passed once by the Senate, to require piece-by-piece inspection of meat after it reaches our shores, but it has not been passed, although the evidence piles up that the meat products we are getting from abroad include up to 30 percent from plants which do not meet our inspection standards.

If the filth and carelessness in the Australian plant, which was not delisted, was mainly the result of lax inspection, why did not our inspectors crack down on the Australian inspection system, which our law says must be equivalent to ours? Why was no action taken against the Australian inspector who allowed the practices described? Why did we not notify the Australian Government to get its inspection in compliance with our requirement at once?

And when the Congress of the United States knows that this sort of lax inspection of foreign plants is going on, why do we not crack down on the whole business and take the steps necessary to stop it?

We can get out and pass the bill within days to require piece by piece examination of imported meat after it reaches the United States. The Department of Agriculture has opposed it, both at Senate hearings, and at House hearings.

The Senate proceeded to pass the bill, nonetheless.

The House did not act on it, and it died. Some of my colleagues felt that the introduction of the bill, the hearings and the attention given the subject then would cause necessary reform exporting; that action which might offend the governments of the countries exporting dirty meat was unnecessary, and it might cause retaliation against U.S. products.

As one industry apologist put it: "Yes, we have to eat their dirty meat so they will eat our dirty stuff."

In order to frighten me, he mentioned rat droppings in wheat.

In other words, our consumers must eat filthy products so that handlers, processors, and exploiters both here or abroad would not be required to live up to strict standards.

If the United States is allowing products to be exported from our shores that are dirty, or substandard, we should stop it immediately.

And if the standards we have set to reassure our consumers that the food products they are buying and eating are clean, wholesome, and healthful are being ignored abroad, we should crack down without fear, favor, or any further tolerance of officials who seem to think that a little ingesta, a little manure, a few cysts and lesions, a quantity of dirt and trash, and some blood clots, hair, and bones ought to be tolerated, and that JOHN MELCHER and Senator ABE RIBICOFF who has repeatedly protested in the Senate ought to keep their mouths shut.

Much of this traffic in dirty foreign meat is frozen boneless beef which many consumer groups believe to be sold here at greatly reduced prices to cut the average housewife's grocery bill. Not so. The Provisioner's February 10, 1972, quotation for American produced and graded boneless beef was 69¾ cents as compared to imported bull meat at 66 cents a pound and imported cow meat at 63½ cents a pound, none of which is graded and less than 1 percent of which is actually U.S. inspected.

CONFERENCE REPORT ON H.R. 1746, EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1972

Mr. PERKINS. Mr. Speaker, I call up the conference report on the bill (H.R. 1746) to further promote equal employment opportunities for American workers, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of March 2, 1972.)

Mr. PERKINS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement of the managers be dispensed with.

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

There was no objection.

The SPEAKER. The gentleman from Kentucky is recognized.

Mr. PERKINS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I need not tell the Members of this body of the importance of the conference report on H.R. 1746, the Equal Employment Opportunity Act of 1972. This measure was debated vigorously and at substantial length in both Houses of the Congress.

Each body of the Congress expressed a preference for judicial enforcement as an alternative to administrative "cease and desist authority" as a means of enforcing title VII of the Civil Rights Act. The conferees, therefore, did not have to deal with that issue which had so divided Members of both Houses.

The conference itself was not lengthy, in part because the differences were not great. Each difference was carefully considered, however.

The conference report which I present to the House today is one of which we can all be proud. In evidence of that belief I would point to the fact that all the conferees signed their names to the conference report.

Among the conferees there were some very deeply felt differences. The resolution of those differences, however, as so often happens, has produced a legislative product which is substantially better than either of the bills which the conferees considered.

The conference resulted in legislation that will provide fair and effective enforcement of the equal employment provisions of the Civil Rights Act. The conference report provides a mechanism and a procedure that will, I am certain, prove to be both fair and effective, one which will protect the rights of both the employer and employees.

The conferees spent considerable time dealing with the detailed provisions covering the procedure for filing and processing charges of discrimination brought by individuals who feel they have been unfairly treated because of their race or their sex. An effort was made to insure a speedy and an equitable resolution of such charges which is in the interest of both the employee and the respondent employer or labor union.

The conferees contemplate that the Commission will continue to make every effort to conciliate as is required by existing law. Only if conciliation proves to be impossible do we expect the Commission to bring action in Federal district court to seek enforcement.

There will be some expansion of coverage of title VII. Beginning 1 year after enactment all employers employing 15 or more full-time employees and all labor organizations with 15 or more members will be covered. The present law calls for coverage of employers and labor unions of 25 or more employees or members.

Coverage has been expanded also to include the employees of State and local governments, governmental agencies, political subdivisions of States and the District of Columbia departments and agencies. In expanding coverage to State and local government employees the conference exempted elected officials and persons chosen by such officials to work on their personal staffs, as well as appointees to policymaking positions at the highest level of the department or agency of the State or local government. It was our intention to exclude cabinet members of Governors and persons with comparable responsibility at the local level. Where a State or local government agency is involved, and conciliation has proven impossible, it is the Attorney General rather than the Commission who is authorized to bring action in the case.

Another provision which I am sure may be of interest to the House is the transfer of the Attorney General's "pattern or practice" jurisdiction which is transferred to the Commission 2 years after the enactment of this law. During the interim period there will be concurrent jurisdiction. This transfer will be subject to change, however, in accordance with any Presidential reorganization plan that would contemplate a different result if that reorganization plan is not vetoed by the Congress under the usual procedure.

I will not go on at great length discussing the final resolution of the many matters of procedure which are spelled out in the conference report. The provisions of the conference report are, however, dealt with in more detail in a section-by-section analysis which I include in the RECORD following my remarks.

I do, however, urge all my colleagues to support the conference report. The section-by-section analysis follows:

SECTION-BY-SECTION ANALYSIS OF H.R. 1746, THE EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1972

This analysis explains the major provisions of H.R. 1746, the Equal Employment Opportunity Act of 1972, as agreed to by the Conference Committee of the House and Senate on February 29, 1972. The explanation reflects the enforcement provisions of Title VII, as amended by the procedural and jurisdictional provisions of H.R. 1746, recommended by the Conference Committee.

In any area where the new law does not address itself, or in any areas where a specific contrary intention is not indicated, it was assumed that the present case law as developed by the courts would continue to govern the applicability and construction of Title VII.

SECTION 2

This section amends certain definitions contained in section 701 of the Civil Rights Act of 1964.

Section 701(a)—This subsection defines "person" as used in Title VII. Under the provisions of H.R. 1746, the term is now expanded to include State and local governments, governmental agencies, and political subdfvisions.

Section 701(b)—This subsection defines the term "employer" as used in Title VII. This subsection would now include, within the meaning of the term "employer," all State and local governments, governmental agencies, and political subdivisions, and the District of Columbia departments or agencies (except those subject by statute to the procedures of the Federal competitive service as defined in 5 U.S.C. § 2102, who along with all other Federal employees would now be covered by section 717 of the Act.)

This subsection would extend coverage of the term "employer," one year after enactment, to those employers with 15 or more employees. The present standard for determining the number of employees of an employer, i.e., "employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year," presently applicable to all employers of 25 or more employees would apply to the expanded coverage of employers of 15 or more employees.

Seqtion 701(c)—This subsection eliminates the present language that provides a partial exemption for agencies of the United States, States or the political subdivisions of States from the definition of "employment agency" to reflect the provisions of section 701(a) and (b) above. States agencies, previously covered by reference to the United States Employment Service, continue to be covered as employment agencies under this section.

Section 701(e)—This subsection is revised to include labor organizations with 15 or more members within the coverage of Title VII, one year atfer enactment.

Section 701(f)—This subsection is intended to exclude from the definition of "Employee" as used in Title VII those persons elected to public office in any State or political subdivision. The exemption extends to persons chosen by such officials to be on their personal staffs, appointees of such officials to be on their personal staff, appointees of such officials on the highest policymaking levels such as cabinet members or other immediate advisors of such elected officials with respect to the exercise of the Constitutional or legal powers of the office held by such elected officer. The exemption does not include civil service employees. This exemption is inteded to be construed very narrowly and is in no way intended to establish an overall narrowing of the expanded coverage of State and local governmental employees as set forth in section 701(a) and (b) above.

Section 701(j)—This subsection, which is new, defines "religion" to include all aspects of religious observance, practice and belief, so as to require employers to make reasonable accommodations for employees whose "religion" may include observances, practices and beliefs such as sabbath observance, which differ from the employer's or potential employer's requirements regarding standards, schedules, or other business-related employment conditions.

Failure to make such accommodation would be unlawful unless an employer can demonstrate that he cannot reasonably accommodate such beliefs, practices, or observances without undue hardship on the conduct of his business.

The purpose of this subsection is to provide the statutory basis for EEOC to formu-

late guidelines on discrimination because of religion such as those challenged in *Dewey* v. *Reynolds Metals Company*, 429 F2d 325 (6th Cir. 1970). *Affirmed by an equally divided court*, 402 U.S. 689 (1971).

SECTION 3

This section amends the exemptions allowed in section 702 of the Civil Rights Act of 1964.

Section 702—This section is amended to eliminate the exemption for employees of educational institutions. Under the provisions of this section, all private and public educational institutions would be covered under the provisions of Title VII. The special provision relating to religious educational institutions in Section 703(e)(2) is not disturbed.

The limited exemption from coverage in this section for religious corporations, associations, educational institutions or societies has been broadened to allow such entites to employ individuals of a particular religion in all their activities instead of the present limitation to religious activities. Such organizations remain subject to the provisions of Title VII with regard to race, color, sex or national origin.

SECTION 4

This section establishes the enforcement powers and functions of the EEOC and the Attorney General to aid in the prevention of unlawful employment practices proscribed by Title VII of the Civil Rights Act of 1964.

H.R. 1746 retains the general scheme of the present law which enables the EEOC to process a charge of employment discrimination through the investigation and conciliation stages. In addition, H.R. 1746 now authorizes the EEOC, in cases where the respondent is not a government, governmental agency of political subdivision to file a civil action against the respondent in an appropriate Federal District Court, if it has been unable to eliminate an alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. The Attorney General is authorized to file civil actions against respondents that are governments, governmental agenices or political subdivisions if the EEOC is unable to achieve a successful conciliation.

Accordingly, section 4 of H.R. 1746, amends section 706(a) through (g) of the present act to accomplish the stated national purposes of achieving equal employment opportunity as follows:

Section 706(a)—This subsection empowers the Commission to prevent persons from engaging in unlawful employment practices under sections 703 and 704 of Title VII of the Civil Rights Act of 1964. The unlawful employment practices encompassed by sections 703 and 704, which were enumerated in 1964 in the original Act, and as defined and expanded by the courts remain in effect.

Section 706(b)—This subsection sets out the procedures to be followed when a charge of an unlawful employment practice is filed with the Commission.

Under present law, a charge may be filed by a person aggrieved under oath or by a member of the Commission. As amended, this subsection now also permits a charge to be filed by or on behalf of a person aggrieved or by a member of the Commission. Among other things, this provision would enable aggrieved persons to have charges processed under circumstances where they are unwilling to come forward publicly for fear of economic or physical reprisals.

Charges (whether by or on behalf of an aggrieved person or a member of the Commission) must be in writing and under oath or affirmation and in such form as the Commission requires.

The Commission is to serve a notice of the charge on the respondent within ten days. It is not intended, however, that failure to give notice of the charge to the respondent within ten days would prejudice the rights of the aggrieved party. The Commission would be expected to investigate the charge as quickly as possible and to make its determination on whether there is reasonable cause to believe that the charge is true. If it finds that there is not reasonable cause to believe that the charge is true, it shall dismiss the charge and notify the complainant and the respondent of its decision.

If the Commission finds reasonable cause, it will attempt to conciliate the case. Nothing said or done during the Commission's informal endeavors may be made public or used as evidence in a subsequent proceeding without the written consent of the parties covered.

The Commission would be required to make its determination on reasonable cause as promptly as possible and, "so far as practicable," within 120 days from the filing of the charge or from the date upon which the Commission is authorized to act on the charge under section 706(c) or (d). The Commission, where appropriate, would be required in making its determination of reasonable cause to accord substantial weight to final findings and orders made by State or local authorities under State and local laws.

This subsection and section 9(a)–(d) of the bill clarifies existing law to carry out the intent of the present statute to provide full coverage for joint labor-management committees controlling apprenticeship or other training or retraining, including on-the-job training programs as reflected in *Rios* v. *Enterprise Assn., Steamfitters Local No. 638*, 326 F. Supp. 193 (S.D.N.Y. 1971).

Sections 706(c) and (d)—These subsections, dealing with deferral to appropriate State and local equal employment opportunity agencies, are identical to sections 706(b) and (c) of the Civil Rights Act of 1964. No change in these provisions was deemed necessary in view of the recent Supreme Court decision of *Love* v. *Pullman Co.*,——— U.S.———, 92 S. Ct. 616 (1972) which approved the present EEOC deferral procedures as fully in compliance with the intent of the Act. That case held that the EEOC may receive and defer a charge to a State agency on behalf of a complainant and begin to process the charge in the EEOC upon lapse of the 60-day deferral period, even though the language provides that no charge can be filed under section 706(a) by the person aggrieved before the expiration of sixty days after proceedings have been commenced under the State or local law. Similarly, the recent circuit court decision in *Vigil* v. *AT&T*, ———F. 2d———, 4 FEP cases 345 (10th Cir. 1972), which provided that in order to protect the aggrieved person's right to file with the EEOC within the time periods specified in section 706(c) and (d), a charge filed with a State or local agency may also be filed with the EEOC during the 60-day deferral period, is within the intent of this Act.

Section 706(e)—This subsection sets forth the time limitations for filing charges with the Commission.

Under the present law, charges must be filed within 90 days after an alleged unlawful employment practice has occurred. In cases where the Commission defers to a State or local agency under the provisions of section 706(c) or (d), the charge must be filed within 30 days after the person aggrieved receives notice that the State or local agency has terminated its proceedings, or within 210 days after the alleged unlawful employment practice occurred, whichever is earlier.

This subsection as amended provides that charges be filed within 180 days of the alleged unlawful employment practice. Court decisions under the present law have shown an inclination to interpret this time limitation so as to give the aggrieved person the maximum benefit of the law; it is not intended that such court decisions should be in any way circumscribed by the extension of the time limitations in this subsection. Existing case law which was determined that certain types of violations are continuing in nature, thereby measuring the running of the required time period from the last occurrence of the discrimination and not from the first occurrence is continued, and other interpretations of the courts maximizing the coverage of the law are not affected. It is intended by expanding the time period for filing charges in this subsection that aggrieved individuals, who frequently are untrained laymen and who are not always aware of the discrimination which is practiced against them, should be given a greater opportunity to prepare their charges and file their complaints and that existant but undiscovered acts of discrimination should not escape the effect of the law through a procedural oversight. Moreover, wide latitude should be given individuals in such cases to avoid any prejudice to their rights as a result of government inadvertence, delay or error.

The time period for filing a charge where deferral is required to a State or local anti-discrimination agency has been extended to 300 days after the alleged unlawful employment practice occurred or to 30 days after the State or local agency has terminated proceedings under the State or local law, whichever is earlier. This subsection also restates the provision of Section 706(b) requiring a notice of the charges to the respondent within ten days after its having been filed.

Section 706(f)—This subsection, which is new, sets forth the enforcement procedures which may be followed in those cases where the Commission has been unable to achieve voluntary compliance with the provisions of the Act.

Section 706(f)(1)—Under this subsection, if the respondent is not a government, governmental agency, or political subdivision and if the Commission is unable to secure a conciliation agreement that is acceptable to the Commission within 30 days from the filing of the charge or within 30 days after expiration of any period of reference under subsetcion (c) or (d) it may thereafter bring a civil action against the respondent in an appropriate district court. In cases involving a government, governmental agency, or political subdivision, the Commission will not bring the case before a Federal District Court. After the Commission has had an opportunity to complete its investigation, and to attempt conciliation, the Commission shall then refer the case to the Attorney General who may bring the case to court. The aggrieved party is permitted to intervene in any case brought by the Commission or the Attorney General under this subsection.

With respect to cases arising under this subsection, if the Commission: (a) has dismissed the charge, or (b) 180 days have elapsed from the filing of the charge without the Commission, or the Attorney General, as the case may be, having filed a complaint under section 706(f), or without the Commission having entered into a conciliation agreement to which the person aggrieved is a party (i.e. a signatory) the person aggrieved may bring an action in an appropriate district court within 90 days after receiving notification. The retention of the private right of action, as amended, is intended to make clear that an individual aggrieved by a violation of Title VII should not be forced to abandon the claim merely because of a decision by the Commission or the Attorney General as the case may be, that there are insufficient grounds for the Government to file a complaint. Moreover, it is designed to make sure that the person aggrieved does not have to endure lengthy delays if the Commission or Attorney General does not act with due diligence and speed. Accordingly, the provisions described above allow the person aggrieved to elect to pursue his

or her own remedy under this title in the courts where there is agency inaction, dalliance or dismissal of the charge, or unsatisfactory resolution.

It is hoped that recourse to the private lawsuit will be the exception and not the rule, and that the vast majority of complaints will be handled through the offices of the EEOC or the Attorney General, as appropriate. However, as the individual's rights to redress are paramount under the provisions of Title VII it is necessary that all avenues be left open for quick and effective relief.

In any civil action brought by an aggrieved person, or in the case of a charge filed by a member of the Commission, by any person whom the charge alleges was aggrieved, the court may upon timely application of the complainant, appoint an attorney and authorize the commencement of the action without the payment of fees, costs, or security in such circumstances as it deems just. The Commission, or the Attorney General in case involving a governmental entity, upon timely application and subject to the court's discretion, may intervene in such a private action if it is certified that the private action is of general public importance. In addition, the court is given discretion to stay proceedings for not more than 60 days pending the termination of State or local proceedings or efforts by the Commission to obtain voluntary compliance.

In establishing the enforcement provisions under this subsection and subsection 706(f) generally, it is not intended that any of the provisions contained therein shall affect the present use of class action lawsuits under Title VII in conjunction with Rule 23 of the Federal Rules of Civil Procedure. The courts have been particularly cognizant of the fact that claims under Title VII involve the vindication of a major public interest, and that any action under the Act involves considerations beyond those raised by the individual claimant. As a consequence, the leading cases in this area to date have recognized that many Title VII claims are necessarily class action complaints and that, accordingly, it is not necessary that each individual entitled to relief be named in the original charge or in the claim for relief. A provision limiting class actions was contained in the House bill and specifically rejected by the Conference Committee.

Section 706(f)(2)—This subsection authorizes the Commission or the Attorney General, in a case involving a government, a governmental agency or political subdivision, based upon a preliminary investigation of a charge filed, to bring an action for appropriate temporary or preliminary relief, pending the final disposition of the charge. Such actions are to be assigned for hearing at the earliest possible date and expedited in every way. The provisions of Rule 65 of the Federal Rules of Civil Procedures shall apply to actions brought under this subsection.

The importance of preliminary relief in actions involving violations of Title VII is central to ensuring that persons aggrieved under this title are adequately protected and that the provisions of this Act are being followed. Where violations become apparent and prompt judicial action is necessary to insure these provisions, the Commission or the Attorney General, as the case may be, should not hesitate to invoke the provisions of this subsection.

Section 706(f)(3)—This subsection, which is similar to the present section 706(f) of the Act, grants the district courts jurisdiction over actions brought by the EEOC, the Attorney General or aggrieved persons under this title and provides the venue requirements. Such jurisdiction includes the power to grant such temporary or preliminary relief as the court deems just and proper.

Section 706(f) (4) and (5)—Under these paragraphs, the chief judge is required to designate a district judge to hear the case. If no judge is available, then the chief judge of the circuit assigns the judge. Cases are to be heard at the earliest practicable date and expedited in every way. If the judge has not scheduled the case for trial within 120 days after issue has been joined he may appoint a master to hear the case under Rule 53 of the Federal Rules of Civil Procedure. The purpose of this provision is to relax the very strongest requirements of Rule 53 which preclude appointment of a master except in extremely unusual cases.

Section 706(g)—This subsection is similar to the present section 706(g) of the Act. It authorizes the court, upon a finding that the respondent has engaged in or is engaging in an unlawful employment practice, to enjoin the respondent from such unlawful conduct and order such affirmative relief as may be appropriate including, but not limited to, reinstatement or hiring, with or without back pay, as will effectuate the policies of the Act. Backpay is limited to that which accrues from a date not more than two years prior to the filing of a charge with the Commission. Interim earnings or amounts earnable with reasonable diligence by the aggrieved person(s) would operate to reduce the backpay otherwise allowable.

The provisions of this subsection are intended to give the courts wide discretion exercising their equitable powers to fashion the most complete relief possible. In dealing with the present section 706(g) the courts have stressed that the scope of relief under that section of the Act is intended to make the victims of unlawful discrimination whole, and that the attainment of this objective rests not only upon the elimination of the particular unlawful employment practice complained of, but also requires that persons aggrieved by the consequences and effects of the unlawful employment practice be, so far as possible, restored to a position where they would have been were it not for the unlawful discrimination.

SECTION 5

This section amends section 707, concerning the Attorney General's "pattern or practice" authority to provide for a transfer of the "pattern or practice" jurisdiction to the Commission two years after the enactment of the bill. The bill further provides the Commission with concurrent jurisdiction in this area from the date of enactment until the transfer is complete. The transfer is subject to change in accordance with a Presidential reorganization plan if not vetoed by Congress. The section would provide that currently pending proceedings would continue without abatement, that all court orders and decrees remain in effect, and that upon the transfer the Commission would be substituted as a party for the United States of America or the Attorney General as appropriate.

Under the provisions of this section, the Commission's present powers to investigate charges of discrimination remain. In addition, it now has jurisdiction to initiate court action to correct any pattern or practice violations.

SECTION 6

This section amends section 709 of the Civil Rights Act of 1964, entitled "Investigations, Inspections, Records, State Agencies."

Section 709(a)—This subsection, which gives the Commission the right to examine and copy documents in connection with its investigation of a charge, would remain unchanged.

Section 709(b)—This subsection would authorize the Commission to cooperate with State and local fair employment practice agencies in order to carry out the purposes of the title, and to enter into agreements with such agencies under which the Commission would refrain from processing certain types of charges or relieve persons from the record keeping requirements. This subsection would make two changes in the present statute. Under this subsection, the Commission could, within the limitations of funds appropriated for the purpose, also engaged in and contribute to the cost of research and other projects undertaken by these State and local agencies and pay these agencies in advance for services rendered to the Commission. The subsection also deletes the reference to private civil actions under section 706(e) of the present statute.

Section 709(c)—This subsection, like the present statute, would require employers, employment agencies, labor organizations, and joint labor-management apprenticeship committee subject to the title to make and keep certain records and to make reports to the Commission. Under the present statute, a party required to keep records could seek an exemption from these requirements on the ground of undue hardship either by applying to the Commission or bringing a civil action in the district court. This subsection would require the party seeking the exemption first to make an application to the Commission and only if the Commission denies the request could the party bring an action in the district court. This subsection would also authorize the Commission to apply for a court order compelling compliance with the record keeping and reporting obligations set forth in the subsection.

Section 706(d)—This subsection would eliminate the present exemption from record keeping requirements for those employers in States and political subdivisions with equal employment opportunity laws or for employers subject to Federal executive order or agency record keeping requirements. Under this subsection, the Commission would consult with interested State and other Federal agencies in order to coordinate the Federal record keeping requirement under section 709(c) with those adopted by such agencies. The subsection further provides that the Commission furnish to such agencies information pertaining to State and local fair employment agencies, on condition that the information would not be made public prior to the institution of State or local proceedings.

SECTION 7

This section amends section 710 of the Civil Rights Act of 1964 by deleting the present section 710 and substituting therefor and to the extent appropriate the provisions of section 11 of the National Labor Relations Act (29 U.S.C. § 161). By making this substitution, the Commission's present demand power with respect to witnesses and evidence is repealed, and the power to subpoena witnesses and evidence, and to allow any of its designated agents, agencies or members to issue such subpoenas, as necessary for the conduct of any investigation, and to take testimony under oath is substituted.

SECTIONS 8 (a) AND (b)

These subsections would amend sections 703(a) and 703(c)(2) of the present statute to make it clear that discrimination against applicants for employment and applicants for membership in labor organizations is an unlawful employment practice. This subsection is merely declaratory of present laws as contained in the decisions in *Phillips* v. *Martin-Marietta Corp.*, 400 U.S. 542 (1971); *U.S.* v. *Sheet Metal Workers International Assn., Local 36*, 416 F. 2d 123 (8th Cir. 1969); *Asbestos Workers, Local 53* v. *Vogler*, 407 F. 2d 1047 (5th Cir. 1969).

SECTIONS 8(c) (1) AND (2)

These subsections would amend section 704(a) and (b) of the present statute to make clear that joint labor-management apprenticeship committees are covered by those provisions which relate to discriminatory ad-

vertising and retaliation against individuals participating in Commission proceedings.

SECTION 8(d)

This subsection would amend section 705 (a) of the present statute to permit a member of the Commission to serve until his successor is appointed but not for more than 60 days when Congress is in session unless the successor has been nominated and the nomination submitted to the Senate, or after the adjournment sine die of the session of the Senate in which such nomination was submitted.

The rest of the subsection provides that the Chairman of the Commission on behalf of the Commission, would be responsible, except as provided in section 705(b), for the administrative operations of the Commission and for the appointment of such officers, agents, attorneys, hearing examiners, and other employees of the Commission, in accordance with Federal law, as he deems necessary.

SECTION 8(e)

This subsection would provide a new section 705(b) of the Act which establishes a General Counsel appointed by the President, with the advice and consent of the Senate, for a four (4) year term. The responsibilities of the General Counsel would include, in addition to those the Commission may prescribe and as provided by law, the conduct of all litigation as provided in sections 706 and 707 of the Act. The concurrence of the General Counsel with the Chairman is required, on the reapportionment and supervision of regional attorneys.

This subsection would also continue the General Counsel on the effective date of the Act in that position until a successor has been appointed and qualified.

The Commission's attorneys may at the Commission's direction appear for and represent the Commission in any case in court, except that the Attorney General shall conduct all litigation to which the Commission is a party to in the Supreme Court pursuant to this title.

SECTION 8(f)

This subsection would eliminate the provision in present section 705(g) authorizing the Commission to request the Attorney General to intervene in private civil actions. Instead, this subsection permits the Commission itself to intervene in such civil actions as provided in section 706. Where the respondent is a government, governmental agency or political subdivision, the Attorney General should be authorized to seek intervention.

SECTION 8(g)

This section amends sections 714 of Title VII of the Civil Rights Act of 1964 by making the provisions of sections 111 and 1114 of Title 18, United States Code, applicable to officers, agents and employees of the Commission in performance of their official duties. This section also specifically prohibits the imposition of the death penalty on any person who might be convicted of killing an officer, agent or employee of the Commission while on his official duties.

SECTION 9 (a), (b), (c), AND (d)

These subsections would raise the executive level of the Chairman of the Commission (from Level 4 to level 3) and the members of the Commission (from Level 5 to Level 4) and include the General Counsel (Level 5) in the executive pay scale, so as to place them in a position of parity with officials in comparable positions in agencies having substantially equivalent powers such as the National Labor Relations Board, the Federal Trade Commission and the Federal Power Commission.

SECTION 10

Section 715—This section, which is new, establishes an Equal Employment Opportunity Coordinating Council composed of the Secretary of Labor, the Chairman of the Equal Employment Opportunity Commission, the Attorney General, the Chairman of the United States Civil Service Commission and the Chairman of the United States Civil Rights Commission or their respective designees. The Council will have the responsibility to coordinate the activities of all the various branches of government with responsibility for equal employment opportunity. The Council will submit an annual report to the President and Congress including a summary of its activities and recommendations as to legislative or administrative changes which it considers desirable.

SECTION 11

Section 717(a)—This subsection provides that all personnel actions of the U.S. Government affecting employees or applicants for employment shall be free from discrimination based on race, color, religion, sex or national origin. Included within this coverage are executive agencies, the United States Postal Service, the Postal Rate Commission, certain departments of the District of Columbia Government, the General Accounting Office, Government Printing Office and the Library of Congress.

Section 717(b)—Under this subsection, the Civil Serivce Commission is given the authority to enforce the provisions of subsection (a), except with respect to Library of Congress employees. The Civil Service Commission would be authorized to grant appropriate remedies which may include, but are not limited to, back pay for aggrieved applicants or employees. Any remedy needed to fully recompense the employee for his loss, both financial and professional, is considered appropriate under this subsection. The Civil Service Commission is also granted authority to issue rules and regulations necessary to carry out its responsibilities under this section. The Civil Service Commission shall also annually review national and regional equal employment opportunity plans and be responsible for review and evaluation of all agency equal employment opportunity programs. Agency and executive department heads and officers of the District of Columbia shall comply with such rules and regulations, submit an annual equal employment opportunity plan and notify any employee or applicant of any final action taken on any complaint of discrimination filed.

Section 717(c) and (d)—The provisions of sections 706(f) through (k), concerning private civil actions by aggrieved persons, are made applicable to aggrieved Federal employees or applicants for employment. Such persons would be permitted to file a civil action within 30 days of notice of final action by an agency or by the Civil Service Commission or an appeal from the agency's decision, or after 180 days from the filing of an initial charge with the agency, or the Civil Service Commission.

Section 717(e)—This subsection provides that nothing in this Act relieves any Government agency or official of his or its existing equal employment opportunity obligations under the Constitution, other statutes, or under any Executive Order relating to equal employment opportunity in the Federal Government.

SECTION 12

This section allows the Chairman of the Commission to establish ten additional positions at the GS–16, GS–17 and GS–18 levels, as needed to carry out the purposes of this Act.

SECTION 13

A new Section 718 is added which provides that no government contract, or portion thereof, can be denied, withheld, terminated, or superseded by a government agency under Executive Order 11246 or any other order or law without according the respective employer a full hearing and adjudication pursuant to 5 U.S.C. § 554 et. seq where such employer has an affirmative action program for the same facility which had been accepted by the Government within the previous twelve months. Such plan shall be deemed to be accepted by the Government if the appropriate compliance agency has accepted such plan and the Office of Federal Contract Compliance has not disapproved of such plan within 45 days. However, an employer who substantially deviates from any such previously accepted plan is excluded from the protection afforded by this section.

SECTION 14

This section provides that the amended provisions of Section 706 would apply to charges filed with the Commission prior to the effective date of this Act.

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

Mr. QUIE. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. ERLENBORN).

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

Mr. ERLENBORN. Mr. Speaker, I take the floor today to support the conference report on H.R. 1746.

As I mentioned earlier today, I am not entirely happy with the results of the conference. Out of some 21 major differences between the House and the Senate, the House conferees or a majority of them, though not all, gave in to the Senate 18 times while the House maintained its position three times. It is not as good a record, I must say, in all honesty, as I would like to have come back to the House with.

I guess I should also say that we must be quite thankful we won our point on the floor of the House and the Senate on the major issue, or that, of course, would have also been lost in conference; but we have won that point. I refer to the question of whether the EEOC should have cease-and-desist authority or authority to go into court to enforce a complaint that title 7 of the Civil Rights Act has been violated. Since that was won in both the House and Senate on the floor and the conference report therefore includes court enforcement provision, which was the key provision, I do support the conference report.

There are a few things I would like to discuss concerning the conference report, but first I will be happy to yield to my colleague from Indiana.

Mr. DENNIS. I thank the gentleman for yielding.

I would like to simply say that one of the things which I am afraid you did yield on which concerns me and gives me real reservations about this conference report is the matter of applying this law down to the small employer who only has 15 people or less working for him.

Now, a law of this kind, whatever its beneficial objective, is a great trouble and harassment, as the gentleman knows, to people in business. Large corporations can probably live with it, but it is a great imposition on the small businessmen on Main Street that you and I represent to have to be hailed into court and pay lawyers like myself, as well as accountants, and so forth.

It is a great regret to me that the House receded down to that point where

we are going to bother every little fellow on the street with five or six employees.

Mr. ERLENBORN. I thank the gentleman for his contribution.

All I can say is that it could have been worse. The original bill reported by our committee—which was rejected on the floor when the substitute was adopted—would have reduced the coverage down to eight.

The bill as passed by the Senate reduces coverage to 15 employees. This is contrasted to 25 employees as is presently in the law.

In the conference we did recede to the Senate and adopted the figure of 15. I think it might have been reasonable at that point to compromise at 20 employees or even try to hold it to 25, but the majority of the conferees of the House did recede to the Senate on the figure of 15.

Mr. STEIGER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. Yes; I yield to the gentleman from Wisconsin.

(Mr. STEIGER of Wisconsin asked and was given permission to revise and extend his remarks.)

Mr. STEIGER of Wisconsin. Mr. Speaker, I appreciate the gentleman yielding.

I simply want to acknowledge the leadership that has been exhibited by the gentleman in the well, the gentleman from Illinois (Mr. ERLENBORN). I signed the conference report. I must admit that I am not happy about all of the concessions that were made. However, I think on balance it does provide a needed strengthening of the EEOC. For that reason I urge the support of the House of the conference report.

On balance, however, I must say in all honesty, if it had not been for the kind of work that was done both here in the House and in the other body, my fear would be that we would not have been able to come out with as good a product as this one represents.

I do want to pay tribute to the gentleman from Illinois for what he has done for so long in working with this bill and in helping strengthen the work of the EEOC.

Mr. ERLENBORN. I thank the gentleman for his kind words and also acknowledge the help which he has given to me and other members of the committee all along on this bill.

Mr. Speaker, one of the other areas where additional coverage would be included as a result of the conference report is the extension of the authority of the Federal EEOC to State and local governmental employees. There was an amendment adopted in the conference committee, an amendment to the bill as it came out of the other body, and I think it was a good amendment and I am happy that the conference did adopt it.

In extending coverage to State and local employees the House bill, as reported, and the bill in the other body just made a blanket extension to small State and local employees without any exception. It was pointed out on the floor of the other body that this would even cover elected officials at the State and local level. In other words, it would have been conceivable when the mayor won his race as mayor of the city that the losing candidate——

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. QUIE. Mr. Speaker, I yield the gentleman 5 additional minutes.

Mr. ERLENBORN. As I was saying, the losing candidate could conceivably go to the Commission and charge that he lost the race because there was discrimination against him because of race, sex, or national origin and if the Commission had cease-and-desist powers, they could vitiate the election. I think that would probably not be the case but it would have been possible and they could have seated the defeated candidate.

In the other body, an exemption was made for elected officials and immediate legal advisers. In the conference, an additional qualification was added, exempting those people appointed by officials at the State and local level in policymaking positions.

I think this represents another good provision that the conference added in the report.

In the extension of this authority to State and local employees, it was also made clear that the Attorney General would have the authority to bring the action in court rather than the attorneys for the Commission. This was made explicit in the bill as it was passed in the other body. Besides this, there is a transfer of jurisdiction for pattern of practice matters from the Attorney General to the Commission in a phase program over the next 2 years.

I think we should make it clear that at least this conferee believes it was the intention of the conference that in the case where a pattern or practice action is brought against State or local officials that suit should be brought by the Attorney General rather than by the Commission. There seems to be a conflict here, a conflict of jurisdiction going to the Commission by the suits against local units of government, that the authority to bring them rests in the Attorney General. I believe the latter should take precedence in the pattern or practice actions against a unit of local or State government, it should be brought by the Attorney General. I believe that was the intention of the conference.

Educational institutions will now be covered as a result of receding to the Senate bill. Religious institutions will be covered, but with a broad exemption for anyone employed by the religious institution rather than only those people who might be utilized in religious work per se. So that I think it was clearly the thought of the conference that if a religious institution is engaged in a profitmaking venture they still are not covered by the provisions of this act.

I did agree with one of the places where we receded to the Senate in extending coverage to joint labor-management committees. These are committees that often operate the programs of apprenticeships, particularly in the building trades, and up until the present time they have not been covered in the definition. I think they should be. If there is any place where discrimination is practiced, I think clearly it has been practiced in the apprenticeship programs.

So, extending the authority to the EEOC into this area is I think a good thing.

I will not take the time to go through all of the rest of the differences between the House and the Senate.

Let me reiterate that some three provisions of the House prevailed over the Senate where some 18 Senate provisions prevailed over the House. It is hardly even-handed, and it hardly is the sort of record to give confidence on the part of the Members of the House generally in the conferees appointed by the Committee on Education and Labor.

I hope that that committee will have a better record some time in the future. I think the lack of confidence that is generated by conferences such as this lead to actions such as were taken earlier today on the floor of the House in instructing conferees from the Committee on Education and Labor concerning the higher education bill.

I do not like the practice; but if I want to accomplish legislatively what I think this House wants, I may find myself in the position of having to file a motion to instruct conferees from the Committee on Education and Labor based on the kind of record that they have established in this conference, and in the past.

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

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

Mr. CORMAN. Mr. Speaker, I would like to inquire of the gentleman from Illinois whether he thinks that the Attorney General would be more vigorous or less vigorous than the Commission in the bringing of suits.

Mr. ERLENBORN. I do not know how you would define "vigorous." I can tell you this: the Attorney General in the pattern or practice suits under title VII of the Civil Rights Act of 1964, since its passage, has not lost one suit. The number of cases is not exceptionally great, but the number of people affected has been, because pattern or practice can cover many people in one case. The Attorney General has had an excellent record in this area, under both administrations. This is not in any way a partisan comment.

Mr. CORMAN. If the gentleman will yield further, the gentleman raised a point as to where we are putting the jurisdiction, and I just wondered whether we got better enforcement from the Attorney General.

Mr. ERLENBORN. Let me allay the gentleman's fears as to whether that was the reason for it. The rationale behind giving the Attorney General the authority to bring suit in the cases affecting State and local governments is that there could be a constitutional conflict as to whether a Commission would have authority——

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. QUIE. Mr. Speaker, I yield 1 additional minute to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. It is because there

could be a constitutional conflict as to whether an administrative agency of the Federal Government could exercise authority against State and local elected officials.

It did seem clear that the Attorney General could bring suit in the Federal court in those cases. That is my jurisdiction was extended to the Attorney General to bring suit where State and local units of government are involved.

The point I am trying to make is the apparent conflict between this and the transfer of the pattern or practice jurisdiction that the Attorney General now exercises. It is my feeling that the conferees intended that the Attorney General have the pattern or practice jurisdiction as it affects the State and local units of government.

Mr. CORMAN. I am still not quite certain as to whether the gentleman felt there ought to be a transfer because of the vigorous enforcement of the Attorney General or whether the gentleman thought the Commission was too vigorous in the first place.

Mr. ERLENBORN. I think the Attorney General's record has been good.

The judgment was made to take the pattern or practice jurisdiction from him, but I think the decision has also been made that where the State and local units are concerned, the Attorney General should bring suit.

Mr. PERKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. DENT).

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

Mr. DENT. Mr. Speaker and Members, I am here today, first, to thank the members of the conference committee on both sides for taking a very broadminded view of the problem that we faced.

I think this is one of the finest conferences I have served on in many years. We tried to thrash out and solve the problems on the basis of give and take and understanding. There were quite a few differences between the provisions in the House passed bill and the Senate passed bill.

However, the conferees, in what I think was a very unselfish and statesmanlike approach, developed for the House and the Senate a piece of legislation that all the conferees of both the House and Senate were able to sign willingly.

There were some major differences in some of the provisions dealing with enforcement. We did not see quite eye to eye on them, but we ended up with a much better provision than the provision contained in the old act.

We hope that the thousands of cases that are piling up will now be taken up and that the backlog of cases and new cases that come before the Commission can be handled expeditiously.

The bill, H.R. 1746, as reported by the conference committee represents 5 years of legislative activity during which time several attempts were made to adopt some form of enforcement procedures which the EEOC could effectively use to enforce title VII of the Civil Rights Act of 1964.

This conference report represents the result of a very active bipartisan effort to achieve meaningful employment opportunities for all citizens in this Nation. As such, I honestly believe it reflects the efforts of both the House and Senate toward this end.

Mr. Speaker, I want to pause just a moment to give my regards and respect to the gentleman from California (Mr. HAWKINS) who has been working night and day for the passage of this legislation for the better part of 5 years, taking upon himself the chores that I, as chairman, could not take on because of the press of other committee business.

If anybody is to be considered the prime mover in getting this legislation to this point today so that we can vote for it and be assured that we are doing something toward enforcing equal employment opportunities in our country, it is Mr. HAWKINS.

Mr. PERKINS. Mr. Speaker, will the distinguished gentleman from Pennsylvania yield?

Mr. DENT. I am happy to yield to the chairman.

Mr. PERKINS. First, let me state that the untiring work and the determined efforts of the distinguished gentleman from Pennsylvania brought about, more than anything else, the important legislation that we have on the floor today. He succeeded because of his great effort and those of the gentleman from California (Mr. HAWKINS). They have lived with this legislation over a period of years, and I certainly do not want to detract one particle from the good work of the minority in connection with this legislation. But above everyone else, the distinguished gentleman from Pennsylvania (Mr. DENT) stayed on top of this legislation. He stayed with it and never gave in even when that appeared to be the wisest and practical thing to do.

This legislation is a great tribute to the distinguished chairman of the subcommittee (Mr. DENT). He has devoted great effort and long service trying to get the legislation enacted. I certainly want to pay my compliments to the distinguished gentleman from Pennsylvania and to his entire subcommittee for a job well done.

Mr. DENT. Thank you very kindly, Mr. Chairman, and I am sure that all members of the committee recognize your ever-present help at any time we needed it during consideration of the measure.

I also want to pay my respects to the ranking minority member, who probably is the best "devil's advocate" in the whole Congress of the United States, because if there are any faults in any legislation of ours, JOHN ERLENBORN will find them. I sometimes find fault with my colleague from Illinois because I sometimes think he finds fault when there is no fault to be found. But in the final analysis he does do his homework. In every instance where we have had a knotty problem to iron out, he has been of great help.

The bill provides for the much-needed expansion of coverage of title VII to include employees of educational institutions. State and local governments, and employers, and labor organizations with 15 or more employees or members. The special position of State and local governmental employers has been recognized, however, by a specific exemption for certain State and local government employees, as well as a requirement that State and local agencies may only be sued by the Attorney General. Changes have also been introduced in the prohibition against religious discrimination which represent improvements over the present law.

Certain needed changes in the provisions for the filing of charges with the Commission have also been introduced. These would allow a charge to be filed on behalf of an aggrieved individual and provide for a longer period of time during which the charge may be filed. The positions of both the House and Senate bills regarding the ability of the individual to sue when the Commission's action is unsatisfactory and the ability of the courts to grant preliminary relief, where appropriate, have been retained.

The key to the whole legislation is the enforcement powers granted to the Commission, the ability to go into the Federal district courts to enforce compliance with the act. This enforcement proposal, which was essentially the same in both House and Senate versions of the bill, is that which this Congress has agreed to as best for the EEOC. While originally I, and many of my colleagues on this floor, favored the administrative cease-and-desist enforcement approach over that of court enforcement, I am now satisfied that, along with the other provisions contained in the legislation, the EEOC would be given sufficient tools to enforce the provisions of title VII.

The conference bill contains additional provisions which I consider vital to the effective enforcement of title VII. It would, 2 years after enactment, transfer the Justice Department's "pattern or practice" jurisdiction to the EEOC. This provision would eliminate the overlapping enforcement powers which would otherwise be inevitable if both the EEOC and Justice Department could bring suits to enforce violations of title VII. The jurisdiction to sue State or local governments would, however, remain solely with the Justice Department so that no overlap would occur in this area.

The conference report also retains certain important provisions with respect to recordkeeping and Federal-State relations regarding equal employment opportunities enforcement. The compromise also provides certain added protections for employees of the agencies responsible for enforcing title VII.

This legislation would impose requirements of due process on the Federal contract compliance program for the first time.

While I am not completely happy with the way the bill has turned out, the majority of the Congress has spoken. The conferees have spoken. So I compliment them for at least getting to that point where we have made some advancement in enforcement.

We have come out with a piece of work that I think will stand a long time. We may now very well be on the road to a more peaceful existence in the field of employment in this country as a result of this bill.

Most people just want to work. That is all. They want an opportunity to work. We are trying to see that all of us, no

matter of what race, sex, or religious or ethnic background, will have equal opportunity in employment.

This bill has been a long time coming. I hope the House will accept this legislation and the work of the conferees.

Again I thank both the minority and the majority members of the conference for their great support of the legislation.

Mr. Speaker, I include the following:

PROCEDURE WHERE NO STATE EQUAL EMPLOYMENT OPPORTUNITY LAW EXISTS

(1) A charge must be filed within 180 days after the occurrence of an alleged unlawful employment practice.

(2) After a charge is filed, the Commission must serve a notice of the charge on the respondent within ten days.

(3) The Commission must then investigate the charge, after which it must make a determination whether there is reasonable cause to believe that the charge is true. The Commission shall make its determination of reasonable cause as promptly as possible and, so far as practicable, within 120 days.

(4) If it finds no reasonable cause, the Commission must dismiss the charge: if it finds reasonable cause, it will attempt to conciliate the case.

(5) If the Commission is unable to secure a conciliation agreement, that is acceptable to the Commission, it may bring a civil action against any respondent in an appropriate federal district court. In the case of a respondent which is a government, governmental agency or political subdivision, the Commission shall take no further action and notify the Attorney General who may bring a civil action.

(6) If the court finds that a respondent is engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in the unlawful employment practice and grant such affirmative relief as it may deem appropriate including, but not limited to, reinstatement, with or without backpay. Backpay liability is limited, however, to no more than that accrued during the two years prior to the filing of a charge with the Commission.

(7) In the event that the Commission dismisses a charge or if within 180 days from the filing of the charge the Commission or the Attorney General has not filed a civil action or entered into a conciliation agreement to which the aggrieved person is a party, the Commission or the Attorney General will notify the aggrieved party. Within ninety days after the receipt of such notice the person aggrieved may bring a civil action against the respondent. Should such a private action be brought, the Commission or the Attorney General (where a government or political subdivision was involved) may seek to intervene in the action.

PROCEDURES WHERE STATE EQUAL EMPLOYMENT OPPORTUNITY LAW EXISTS

(1) A charge must be filed within 180 days after the occurrence of an alleged unlawful employment practice.

If a charge is initially filed with a state or local agency, such charge must be filed with the Commission within 300 days after the alleged unlawful practice has occurred or within 30 days after receipt of notice that the state or local agency has terminated its proceedings.

(2) Where a state or local equal employment statute exists, the EEOC must wait 60 days after state or local proceedings have been commenced, unless those proceedings have been terminated sooner, before it can act on a charge. The deferral period is extended to 120 days during the first year after enactment of a state or local law.

(3) Once the deferred is concluded, the Commission must serve a notice of the charge on the respondent within ten days (presumably, this is duplicative of the state or local proceedings).

(4) The Commission must then investigate the charge, afterwhich it must make a determination whether there is reasonable cause to believe that the charge is true. The Commission shall make its determination of reasonable cause as promptly as possible and, so far as practicable within 120 days.

(5) If it finds no reasonable cause, the Commission must dismiss the charge; if it finds reasonable cause, it will attempt to conciliate the case.

(6) If the Commission is unable to secure a conciliation agreement, that is acceptable to the Commission, it may bring a civil action against any respondent in an appropriate Federal district court. In the case of a respondent which is a government, governmental agency or political subdivision, the Commission shall take no further action and notify the Attorney General who may bring a civil action.

(7) If the court finds that a respondent is engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in the unlawful employment practice and grant such affirmative relief as it may deem appropriate including, but not limited to, reinstatement, with or without backpay. Backpay liability is limited, however, to no more than that accrued during the two years prior to the filing of a charge with the Commission.

(8) In the event that the Commission dismisses a charge or if within 180 days from the filing of the charge the Commission or the Attorney General has not filed a civil action or entered into a conciliation agreement to which the aggrieved person is a party, the Commission or the Attorney General will notify the aggrieved party. Within ninety days after the receipt of such notice the person aggrieved may bring a civil action against the respondent. Should such a private action be brought, the Commission or the Attorney General (where a government or political subdivision was involved) may seek to intervene in the action.

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

Mr. Speaker, as we can see by reading the signatures on this report, the majority and the minority are together in supporting this conference report. The greatest amount of credit for putting the bill into a shape which I can support has to go to the gentleman from Illinois (Mr. ERLENBORN), not only for his work in this House, but also for his work with the Members of the other body in straightening out the matter. I say that as one who once introduced a bill giving cease and desist enforcement powers to the EEOC, but I believe the action taken in this legislation is right, and, therefore, I am supporting it. The gentleman from Illinois has been most convincing.

There are some provisions of the Senate which, I think, are advantageous which the House accepted and which I strongly support. I would say two that come to mind are the ones affecting religion. One is the definition of religion and the other is the provision exempting employees of religious organizations. I think that was a good move on our part.

There are some parts I do not like. If we had the chance to bring the bill back with a motion to recommit, I think I would have stood here and asked Members to recommit the bill back to the conference with instructions. I hope this body will take a look at the rules we operate under, so that both Houses will have a chance on the conference report to recommit back to the conference if Members do not like some part of the bill.

The part I feel especially is bad is the feature on the statute of limitations in this bill, which is not 2 years prior to enactment of this bill, but rather 2 years prior to the charge being brought by anyone. Some of those may have been pending for 2 or 3 years already, so we are talking now of probably 5 years in which back pay can be requested.

I just do not think that was a wise decision. I think the House would have stood by the position of those of us who felt that this was unwise, and that the 2-year statute of limitations in this bill should have been 2 years prior to the enactment of the act. I think that would have been advisable.

But we have to look at this report in total. The question is now whether we want to vote down the conference report because there are some parts we disagree with. I do not think we should do that.

I think there is improvement for the EEOC in this bill, and we have to give credit to those who have been working on this. One of those who should be given great credit is the gentleman from California (Mr. HAWKINS) who really has taken the lead to give more strength to EEOC to eliminate discrimination. I think despite the fact that this is not everything he wanted, this is a substantial stride forward, and one in which he can also take pride as a result of the action of the committee.

I urge support for the conference report.

With that, Mr. Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. GROSS).

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

Mr. GROSS. Mr. Speaker, I thank the gentleman from Minnesota for yielding to me.

Mr. Speaker, on page 21 of the report, I note this language:

The Senate amendment provided the Commission with authorization for an additional 10 positions at GS–16, GS–17, and GS–18 level. The House bill had no such provision. The House receded.

Of course, "receded" means the House surrendered to the Senate.

I wonder if there was any recognition on the part of the House Committee on Education and Labor that there is a committee of the Congress which is supposed to deal with supergrades, which is supposed to deal with pay increases and that sort of thing. I wonder if the gentleman from Kentucky could give me some reason why the House rolled over and played dead on this issue.

Mr. PERKINS. Let me say to my distinguished colleague——

Mr. GROSS. I cannot hear the gentleman. He is usually a little more vocal, at least a few decibels higher.

Mr. PERKINS. Let me say to my distinguished colleague from Iowa that after the Senate put this provision in the bill——

Mr. GROSS. I am aware of that. I just read the fact that they did.

Mr. PERKINS. Let me make the explanation. I wrote to the chairman of the Post Office and Civil Service Committee of the House, Congressman DULSKI, and invited him to look the situation over, as to whether he felt the Commission needed these additional people.

Be that as it may, the conferees felt, in view of the broadening of the coverage in the bill, that the number selected by the Senate was a reasonable number. It was the will of the conference that we give them some additional personnel that we felt they needed. I do not consider it any surrender by any means.

Mr. GROSS. If the Post Office and Civil Service Committee, which is the proper committee, should come along and take some of the employees away, or bring out legislation to take some of the employees away from this equal employment opportunity setup, I can see the gentleman raising a little unshirted hell around here over the fact that the jurisdiction of his committee was being invaded. And that is precisely what you did here.

Let me call your attention to something else as we go along.

Mr. PERKINS. I would much prefer——

Mr. GROSS. Just a minute. I will yield to the gentleman later.

The House just sent the Higher Education Act to conference. When that bill originally came to the House it contained numerous provisions authorizing employment of personnel without regard to the civil service and classification laws, and it provided for numerous additional positions in grades 16 through 18, which of course are the supergrades. The gentleman from North Carolina (Mr. HENDERSON) and the gentleman from Iowa, presently addressing the House, made points of order against that bill and knocked those provisions out. Now you are going to conference with the other body, and I have no doubt that when you come back from that conference there will be many more supergrades. You will have fattened that bill along with this one, and will have done so without any regard for the jurisdiction of the proper committee of the Congress.

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

Mr. GROSS. Yes, I yield, if the gentleman has any reasonable explanation for invading the jurisdiction of the committee.

Mr. DENT. The gentleman will have to be the judge of whether it is reasonable or not, but it is not a precedent-setting action here.

Mr. GROSS. I did not say anything about a precedent. I said it was overstepping the committee.

The SPEAKER. The time of the gentleman from Iowa has expired.

Mr. GROSS. Mr. Speaker, will the gentleman yield me 3 additional minutes?

Mr. QUIE. Mr. Speaker, I yield 3 additional minutes to the gentleman from Iowa.

Mr. DENT. May I be permitted to answer?

Mr. GROSS. Yes, certainly.

Mr. DENT. This House without question or any discussion, when it created the Commission on Aging, created the grade jobs that were required to perform the duties we prescribed under the Commissioner on Aging. This is another Commission. If the jobs are not created in the legislation we bring forth we would not have anybody to administer the act and the provisions we put into the bill.

This has gone on ever since I have been a Member of Congress, where we create new duties and create jobs to go with them. We did not overstep our jurisdiction. The Senate put it in, very frankly.

Mr. GROSS. You accepted it, did you not? Your responsibility is equal to theirs, in the conference.

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

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

(Mr. DULSKI, on request of Mr. HENDERSON, was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DULSKI. Mr. Speaker, I am very disappointed to learn that the conferees have retained the Senate provision authorizing additional supergrade positions.

Section 12 of the conference substitute authorizes the Chairman of the Equal Employment Opportunities Commission to place an additional 10 positions in grades 16, 17, and 18 of the General Schedule.

Mr. Speaker, I realize that the exchange of correspondence on the inclusion of the 10 additional supergrades which I had with the gentleman from Kentucky, Chairman PERKINS, came too late, since the conferees already had reached agreement. I appreciate the suggestion made by the gentleman from Kentucky in his letter of March 1, 1972, that our committee hold the necessary hearings and consider the justification for the 10 positions authorized. I will include copies of these letters as a part of my statement.

Mr. Speaker, this is yet another example of legislation that is reaching the House floor with provisions that violate the statutory standards and controls relating to Federal employment.

The Committee on Post Office and Civil Service has primary jurisdiction over all matters relating to the civil service, including matters relating to the compensation, classification, and retirement of Federal employees. The standards, controls, and limitations relating to these matters are spelled out very specifically in title 5 of the United States Code.

Our committee feels that any exceptions to such statutory standards and controls should be granted only in the most unusual circumstances and only when fully justified before our committee.

In the present case we have had no request and no opportunity to consider whether there is any justification for authorizing 10 additional supergrades for the Equal Employment Opportunities Commission.

I realize, of course, that little can be done at this point to eliminate the supergrade authority from the conference report. However, I would strongly advise the Equal Employment Opportunities Commission to forego the use of such authority until the Post Office and Civil Service Committee has had the opportunity to consider the overall needs of the Government for additional supergrade positions.

In that regard I wish to point out that on March 28, the Subcommittee on Manpower and Civil Service of the Post Office and Civil Service Committee will begin hearings on the administration's proposal to establish a Federal Executive Service.

During the course of those hearings, I am going to ask the members of the subcommittee to give serious consideration to repealing all recently enacted provisions of law, such as the one we are now considering, which authorize additional supergrade positions, unless such supergrade authority was considered and approved by our subcommittee.

In lieu of the separate supergrade authorities which I will seek to have repealed, I will propose an increase in the aggregate number of supergrade positions under section 5108(a) of title 5, United States Code, to take care of any additional supergrades that are proven to be needed pending completion of the study for the new Federal Executive Service.

The letters follow:

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., February 29, 1972.

Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In reviewing the provisions of the Senate amendment to H.R. 1746, the Equal Employment Opportunities Enforcement Act of 1972, I note that section 13 authorizes the Chairman of the Equal Employment Opportunities Commission to place an additional 10 positions in GS–16, GS–17, and GS–18.

As I have indicated to you several times recently, this is the type of authorization which I am firmly convinced should be considered by our Committee before being approved by the House. We have had no request and no opportunity to consider whether or not there is any justification for authorizing 10 additional supergrades for the Equal Employment Opportunities Commission.

Mr. Henderson, Chairman of our Subcommittee on Manpower and Civil Service, has scheduled hearings to begin in March on the overall question of replacing the so-called supergrade positions with a new Federal Executive Service. At that time, a review will be made as to whether or not any additional supergrades are needed pending completion of the study for the new Federal Executive Service.

Since we have received no request on behalf of the Equal Employment Opportunities Commission, and in view of the pending study, I strongly recommend that you and the conference of the House urge that the Conference Report not include authority for additional supergrades for the Equal Employment Opportunities Commission.

With kindest regards,

Sincerely yours,

THADDEUS J. DULSKI,
Chairman.

HOUSE OF REPRESENTATIVES,
March 1, 1972.

Hon. THADDEUS J. DULSKI,
Chairman, Committee on Post Office and Civil Service, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am sorry you and I did not have an opportunity to discuss earlier the provisions of the Senate amendment to H.R. 1746, the Equal Employment Opportunities Enforcement Act of 1972.

The Conferees on that matter completed their deliberations last night. The Conference Report is, I understand, in page proof already and Chairman Williams of the Senate Committee on Labor and Public Welfare is most anxious to file the Conference Report today and have the Senate take up the measure tomorrow. I can understand your concern about the authorization of additional supergrades for the Equal Employment Opportunities Commission. The possibility of your concern was, in fact, discussed by the Conferees on our side. Since the provision was in the Senate bill, however, and since the Parliamentarian's office assured us that the provision being in the Senate bill made it a conferencable item, we felt in the situation that existed yesterday evening when the matter was considered that it was imperative that we take the Senate language.

As I indicated before, if I had received your communication of concern earlier than this morning we might have come to a different conclusion but under the circumstances it appears to be too late now to resolve the matter as you desire. I would suggest, however, that Mr. Henderson, Chairman of your Subcommittee on Manpower and Civil Service, continue with his hearings on the replacement of the super-grade positions with the new Federal Executive Service, including his review of the need for additional supergrades pending completion of the study for the new Federal Executive Service. Specifically, I would recommend that he review the situation of the Equal Employment Opportunities Commission and I assure you that I will do everything I can to cooperate with him and with you in that connection.

Obviously, if your Committee after reviewing the matter feels that the Conference has authorized an excessive number of supergrades or has authorized an insufficient number I would expect to give the same serious consideration to the recommendations of your Committee that I always give the recommendations of any other Chairman of any other Committee.

With best wishes,
Sincerely,

CARL D. PERKINS,
Chairman.

Mr. HENDERSON. I thank the gentleman for yielding, and I want to say that I, too, agree with him that the jurisdiction of the Civil Service Committee of the House has not been abided by here. The legislative committees, of course, have the authority to grant the positions that may be needed, but here what they have done is set the salaries for those persons they determined to be required and have exempted them from the Civil Service Act without any testimony saying why they should be exempted. As the gentleman from New York will convey to the Members of the House in his extension of remarks, he puts us on notice that our committee intends to do something about this.

Mr. GROSS. They might at least have gone to the Civil Service Commission pool for supergrades rather than to establish them by this process.

Mr. HENDERSON. I thank the gentleman for yielding.

Mr. GROSS. Mr. Speaker, I also note on page 9 of the report this language:

SEC. 714. The provisions of sections 111 and 1114, title 18, United States Code, shall apply to officers, agents, and employees of the Commission in the performance of their official duties. Notwithstanding the provisions of sections 111 and 1114 of title 18, United States Code, whoever in violation of the provisions of section 1114 of such title kills a person while engaged in or on account of the performance of his official functions under this Act shall be punished by imprisonment for any term of years or for life.

Not even the language that is to be found in all statutes of this kind—not even the inclusion of "upon conviction." No one bothered to write into this provision that an individual must first be tried and convicted before being sentenced to prison for life.

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

Mr. DENT. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, in answer to the criticism about the job situation and supergrades, we did not say or do anything that has not been done before time and time again. What we said—or, rather, what the Senate insisted on—is that the Chairman of the Economic Opportunity Commission, subject to standards and procedures prescribed by this chapter, may place—may place—an additional 10 positions in the Economic Opportunity Commission in GS–16, GS–17, and GS–18 for the purposes of carrying out title 7 of the Civil Rights Act of 1964. It says he may if it is needed.

We heard absolutely nothing from any committee of the House until the day after the conference was over, when we received a note from Mr. DULSKI, the chairman of the Committee on Post Office and Civil Service, and an answer was given to him by the chairman of our full committee, and all of the oversight on this particuar matter was taken into account.

These jobs are still within the jurisdiction of the Post Office and Civil Service Committee. We did not do anything but provide the jobs when needed to fulfill the duties of the Commission.

Mr. GROSS. Will the gentleman yield?

Mr. DENT. I am happy to.

Mr. GROSS. And you probably did not have one word of evidence as to whether the 10 additional supergrades were needed. Did you? You took the word of the people across the way, and they probably held no hearings and had no justification as to whether a single supergrade was necessary.

Mr. DENT. In answer to the gentleman, I might say that if you go into a conference, and you do not have any regard for the other body's position, then you should never go into conference. You have to accept the view that they made the study. We did not make the study, I assure you.

Mr. QUIE. Mr. Speaker, I yield the gentleman from Illinois 3 minutes.

Mr. ERLENBORN. If the gentleman from Pennsylvania would respond to a question, I would appreciate it.

Did I understand the gentleman correctly a minute ago to say you did not hear from Chairman DULSKI until after the conference was completed?

Mr. DENT. That is exactly what the chairman told me. I never heard from them at all.

Mr. ERLENBORN. I thank the gentleman for that answer. It does surprise me, and maybe we should ask the chairman of the committee (Mr. PERKINS), because I raised this question in the conference.

Mr. DENT. That is right.

Mr. ERLENBORN. And I was told that, "yes, they did have a letter from Chairman DULSKI," but that, "you know, he always writes letters like that to show that he is trying to protect the jurisdiction of the committee, but we do not take it very seriously."

I also recall it was agreed that, if Chairman DULSKI were really serious about this, he would back down and remove these provisions from the conference report.

Mr. DENT. I know that the gentleman from Illinois does not want to give the wrong impression; but, in order to stop it right at this point and get at what we believe to be the truth, with reference to this matter and with reference to the interchange between the chairman of the Committee on Post Office and Civil Service and the chairman of the Committee on Education and Labor, you know it has been said that a lie will get halfway around the world before the truth is known. The letter was not in the hands——

Mr. ERLENBORN. Mr. Speaker, I ask for regular order.

I would like to ask the gentleman from Kentucky (Mr. PERKINS): Is it not true that you advised us in the conference that you had received the letter from Chairman DULSKI?

I would be happy to yield to the gentleman, the chairman of the committee, to respond to that question.

Mr. PERKINS. The chief clerk of the committee informs me that we had a letter from Mr. DULSKI on another subject matter along the same lines, but on other legislation, not on this legislation, before we went to conference, but that the letter on this particular subject and on the conference report did not arrive until the day after we completed the conference.

My recollection is refreshed by the clerk of the committee who answers the mail.

Mr. ERLENBORN. I thank the gentleman for that answer. It was my understanding from what the gentleman said in the conference that he knew Chairman DULSKI felt that this invaded the jurisdiction of his committee. I understood the gentleman in the conference to say he received a letter from the chairman and, if the chairman was serious about it, it would be understood that this matter would be taken out of the bill. I just want the record to be straight.

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

Mr. ERLENBORN. I yield to the gentleman from Minnesota.

Mr. QUIE. As I recall the situation, the Senate conferees agreed that if a point of order could be raised against this section, or if a separate vote could be

held on the section, then they would recede. Since that was not the parliamentary situation they went ahead.

So, there was full realization in the conference that this was a serious matter and we were concerned about the Post Office and Civil Service Committee's jurisdiction.

Mr. DENT. Mr. Speaker, I yield myself 1 minute.

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

Mr. DENT. The letter in question was the letter to the chairman dealing with the provisions of the Fair Labor Standards Act, and covers civil employees under civil service. That was the letter that was talked about, but the chairman said he had a letter and it had nothing to do with this legislation.

I am informed by the Clerk that we did not receive any remonstrance against this particular feature and had not received one single remonstrance having to do with three other instances contained in bills which were passed by this House.

Mr. PERKINS. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. CORMAN).

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

Mr. CORMAN. Mr. Speaker, I want to conclude the thoughts which I started earlier in my exchange with the gentleman from Illinois (Mr. ERLENBORN). Specifically I wondered whether the conferees favored giving enforcement to the Attorney General rather than to the Commission, because they thought he would be more vigorous or less vigorous in protecting the rights of blacks against job discrimination. I must say that having watched the former Attorney General, Mr. Mitchell, for 3½ years, if I were a black man I would not be as comfortable with him representing me as I would be with the Commission representing me. The gentleman from Illinois (Mr. ERLENBORN) pointed out that the former Attorney General has never lost a case in this field. I am reminded that when I went to law school we were told that if you never lose a lawsuit it may be because you are not trying enough of them.

Mr. RARICK. Mr. Speaker, I had voted against this legislation when it was first considered and, if anything, it is worse now.

Supposedly it seeks to eliminate all discrimination in hiring and employment practices but in reality and by actual experience the thrust of the legislation is to give special advantage to certain applicants and unqualified jobseekers. The real discrimination under this bill is against the employers, the investors, and the management people who know what jobs they have and the qualifications they seek but can be forced to accept the least qualified because the more qualified because the more qualified may be of the majority.

The equal opportunity employment legislation would make discrimination illegal and a crime. Yet, let us be honest about it, discrimination is an act of freedom and I dare suggest that discrimination can never be removed from this country as long freedom remains in our land. I can never vote for a bill that gives special consideration to one group at the cost of denying freedom to another. Compensatory rights are nothing but special interest privileges, and to make this the law of our land is a mockery of morality even though it is camouflaged under the name of social justice.

To those who sincerely feel that this legislation is necessary to help the unskilled and untrained, I can only say that in Sunday's Washington paper the "Help Wanted" section was 29 pages in length and many of the positions offered were for unskilled people.

An example of the extreme provisions of this conference report is that section on page 9 captioned "Forcibly Resisting the Commission or Its Representatives." Section 714 reads in part:

> Notwithstanding the provisions of sections 111 and 1114 of title 18, United States Code, whoever in violation of the provisions of section 1114 of such title kills a person while engaged in or on account of the performance of his official functions under this Act shall be punished by imprisonment for any term of years or for life.

Nothing is said about arrest, trial, or conviction. The word "kill" is not even qualified with the usual criminal expression "maliciously" or "willfully." This section of the law may be a good demonstration of the justice intended by the equal opportunity employment legislation.

The seriousness of such a poorly drawn bit of legislation is that the unqualified word "kill" without any indication of intent could even extend to an EEOC employee killed in an automobile accident. If any EEOC people are killed, is the involved party to be imprisoned without even the equal opportunity for a hearing or trial?

I intend to cast my people's vote against this police state type legislation.

Mr. PERKINS. Mr. Speaker, I have no further requests for time.

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

The previous question was ordered.

The SPEAKER. The question is on the conference report.

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

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

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 303, nays 110, not voting 18, as follows:

[Roll No. 67]

YEAS—303

Abourezk	Andrews	Begich
Abzug	Annunzio	Belcher
Adams	Arends	Bell
Addabbo	Ashley	Bergland
Alexander	Aspin	Biaggi
Anderson, Calif.	Aspinall	Biester
Anderson, Ill.	Badillo	Bingham
	Barrett	Blanton
Blatnik	Hamilton	Pepper
Boggs	Hanley	Perkins
Boland	Hanna	Pettis
Bolling	Hansen, Idaho	Peyser
Brademas	Hansen, Wash.	Pickle
Brasco	Harrington	Pike
Brooks	Harsha	Pirnie
Broomfield	Harvey	Poage
Brotzman	Hastings	Podell
Brown, Mich.	Hathaway	Preyer, N.C.
Brown, Ohio	Hawkins	Price, Ill.
Buchanan	Hays	Pucinski
Burke, Mass.	Hechler, W. Va.	Purcell
Burlison, Mo.	Heckler, Mass.	Quie
Burton	Heinz	Railsback
Byrne, Pa.	Helstoski	Rangel
Byrnes, Wis.	Hicks, Mass.	Rees
Caffery	Hicks, Wash.	Reid
Carey, N.Y.	Hillis	Reuss
Carney	Hogan	Rhodes
Carter	Hollifield	Robison, N.Y.
Cederberg	Horton	Rodino
Celler	Hosmer	Roe
Chamberlain	Howard	Roncalio
Chisholm	Hungate	Rooney, N.Y.
Clark	Hunt	Rooney, Pa.
Clausen, Don H.	Jacobs	Rosenthal
Clay	Johnson, Calif.	Rostenkowski
Cleveland	Johnson, Pa.	Roush
Collins, Ill.	Jones, Ala.	Roy
Conable	Karth	Roybal
Conte	Kastenmeier	Ruppe
Conyers	Kazen	Ryan
Corman	Keating	St Germain
Cotter	Kee	Sandman
Coughlin	Keith	Sarbanes
Culver	Kemp	Saylor
Daniels, N.J.	Kluczynski	Scheuer
Danielson	Koch	Schneebeli
Davis, S.C.	Kyl	Schwengel
de la Garza	Kyros	Sebelius
Delaney	Latta	Seiberling
Dellenback	Leggett	Shriver
Dellums	Lent	Sisk
Denholm	Link	Skubitz
Dent	Lloyd	Slack
Diggs	Long, Md.	Smith, Iowa
Dingell	Lujan	Smith, N.Y.
Donohue	McClory	Springer
Dow	McCloskey	Staggers
Drinan	McClure	Stanton, James V.
Duiski	McCormack	Steed
du Pont	McCulloch	Steele
Dwyer	McDade	Steiger, Wis.
Eckhardt	McDonald, Mich.	Stokes
Edmondson	McEwen	Stratton
Edwards, Calif.	McFall	Sullivan
Eilberg	McKay	Symington
Erlenborn	McKevitt	Talcott
Esch	McKinney	Teague, Calif.
Eshleman	Madden	Terry
Evans, Colo.	Mailliard	Thompson, N.J.
Evins, Tenn.	Mallary	Thomson, Wis.
Fascell	Martin	Thone
Findley	Mathias, Calif.	Tiernan
Fish	Matsunaga	Udall
Flood	Mazzoli	Ullman
Foley	Meeds	Van Deerlin
Ford, Gerald R.	Melcher	Vander Jagt
Ford, William D.	Metcalfe	Vanik
Forsythe	Miller, Ohio	Veysey
Fraser	Mills, Ark.	Vigorito
Frelinghuysen	Minish	Waldie
Frenzel	Mink	Ware
Fulton	Minshall	Whalen
Fuqua	Mitchell	Whalley
Gallifianakis	Mollohan	Widnall
Gallagher	Monagan	Wiggins
Garmatz	Moorhead	Williams
Gialmo	Morgan	Wilson, Charles H.
Gibbons	Morse	Winn
Goldwater	Mosher	Wolff
Gonzalez	Moss	Wright
Goodling	Myers	Wyatt
Grasso	Natcher	Wydler
Gray	Nedzi	Wylie
Green, Oreg.	Nelsen	Wyman
Green, Pa.	Nix	Yates
Griffiths	Obey	Yatron
Grover	O'Hara	Young, Tex.
Gubser	O'Konski	Zablocki
Gude	O'Neill	Zion
Halpern	Patten	Zwach
	Pelly	

NAYS—110

Abbitt	Betts	Broyhill, N.C.
Abernethy	Bevill	Broyhill, Va.
Archer	Blackburn	Burke, Fla.
Ashbrook	Bow	Burleson, Tex.
Baker	Bray	Byron
Bennett	Brinkley	Cabell

Camp	Hall	Price, Tex.
Casey, Tex.	Hammer-	Quillen
Chappell	schmidt	Randall
Clancy	Hébert	Rarick
Clawson, Del	Henderson	Roberts
Collins, Tex.	Hutchinson	Robinson, Va.
Colmer	Ichord	Rogers
Crane	Jarman	Rousselot
Curlin	Jonas	Runnels
Daniel, Va.	Jones, N.C.	Ruth
Davis, Ga.	Jones, Tenn.	Satterfield
Davis, Wis.	King	Scherle
Dennis	Kuykendall	Schmitz
Derwinski	Landgrebe	Scott
Devine	Landrum	Shoup
Dickinson	Lennon	Sikes
Dorn	Long, La.	Smith, Calif.
Dowdy	McCollister	Snyder
Downing	McMillan	Spence
Duncan	Mahon	Steiger, Ariz.
Edwards, Ala.	Mann	Stephens
Fisher	Mathis, Ga.	Stuckey
Flowers	Mayne	Taylor
Flynt	Michel	Teague, Tex.
Fountain	Mills, Md.	Thompson, Ga.
Frey	Mizell	Waggonner
Gettys	Montgomery	Wampler
Griffin	Nichols	Whitehurst
Gross	Passman	Whitten
Hagan	Patman	Wilson, Bob
Haley	Poff	Young, Fla.

NOT VOTING—18

Anderson, Tenn.	Macdonald, Mass.	Pryor, Ark.
Baring	Mikva	Riegle
Collier	Miller, Calif.	Shipley
Edwards, La.	Murphy, Ill.	Stanton, J. William
Gaydos	Murphy, N.Y.	Stubblefield
Hull	Powell	White

So the conference report was agreed to.

The Clerk announced the following pairs:

Mr. Mikva with Mr. Collier.

Mr. Anderson of Tennessee with Mr. Powell.

Mr. Shipley with Mr. Riegle.

Mr. Stubblefield with Mr. J. William Stanton.

Mr. White with Mr. Baring.

Mr. Macdonald of Massachusetts with Mr. Hull.

Mr. Murphy of New York with Mr. Miller of California.

Mr. Murphy of Illinois with Mr. Gaydos.

Messrs. BRAY and TEAGUE of Texas changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING CLERK OF THE HOUSE TO MAKE CORRECTION IN THE ENROLLMENT OF H.R. 1746, EQUAL EMPLOYMENT OPPORTUNITIES ACT

Mr. PERKINS. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 554) and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 554

Resolved by the House of Representatives (the Senate concurring), That the Clerk of the House of Representatives, in the enrollment of the bill (H.R. 1746) to further promote equal employment opportunities for American workers, is authorized and directed to make the following change: In paragraph (a) of Section 4, strike out "Sec. 705." and insert in lieu thereof "Sec. 706."

Mr. GROSS. Mr. Speaker, reserving the right to object, just what is proposed to be accomplished by this resolution?

Mr. PERKINS. If the gentleman will yield, there was a technical error in numbering a section of the act. It was made by the staff, and was not detected in the report until after the report had been printed.

Mr. GROSS. It is then purely a technical amendment to the bill?

Mr. PERKINS. That is correct.

Mr. GROSS. It does not change the substantive language of the bill?

Mr. PERKINS. That is correct. It is just a renumbering.

Mr. GROSS. Simply a renumbering of the sections?

Mr. PERKINS. That is correct.

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

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

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may have 5 legislative days within which to extend and revise their remarks on the conference report on the EEOC.

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

There was no objection.

CORRECTION OF VOTE

Mr. GUDE. Mr. Speaker, on rollcall No. 66, today, I am recorded as not voting. I was present and voted "nay." I ask unanimous consent that the RECORD be corrected accordingly.

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

There was no objection.

TRANSPO 72 AUTHORIZATION

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 879 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 879

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11624) to amend the Military Construction Authorization Act, 1970, to authorize additional funds for the conduct of an international aeronautical exposition. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 11624, it shall be in order to take from the Speaker's table the bill S. 3244 and to consider the said Senate bill in the House.

The SPEAKER. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the gentlman from California (Mr. SMITH) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 879 provides an open rule with 1 hour of general debate for consideration of H.R. 11624 authorizing adidtional funds for Transpo 72. After passage of the bill, it shall be in order to take S. 3244 from the Speaker's table and consider the same in the House.

The purpose of H.R. 11624 is to authorize an additional $2 million for the conduct of an international transportation exposition, Transpo 72.

In the 1971 Military Construction Authorization Act $3 million was authorized for the purpose of Transpo 72 based on preliminary cost estimates. Since then costs have increased for site preparation, utilities installation, sanitary, restaurant, and communications facilities, and vehicle parking and control. Need for the additional $2 million is based on recent engineering studies.

The exposition is planned to take place at Dulles Airport in May of this year, Mr. Speaker, and I urge the adoption of the rule in order to expedite passage of the legislation.

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

Mr. PEPPER. I yield to the distinguished gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I thank the gentleman for yielding.

Is not this the same bill which was defeated in the House under suspension of the rules last December?

Mr. PEPPER. I am advised that the bill was not authorized under suspension of the rules recently, and, therefore, the matter came to the Committee on Rules. I understand that there was a vote on the floor.

Mr. GROSS. Yes; that was last December 6.

Mr. PEPPER. I believe it was.

Mr. GROSS. Let me ask the gentleman, why not let nature take its course, instead of providing that the Senate bill can be substituted to just let nature take its course and see what happens?

Why should the Committee on Rules be called upon to mandate the Senate bill to be substituted for this little monstrosity—or for this big monsrosity?

Mr. PEPPER. The gentleman will allow me to yield to the able chairman of the Committee on Armed Services, the distinguished gentleman from Louisiana (Mr. HÉBERT) to answer this question.

Mr. HÉBERT. Mr. Speaker, I will be very happy to answer that question. It was a case of expediting the bill. The Senate was so informed, if they passed the bill, we would take action on this side. It was a preferential procedure—instead of us passing the bill on this side and to let it rest on the Senate side and where we may have run into a delay, that we did not want to run into. This is purely a matter of judicious operation

such as the gentleman from Iowa would be proud to be a part of.

Mr. GROSS. Mr. Speaker, will the gentleman from Florida yield?

Mr. PEPPER. I yield to the gentleman.

Mr. GROSS. This confirms what I thought was a little evasive action to prevent nature from taking its course. In other words, to prevent the normal legislative procedure to take place, and to get this rolled through because time is running out on this bobtailed thing that you propose to put on now at Dulles, I guess.

Mr. PEPPER. Mr. Speaker, I yield further to the gentleman from Louisiana.

Mr. HÉBERT. The gentleman from Louisiana, having had the experience of many years observing the gentleman from Iowa in his wisdom and his resourcefulness, decided to follow that course, and I hope I have set a good example and that the pupil will at least equal the master in this respect.

Mr. GROSS. I wish the gentleman had directed those compliments to the taxpayers of this country who have to put up the money for this kind of a deal—but I accept them on behalf of the taxpayers.

Mr. HÉBERT. Through the gentleman from Iowa who is known as the taxpayers' defender, I extend it to the taxpayers as well.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may consume.

(Mr. SMITH of California asked and was given permission to revise and extend his remarks.)

Mr. SMITH of California. Mr. Speaker, I concur in the statement made by the gentleman from Florida (Mr. PEPPER) in explanation of the rule.

May I simply add that I know of no objection from the Department or the Office of Management and Budget or from the executive branch. I believe this amount of money has already been appropriated in an appropriation bill so we are just going to catch up with this authorization so that we can now spend it.

Mr. Speaker, I urge the adoption of the resolution, House Resolution 879.

Mr. PEPPER. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

IN THE COMMITTEE OF THE WHOLE

Mr. HÉBERT. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11624) to amend the Military Construction Authorization Act of 1970, to authorize additional funds for the conduct of an international aeronautical exposition.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11624, with Mr. ABBITT in the Chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Louisiana (Mr. HÉBERT) will be recognized for 30 minutes, and the gentleman from California (Mr. GUBSER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. HÉBERT).

Mr. HÉBERT. Mr. Chairman, the legislation before the House, H.R. 11624, which amends the Military Construction Authorization Act of 1970, is for the purpose of authorizing additional funds for the conduct of an international aeronautical exposition.

The exposition, now referred to as Transpo 72, is scheduled to be conducted at Dulles International Airport beginning next May 27. The President assigned responsibility for the conduct of the exposition to the Secretary of Transportation who determined that the exposition will include all forms of transportation and not be strictly an aeronautical exposition. However, aeronautics will play a dominant role in the exposition, and this includes military aviation.

The planners of the exposition, under Secretary Volpe, anticipate that the exposition will make a considerable contribution to the domestic economy through stimulating the sale of new transportation concepts and systems within our own economy as well as abroad. Also, they are hopeful that the exposition will help make governments at various levels, industry, and the public aware of a number of solutions offered by technology to our many transportation problems. Therefore, our committee believes that the additional funds to be expended pursuant to the additional authorization contained in this bill would be a most productive investment.

Our committee brought this legislation to the floor on December 6, 1971 under suspension of the rules. The vote was 33 votes short of having a two-thirds majority. I am convinced that the vote was due to a misunderstanding in connection with the $2 million increase in authorization requested by the Department of Transportation. A number of Members have advised me they understood from remarks on the floor during the debate on this bill, under suspension of the rules, that the increase in authorization was due to a cost overrun. This is where the misunderstanding originated.

The current authorization level of $3 million was based on preliminary cost estimates made by the Department of Transportation last year. Based upon final engineering studies, they have arrived at a more precise cost estimate and are recommending that the present authorization be increased to a total of $5 million.

The primary reasons for the increase are: The inability to accurately estimate costs until the master plan and engineering design were completed, and inflation, which has accelerated at a rate in excess of that anticipated in the published cost estimating handbooks used in developing the original cost estimates for Transpo 72.

The Appropriations Committee, in Public Law 92–184, has already appropriated the $2 million subject to authorizing legislation. The Senate, on March 1, 1972, passed S. 3244, a bill identical to H.R. 11624, the bill before you.

So, therefore, it is the recommendation of the Committee on Armed Services that the House pass H.R. 11624, at which time, in accordance with the rule, we will ask that the language in the Senate bill, which as I have said is identical to H.R. 11624, be substituted, thereby making it possible to immediately send the bill to the White House for Presidential signature. In that way the funds already appropriated can immediately be put to work, and our Nation can go forward with production of Transpo 72.

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

(Mr. ARENDS (at the request of Mr. GUBSER) was granted permission to extend his remarks at this point in the RECORD.)

Mr. ARENDS. Mr. Chairman, I rise in support of H.R. 11624.

The purpose of this bill is to increase from $3 million to $5 million the funds authorized for appropriation under the fiscal year 1970 Military Construction Authorization Act, as amended, for the conduct of an international aeronautical exposition. The exposition, referred to as Transpo 72, is scheduled to be conducted at Dulles International Airport on May 27, 1972, through June 4, 1972. The responsibility for the conduct of the exposition has been delegated to the Department of Transportation.

An exposition of this magnitude does not happen overnight. The original concept—that of an air show—came into being in the mid-1960's when Federal Aviation Administration personnel began studies of the feasibility of conducting an international aeronautical exposition in the United States.

The late chairman of our committee, L. Mendel Rivers, took an interest in the idea and promoted the concept in Congress. With the backing of the executive branch and through the efforts of Chairman Rivers, Congress authorized the initial exposition.

As planning for the exposition began, it became evident that a simple air show was too limited a concept to accurately reflect the stature of the United States as an innovative and responsible world leader in technology and products. The exposition format was broadened to include all modes of transportation and the name was changed to the United States International Transportation Exposition.

Secretary of Transportation John A. Volpe, to whom President Nixon had entrusted the responsibility for production and management of the exposition, coined the acronym "Transpo 72" to embrace the exposition's dedication to the total transportation spectrum. Committees of distinguished representatives of industry and government were formed to assist the Secretary in creating an ex-

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was considered and agreed to, as follows:

Resolved, That the Committee on the Judiciary is authorized to expend from the contingent fund of the Senate, during the Ninety-second Congress, $10,000 in addition to the amount, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON GOVERNMENT OPERATIONS

The Senate proceeded to the consideration of the resolution (S. Res. 257) authorizing additional expenditures by the Committee on Government Operations for routine purposes.

Mr. CANNON. Mr. President, this is $40,000 for the routine funds for the operation of the committee. That is in addition to the amounts provided under the Legislative Reorganization Act.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 257) was agreed to, as follows:

Resolved, That the Committee on Government Operations is authorized to expend from the contingent fund of the Senate, during the Ninety-second Congress, $40,000 in addition to the amount, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946.

PUBLIC DEBT LIMITATION

The PRESIDING OFFICER. The call of the calendar has been completed.

The Chair now lays before the Senate the unfinished business, which will be stated.

The assistant legislative clerk read as follows:

A bill (H.R. 12910) to provide for a temporary increase in the public debt limit.

MESSAGE FROM THE HOUSE— ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 12067) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1972, and for other purposes.

The PRESIDENT pro tempore subsequently signed the enrolled bill.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. MANSFIELD). Without objection, it is so ordered.

EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1972—CONFERENCE REPORT

Mr. WILLIAMS. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1746) to further promote equal employment opportunities for American workers. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. MANSFIELD). Is there objection to the proceeded to consider the report.

There being no objection, the Senate proceeded to consider ther eport.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of March 2, 1972, at pp. H1694-H1697.)

Mr. WILLIAMS. Mr. President, I ask unanimous consent that a section-by-section analysis, together with a statement, be printed in the RECORD.

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

Mr. President, I anticipate the Senate's overwhelming acceptance of the Conference Report on H.R. 1746, the Equal Employment Opportunity Act of 1972.

Today's action will represent a vital step toward the realization of equal employment opportunities for millions of Americans.

The conferees were all mindful of the importance of this measure; and while we did not have a lengthy conference, each difference between the Senate and the House bills was carefully considered. In some instances the Senate version prevailed, in others, we receded to the House. In the major provisions dealing with enforcement, the conferees adopted amendments that included provisions from both bills.

I am delighted that the report contains all of the key provisions of the Senate bill extending coverage. This will bring many millions of Americans under the protection of title VII—State and local government employees, employees of private and public educational institutions as well as employees in smaller businesses and unions than those covered by the existing law.

Furthermore, I think that the provision giving the EEOC the power to go to court is going to get the job done. This process may be somewhat slower and more cumbersome than the cease and desist procedure we originally sought. But, in the final analysis, I most firmly believe that we will get the desired enforcement.

Mr. President, this bill had a long journey through the Senate, but there were some historic "firsts" during the consideration of the measure.

It was the first time a Civil Rights bill was reported unanimously out of the Labor and Public Welfare Committee, and after five weeks of extended debate involving 38 roll call votes, fifty-three Senators signed the final successful cloture petition—a record for a Civil Rights bill—and 73 Senators voted in behalf of cloture—another Civil Rights record.

Mr. President, the House will consider this report within the next few days, favorably I am sure. I hope that upon completion of final Congressional action, the President will act as fast as humanly possible to sign the legislation and to seek the funding necessary to implement the enforcement procedure.

I would like to mention that unfortunately the Senator from New York (Mr. JAVITS) had no notice that this matter would come up today and is not able to be here for this vote. We did consult him when we learned of the leadership's plan to bring this conference report up today, and he urged us to proceed, even though he would miss the opportunity to cast his vote at this last stage of what has been a long, arduous struggle, in which he played a key role.

Mr. President, I ask unanimous consent that an analysis of H.R. 1746 as reported from the conference, that the Senator from New York (Mr. JAVITS) and myself have prepared to be included in the RECORD following my remarks.

SECTION-BY-SECTION ANALYSIS OF H.R. 1746. THE EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1972

This analysis explains the major provisions of H.R. 1746, the Equal Employment Opportunity Act of 1972, as agreed to by the Conference Committee of the House and Senate on February 29, 1972. The explanation reflects the enforcement provisions of Title VII, as amended by the procedural and jurisdictional provisions of H.R. 1746, recommended by the Conference Committee.

In any area where the new law does not address itself, or in any areas where a specific contrary intention is not indicated, it was assumed that the present case law as developed by the courts would continue to govern the applicability and construction of Title VII.

SECTION 2

This section amends certain definitions contained in section 701 of the Civil Rights Act of 1964.

Section 701(a)—This subsection defines "person" as used in Title VII. Under the provisions of H.R. 1746, the term is now expanded to include State and local governments, governmental agencies, and political subdivisions.

Section 701(b)—This subsection defines the term "employer" as used in Title VII. This subsection would now include, within the meaning of the term "employer," all State and local governments, governmental agencies, and political subdivisions, and the District of Columbia departments or agencies (except those subject by statute to the procedures of the Federal competitive service as defined in 5 U.S.C. § 2102, who along with all other Federal employees would now be covered by section 717 of the Act.)

This subsection would extend coverage of the term "employer," one year after enactment, to those employers with 15 or more employees. The present standard for determining the number of employees of an employer, i.e., "employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year," presently applicable to all employers of 25 or more employees would apply to the expanded coverage of employers of 15 or more employees.

Section 701(c)—This subsection eliminates the present language that provides a partial exemption for agencies of the United States, States or the political subdivisions of States from the definition of "employment agency" to reflect the provisions of section 701(a) and (b) above. States agencies, previously covered by reference to the United States Employment Service, continue to be covered as employment agencies under this section.

Section 701(e)—This subection is revised to include labor organizations with 15 or more members within the coverage of Title VII, one year after enactment.

Section 701(f)—This subsection is intended to exclude from the definition of

The PRESIDING OFFICER. The question is on agreeing to the resolution, as amended.

The resolution, as amended, was agreed to.

ADDITIONAL FUNDS FOR THE COMMITTEE ON APPROPRIATIONS

The resolution (S. Res. 229) to provide additional funds for the Committee on Appropriations was considered and agreed to, as follows:

Resolved, That the Committee on Appropriations hereby is authorized to expend from the contingent fund of the Senate, during the Ninety-second Congress, $50,000, in addition to the amount and for the same purpose, specified in section 134(a) of the Legislative Reorganization Act, approved August 2, 1946, and Senate Resolution 11, agreed to March 1, 1971.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON ARMED SERVICES

The Senate proceeded to consider the resolution (S. Res. 252) authorizing additional expenditures by the Committee on Armed Services for routine purposes which had been reported from the Committee on Rules and Administration with an amendment in line 3, after the word "Congress", strike out "second session,"; so as to make the resolution read:

Resolved, That the Committee on Armed Services is authorized to expend from the contingent fund of the Senate, during the Ninety-second Congress, $25,000 in addition to the amount, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946.

Mr. STENNIS. Mr. President, I would like to say a few words in justification of Senate Resolution 252 which would provide additional spending authority of $455,000 for the Committee on Armed Services for inquiries and investigations for the 12-month period beginning March 1, 1972.

This $455,000 compares with $388,000 on a 12-month basis of the $420,000 requested and authorized for the 13-month period of January 1, 1971, to February 29, 1972. The $67,000 increase over the prior comparable 12-month period is due to:

First, the possible addition of one professional to the Preparedness Subcommittee staff at about $25,000;

Second, $25,000 more than that budgeted last year for the increased use of consultants by the full committee; and

Third, the remaining $17,000 primarily made up of estimated pay raises and increases in agency contributions.

A total of 15 professional and clerical personnel was authorized for the staff conducting inquiries and investigations for the committee last year, and by the end of the year all 15 were employed. One additional staff member, for a total of 16, is requested this year.

The use of these investigating funds goes far beyond the meaning of this term. The principal use of these funds is to provide the staff to support the legislative functions of the full committee. The plain fact is the number of staff personnel authorized under the Reorganization Act is not sufficient to properly fulfill the need for the indepth study and analysis required for the legislative responsibilities of the committee.

The Armed Services Committee; its Subcommittees on Research and Development, chaired by Senator MCINTYRE; Tactical Air Power, chaired by Senator CANNON; Bomber Defense, which I chair; and Close Air Support, which Senator CANNON also chairs; and the committee staff are hard at work now holding hearings, evaluating and analyzing the fiscal year 1973 military procurement authorization request. The Department of Defense request not only includes over $22 billion in research and development and weapons procurement which require authorization, but also authorizes the active duty and selected reserve manpower levels for the armed services for the next fiscal year. Almost 60 percent of the total defense budget of $83.4 billion is for pay, allowances, and other closely related manpower costs. It is absolutely essential that there be an adequate staff to properly analyze, study, and consider this request so as to assist and enable the committee to reach an informed judgment on this and the multiplicity of other legislative matters referred to it.

This staff also assists the committee with general investigations and inquiries, and with specific studies with respect to other important legislation referred to the committee. Its inquiries and investigations cover a wide range of military programs, policies, and problems.

In addition to making detailed studies, examinations, and analyses of research and development and military hardware procurement requests, the staff also works on general legislation. An example is the Selective Service Act—a highly complex bill passed last year. The staff has also gone extensively into military manpower levels, including the requirements for NATO, and military readiness and preparedness in general. The full committee commenced manpower hearings early last month.

I believe I should stress the scope and complexity of the annual military authorization bill. It includes authorization for research and development, for military hardware procurement, and for the manpower levels of the various services. For example, for fiscal year 1971 the request, exclusive of military construction, was approximately $20.6 billion and, as a result of the work done by the additional men employed, the hearings before the full committee and its subcommittees, and the fine work of the committee's regular staff, the committee recommended a reduction of $1.4 billion.

In fiscal year 1972, the authorization request was about $22.2 billion and the bill as reported to the Senate recommended a reduction of approximately $1.1 billion. The fiscal year 1973 bill again requests about $22.2 billion, exclusive of military construction for Safeguard, and is now in the process of being analyzed and studied.

I think I should point out also, Mr. President, that the authorization requests presented to our committee involve amounts substantially more than the aggregate of the authorizations requested for all of the other departments of the Government. This refers to those authorizations which are required before appropriations can be made. This means that our relatively small staff is responsible for a greater amount of authorization than the total of the authorization bills for all other governmental departments combined.

For example, the total amount requested for authorization for research and development, military procurement, and military construction for fiscal year 1970, was $25.2 billion. All other authorizations for that year totaled only $12.7 billion.

For fiscal year 1971, $22.4 billion was requested for research and development, military procurement, and military construction. For all other bills the amount was $11.9 billion.

For fiscal year 1972, military authorization requests totaled $24 billion; the aggregate authorization request for all other departments was $14.1 billion.

As I have already mentioned, the fiscal year 1973 authorization request for research and development and hardware procurement alone totals about $22.2 billion. This does not include the military construction authorization request. For all other departments the fiscal year 1973 authorization request is about $21 billion.

I would close, Mr. President, by pointing out that significant amounts of these funds have been unexpended and returned by the committee for each of the past 10 years. At the conclusion of the budget year just completed, approximately $49,000 was returned. This consistent record of not spending all the money provided to us indicates the austerity and economy with which the expenditure of committee funds have been controlled.

On the record which we have made, I think it should be agreed that we have been extremely frugal and economical in our operations and, in view of the complex subject matters with which we deal, the huge amounts involved and the resulting necessity for professional, trained, and expert personnel, the request for $455,000 is justified. I urge the Senate to approve this request.

Mr. CANNON. Mr. President, this is the routine amount provided by the Legislative Reorganization Act of $25,000 for the Armed Services Committee.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The resolution, as amended, was agreed to.

ADDITIONAL FUNDS FOR THE COMMITTEE ON THE JUDICIARY

The Senate proceeded to consider the resolution (S. Res. 255) to provide additional funds for the Committee on the Judiciary for routine committee expenditures.

Mr. CANNON. Mr. President, this $10,000 is in addition to the amount provided under the Legislative Reorganization Act for the regular committee functions.

"Employee" as used in Title VII those persons elected to public office in any State or political subdivision. The exemption extends to persons chosen by such officials to be on their personal staffs, appointees of such officials to be on their personal staff, appointees of such officials on the highest policymaking levels such as cabinet members or other immediate advisors of such elected officials with respect to the exercise of the Constitutional or legal powers of the office held by such elected officer. The exemption does not include civil service employees. This exemption is intended to be construed very narrowly and is in no way intended to estbalish an overall narrowing of the expanded coverage of State and local governmental employees as set forth in section 701(a) and (b) above.

Section 701(j)—This subsection, which is new, defines "religion" to include all aspects of religious observance, practice and belief, so as to require employers to make reasonable accommodations for employees whose "religion" may include observances, practices and beliefs such as sabbath observance, which differ from the employer's or potential employer's requirements regarding standards, schedules, or other business-related employment conditions.

Failure to make such accommodation would be unlawful unless an employer can demonstrate that he cannot reasonably accommodate such beliefs, practices, or observances without undue hardship on the conduct of his business.

The purpose of this subsection is to provide the stautory basis for EEOC to formulate guidelines on discrimination because of religion such as those challenged in *Dewey* v. *Reynolds Metals Company,* 429 F.2d 325 (6th Cir. 1970), *Affirmed by an equally divided court,* 402 U.S. 689 (1971).

SECTION 3

This section amends the exemptions allowed in section 702 of the Civil Rights Act of 1964.

Section 702—This section is amended to elminate the exemption for employees of educational institutions. Under the provisions of this section, all private and public educational institutions would be covered under the provisions of Title VII. The special provision relating to religious educational institutions in Section 703(e)(2) is not disturbed.

The limited exemption from coverage in this section for religious corporations, associations, educational institutions or societies has been broadened to allow such entities to employ individuals of a particular religion in all their activities instead of the present limitation to religious activities. Such organizations remain subject to the provisions of Title VII with regard to race, color, sex or national origin.

SECTION 4

This section establishes the enforcement powers and functions of the EEOC and the Attorney General to aid in the prevention of unlawful employment practices proscribed by Title VII of the Civil Rights Act of 1964.

H.R. 1746 retains the general scheme of the present law which enables the EEOC to process a charge of employment discrimination through the investigation and conciliation stages. In addition, H.R. 1746 now authorizes the EEOC, in cases where the respondent is not a government, governmental agency or political subdivision to file a civil action against the respondent in an appropriate Federal District Court, if it has been unable to eliminate an alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. The Attorney General is authorized to file civil actions against respondents that are governments, governmental agencies or political subdivisions if the EEOC is unable to achieve a successful conciliation.

Accordingly, section 4 of H.R. 1746, amends section 706(a) through (g) of the present act to accomplish the stated national purpose of achieving equal employment opportunity as follows:

Section 706(a)—This subsection empowers the Commission to prevent persons from engaging in unlawful employment practices under sections 703 and 704 of Title VII of the Civil Rights Act of 1964. The unlawful employment practices encompassed by sections 703 and 704, which were enumerated in 1964 in the original Act, and as defined and expanded by the courts remain in effect.

Section 706(b)—This subsection sets out the procedures to be followed when a charge of an unlawful employment practice is filed with the Commission.

Under present law, a charge may be filed by a person aggrieved under oath or by a member of the Commission. As amended, this subsection now also permits a charge to be filed by or on behalf of a person aggrieved or by a member of the Commission. Among other things, this provision would enable aggrieved persons to have charges processed under circumstances where they are unwilling to come forward publicly for fear of economic or physical reprisals.

Charges (whether by or on behalf of an aggrieved person or a member of the Commission) must be in writing and under oath or affirmation and in such form as the Commission requires.

The Commission is to serve a notice of the charge on the respondent within ten days. It is not intended, however, that failure to give notice of the charge to the respondent within ten days would prejudice the rights of the aggrieved party. The Commission would be expected to investigate the charge as quickly as possible and to make its determination on whether there is reasonable cause to believe that the charge is true. If it finds that there is not reasonable cause to believe that the charge is true, it shall dismiss the charge and notify the complainant and the respondent of its decision.

If the Commission finds reasonable cause, it will attempt to conciliate the case. Nothing said or done during the Commission's informal endeavors may be made public or used as evidence in a subsequent proceeding without the written consent of the parties covered.

The Commission would be required to make its determination on reasonable cause as promptly as possible and, "so far as practicable," within 120 days from the filing of the charge or from the date upon which the Commission is authorized to act on the charge under section 706(c) or (d). The Commission, where appropriate, would be required in making its determination of reasonable cause to accord substantial weight to final findings and orders made by State or local authorities under Satte and local laws.

This subsection and section 9(a)-(d) of the bill clarifies existing law to carry out the intent of the present statute to provide full coverage for joint labor-management committees controlling apprenticeship or other training or retraining, including on-the-job training programs as reflected in *Rios* v. *Enterprise Assn., Steamfitters Local No. 638,* 326 F. Supp. 198 (S.D.N.Y. 1971).

Sections 706(c) and (d)—These subsections, dealing with deferral to appropriate State and local equal employment opportunity agencies, are identical to sections 706 (b) and (c) of the Civil Rights Act of 1964. No change in these provisions was deemed necessary in view of the recent Supreme Court decision of *Love* v. *Pullman Co.,*——— U.S.———, 92 S. Ct. 616 (1972) which approved the present EEOC deferral procedures as fully in compliance with the intent of the Act. That case held that the EEOC may receive and defer a charge to a State agency on behalf of a complainant and begin to process the charge in the EEOC upon lapse of the 60-day deferral period, even though the language provides that no charge can be filed under section 706(a) by the person aggrieved before the expiration of sixty days after proceedings have been commenced under the State or local law. Similarly, the recent circuit court decision in *Vigil* v. *AT&T,* ———F. 2d———, 4 FEP cases 345 (10th Cir. 1972), which provided that in order to protect the aggrieved person's right to file with the EEOC within the time periods specified in section 706(c) and (d), a charge filed with a State or local agency may also be filed with the EEOC during the 60-day deferral period, is within the intent of this Act.

Section 706(e)—This subsection sets forth the time limitations for filing charges with the Commission.

Under the present law, charges must be filed within 90 days after an alleged unlawful employment practice has occurred. In cases where the Commission defers to a State or local agency under the provisions of section 706(c) or (d), the charge must be filed within 30 days after the person aggrieved receives notice that the State or local agency has terminated its proceedings, or within 210 days after the alleged unlawful employment practice occurred, whichever is earlier.

This subsection as amended provides that charges be filed within 180 days of the alleged unlawful employment practice. Court decisions under the present law have shown an inclination to interpret this time limitation so as to give the aggrieved person the maximum benefit of the law; it is not intended that such court decisions should be in any way circumscribed by the extension of the time limitations in this subsection. Existing case law which has determined that certain types of violations are continuing in nature, thereby measuring the running of the required time period from the last occurrence of the discrimination and not from the first occurrence is continued, and other interpretations of the courts maximizing the coverage of the law are not affected. It is intended by expanding the time period for filing charges in this subsection that aggrieved individuals, who frequently are untrained layman and who are not always aware of the discrimination which is practiced against them, should be given a greater opportunity to prepare their charges and file their complaints and that existant but undiscovered acts of discrimination should not escape the effect of the law through a procedural oversight. Moreover, wide latitude should be given individuals in such cases to avoid any prejudice to their rights as a result of government inadvertence, delay or error.

The time period for filing a charge where deferral is required to a State or local anti-discrimination agency has been extended to 300 days after the alleged unlawful employment practice occurred or to 30 days after the State or local agency has terminated proceedings under the State or local law, whichever is earlier. This subsection also restates the provision of Section 706(b) requiring a notice of the charge to the respondent within ten days after its having been filed.

Section 706(f)—This subsection, which is new, sets forth the enforcement procedures which may be followed in those cases where the Commission has been unable to achieve voluntary compliance with the provisions of the Act.

Section 706(f)(1)—Under this subsection, if the respondent is not a government, governmental agency, or political subdivision and if the Commission is unable to secure a conciliation agreement that is acceptable to the Commission within 30 days from the filing of the charge or within 30 days after expiration of any period of reference under subsection (c) or (d) it may thereafter bring a civil action against the respondent in an appropriate district court. In cases involving a government, governmental agency, or polit-

ical subdivision, the Commission will not bring the case before a Federal District Court. After the Commission has had an opportunity to complete its investigation, and to attempt conciliation, the Commission shall then refer the case to the Attorney General who may bring the case to court. The aggrieved party is permitted to intervene in any case brought by the Commission or the Attorney General under this subsection.

With respect to cases arising under this subsection, if the Commission: (a) has dismissed the charge, or (b) 180 days have elapsed from the filing of the charge without the Commission, or the Attorney General, as the case may be, having filed a complaint under section 706(f), or without the Commission having entered into a conciliation agreement to which the person aggrieved is a party (i.e. a signatory) the person aggrieved may bring an action in an appropriate district court within 90 days after receiving notification. The retention of the private right of action, as amended, is intended to make clear that an individual aggrieved by a violation of Title VII should not be forced to abandon the claim merely because of a decision by the Commission or the Attorney General as the case may be, that there are insufficient grounds for the Government to file a complaint. Moreover, it is designed to make sure that the person aggrieved does not have to endure lengthy delays if the Commission or Attorney General does not act with due diligence and speed. Accordingly, the provisions described above allow the person aggrieved to elect to pursue his or her own remedy under this title in the courts where there is agency inaction, dalliance or dismissal of the charge, or unsatisfactory resolution.

It is hoped that recourse to the private lawsuit will be the exception and not the rule, and that the vast majority of complaints will be handled through the offices of the EEOC or the Attorney General, as appropriate. However, as the individual's rights to redress are paramount under the provisions of Title VII it is necessary that all avenues be left open for quick and effective relief.

In any civil action brought by an aggrieved person, or in the case of a charge filed by a member of the Commission, by any person whom the charge alleges was aggrieved, the court may upon timely application of the complainant, appoint an attorney and authorize the commencement of the action without the payment of fees, costs, or security in such circumstances as it deems just. The Commission, or the Attorney General in case involving a governmental entity, upon timely application and subject to the court's discretion, may intervene in such a private action if it is certified that the private action is of general public importance. In addition, the court is given discretion to stay proceedings for not more than 60 days pending the termination of State or local proceedings or efforts by the Commission to obtain voluntary compliance.

In establishing the enforcement provisions under this subsection and subsection 706(f) generally, it is not intended that any of the provisions contained therein shall affect the present use of class action lawsuits under Title VII in conjunction with Rule 23 of the Federal Rules of Civil Procedure. The courts have been particularly cognizant of the fact that claims under Title VII involve the vindication of a major public interest, and that any action under the Act involves considerations beyond those raised by the individual claimant. As a consequence, the leading cases in this area to date have recognized that many Title VII claims are necessarily class action complaints and that, accordingly, it is not necessary that each individual entitled to relief be named in the original charge or in the claim for relief. A provision limiting class actions was contained in the House bill and specifically rejected by the Conference Committee.

Section 706(f)(2)—This subsection authorizes the Commission or the Attorney General, in a case involving a government, a governmental agency or political subdivision, based upon a preliminary investigation of a charge filed, to bring an action for appropriate temporary or preliminary relief, pending the final disposition of the charge. Such actions are to be assigned for hearing at the earliest possible date and expedited in every way. The provisions of Rule 65 of the Federal Rules of Civil Procedure shall apply to actions brought under this subsection.

The importance of preliminary relief in actions involving violations of Title VII is central to ensuring that persons aggrieved under this title are adequately protected and that the provisions of this Act are being followed. Where violations become apparent and prompt judicial action is necessary to insure these provisions, the Commission or the Attorney General, as the case may be, should not hesitate to invoke the provisions of this subsection.

Section 706(f)(3)—This subsection, which is similar to the present section 706(f) of the Act, grants the district courts jurisdiction over actions brought by the EEOC, the Attorney General or aggrieved persons under this title and provides the venue requirements. Such jurisdiction includes the power to grant such temporary or preliminary relief as the court deems just and proper.

Section 706(f)(4) and (5)—Under these paragraphs, the chief judge is required to designate a district judge to hear the case. If no judge is available, then the chief judge of the circuit assigns the judge. Cases are to be heard at the earliest practicable date and expedited in every way. If the judge has not scheduled the case for trial within 120 days after issue has been joined he may appoint a master to hear the case under Rule 53 of the Federal Rules of Civil Procedure. The purpose of this provision is to relax the very strongest requirements of Rule 53 which preclude appointment of a master except in extremely unusual cases.

Section 706(g)—This subsection is similar to the present section 706(g) of the Act. It authorizes the court, upon a finding that the respondent has engaged in or is engaging in an unlawful employment practice, to enjoin the respondent from such unlawful conduct and order such affirmative relief as may be appropriate including, but not limited to, reinstatement or hiring, with or without back pay, as will effectuate the policies of the Act. Backpay is limited to that which accrues from a date not more than two years prior to the filing of a charge with the Commission. Interim earnings or amounts earnable with reasonable diligence by the aggrieved person(s) would operate to reduce the backpay otherwise allowable.

The provisions of this subsection are intended to give the courts wide discretion exercising their equitable powers to fashion the most complete relief possible. In dealing with the present section 706(g) the courts have stressed that the scope of relief under that section of the Act is intended to make the victims of unlawful discrimination whole, and that the attainment of this objective rests not only upon the elimination of the particular unlawful employment practice complained of, but also requires that persons aggrieved by the consequences and effects of the unlawful employment practice be, so far as possible, restored to a position where they would have been were it not for the unlawful discrimination.

SECTION 5

This section amends section 707, concerning the Attorney General's "pattern or practice" authority to provide for a transfer of the "pattern or practice" jurisdiction to the Commission two years after the enactment of the bill. The bill further provides the Commission with concurrent jurisdiction in this area from the date of enactment until the transfer is complete. The transfer is subject to change in accordance with a Presidential reorganization plan if not vetoed by Congress. The section would provide that currently pending proceedings would continue without abatement, that all court orders and decrees remain in effect, and that upon the transfer the Commission would be substituted as a party for the United States of America or the Attorney General as appropriate.

Under the provisions of this section, the Commission's present powers to investigate charges of discrimination remain. In addition, it now has jurisdiction to initiate court action to correct any pattern or practice violations.

SECTION 6

This section amends section 709 of the Civil Rights Act of 1964, entitled "Investigations, Inspections, Records, State Agencies."

Section 709(a)—This subsection, which gives the Commission the right to examine and copy documents in connection with its investigation of a charge, would remain unchanged.

Section 709(b)—This subsection would authorize the Commission to cooperate with State and local fair employment practice agencies in order to carry out the purposes of the title, and to enter into agreements with such agencies under which the Commission would refrain from processing certain types of charges or relieve persons from the record keeping requirements. This subsection would make two changes in the present statute. Under this subsection, the Commission could, within the limitations of funds appropriated for the purpose, also engaged in and contribute to the cost of research and other projects undertaken by these State and local agencies and pay these agencies in advance for services rendered to the Commission. The subsection also deletes the reference to private civil actions under section 706(e) of the present statute.

Section 709(c)—This subsection, like the present statute, would require employers, employment agencies, labor organizations, and joint labor-management apprenticeship committees subject to the title to make and keep certain records and to make reports to the Commission. Under the present statute, a party required to keep records could seek an exemption from these requirements on the ground of undue hardship either by applying to the Commission or bringing a civil action in the district court. This subsection would require the party seeking the exemption first to make an application to the Commission and only if the Commission denies the request could the party bring an action in the district court. This subsection would also authorize the Commission to apply for a court order compelling compliance with the record keeping and reporting obligations set forth in the subsection.

Section 706(d)—This subsection would eliminate the present exemption from record keeping requirements for those employers in States and political subdivisions with equal employment opportunity laws or for employers subject to Federal executive order or agency record keeping requirements. Under this subsection, the Commission would consult with interested State and other Federal agencies in order to coordinate the Federal record keeping requirement under section 709(c) with those adopted by such agencies. The subsection further provides that the Commission furnish to such agencies information pertaining to State and local fair employment agencies, on condition that the information would not be made public prior to the institution of State or local proceedings.

SECTION 7

This section amends section 710 of the Civil Rights Act of 1964 by deleting the present section 710 and substituting therefor and to the extent appropriate the provisions of section 11 of the National Labor Relations Act (29 U.S.C. § 161). By making this substitution, the Commission's present demand power with respect to witnesses and evidence is repealed, and the power to subpoena witnesses and evidence, and to allow any of its designated agents, agencies or members to issue such subpoenas, as necessary for the conduct of any investigation, and to take testimony under oath is substituted.

SECTIONS 8 (a) AND (b)

These subsections would amend sections 703(a) and 703(c)(2) of the present statute to make it clear that discrimination against applicants for employment and applicants for membership in labor organizations is an unlawful employment practice. This subsection is merely declaratory of present laws as contained in the decisions in *Phillips* v. *Martin-Marietta Corp.*, 400 U.S. 542 (1971); *U.S.* v. *Sheet Metal Workers International Assn., Local 36*, 416 F. 2d 123 (8th Cir. 1969); *Asbestos Workers, Local 53* v. *Vogler*, 407 F. 2d 1047 (5th Cir. 1969).

SECTIONS 8(c) (1) AND (2)

These subsections would amend section 704(a) and (b) of the present statute to make clear that joint labor-management apprenticeship committees are covered by those provisions which relate to discriminatory advertising and retaliation against individuals participating in Commission proceedings.

SECTION 8(d)

This subsection would amend section 705 (a) of the present statute to permit a member of the Commission to serve until his successor is appointed but not for more than 60 days when Congress is in session unless the successor has been nominated and the nomination submitted to the Senate, or after the adjournment sine die of the session of the Senate in which such nomination was submitted.

The rest of the subsection provides that the Chairman of the Commission on behalf of the Commission, would be responsible, except as provided in section 705(b), for the administrative operations of the Commission and for the appointment of such officers, agents, attorneys, hearing examiners, and other employees of the Commission, in accordance with Federal law, as he deems necessary.

SECTION 8(e)

This subsection would provide a new section 705(b) of the Act which establishes a General Counsel appointed by the President, with the advice and consent of the Senate, for a four (4) year term. The responsibilities of the General Counsel would include, in addition to those the Commission may prescribe and as provided by law, the conduct of all litigation as provided in sections 706 and 707 of the Act. The concurrence of the General Counsel with the Chairman is required, on the reapointment and supervision of regional attorneys.

This subsection would also continue the General Counsel on the effective date of the Act in that position until a successor has been appointed and qualified.

The Commission's attorneys may at the Commission's direction appear for and represent the Commission in any case in court, except that the Attorney General shall conduct all litigation to which the Commission is a party to in the Supreme Court pursuant to this title.

SECTION 8(f)

This subsection would eliminate the provision in present section 705(g) authorizing the Commission to request the Attorney General to intervene in private civil actions. Instead, this subsection permits the Commission itself to intervene in such civil actions as provided in section 706. Where the respondent is a government, governmental agency or political subdivision, the Attorney General should be authorized to seek intervention.

SECTION 8(g)

This section amends section 714 of Title VII of the Civil Rights Act of 1964 by making the provisions of sections 111 and 1114 of Title 18, United States Code, applicable to officers, agents and employees of the Commission in performance of their official duties. This section also specifically prohibits the imposition of the death penalty on any person who might be convicted of killing an officer, agent or employee of the Commission while on his official duties.

SECTION 9(a), (b), (c), AND (d)

These subsections would raise the executive level of the Chairman of the Commission (from Level 4 to level 3) and the members of the Commission (from Level 5 to Level 4) and include the General Counsel (Level 5) in the executive pay scale, so as to place them in a position of parity with officials in comparable positions in agencies having substantially equivalent powers such as the National Labor Relations Board, the Federal Trade Commission and the Federal Power Commission.

SECTION 10

Section 715—This section, which is new, establishes an Equal Employment Opportunity Coordinating Council composed of the Secretary of Labor, the Chairman of the Equal Employment Opportunity Commission, the Attorney General, the Chairman of the United States Civil Service Commission and the Chairman of the United States Civil Rights Commission or their respective designees. The Council will have the responsibility to coordinate the activities of all the various branches of government with responsibility for equal employment opportunity. The Council will submit an annual report to the President and Congress including a summary of its activities and recommendations as to legislative or administrative changes which it considers desirable.

SECTION 11

Section 717(a)—This subsection provides that all personnel actions of the U.S. Government affecting employees or applicants for employment shall be free from discrimination based on race, color, religion, sex or national origin. Included within this coverage are executive agencies, the United States Postal Service, the Postal Rate Commission, certain departments of the District of Columbia Government, the General Accounting Office, Government Printing Office and the Library of Congress.

Section 717(b)—Under this subsection, the Civil Service Commission is given the authority to enforce the provisions of subsection (a), except with respect to Library of Congress employees. The Civil Service Commission would be authorized to grant appropriate remedies which may include, but are not limited to, back pay for aggrieved applicants or employees. Any remedy needed to fully recompense the employee for his loss, both financial and professional, is considered appropriate under this subsection. The Civil Service Commission is also granted authority to issue rules and regulations necessary to carry out its responsibilities under this section. The Civil Service Commission shall also annually review national and regional equal employment opportunity plans and be resonpsible for review and evaluation of all agency equal employment opportunity programs. Agency and executive department heads and officers of the District of Columbia shall comply with such rules and regulations, submit an annual equal employment opportunity plan and notify any employee or applicant of any final action taken on any complaint of discrimination filed.

Section 717(c) and (d)—The provisions of sections 706(f) through (k), concerning private civil actions by aggrieved persons, are made applicable to aggrieved Federal employees or applicants for employment. Such persons would be permitted to file a civil action within 30 days of notice of final action by an agency or by the Civil Service Commission or an appeal from the agency's decision, or after 180 days from the filing of an initial charge with the agency, or the Civil Service Commission.

Section 717(e)—This subsection provides that nothing in this Act relieves any Government agency or official of his or its existing equal employment opportunity obligations under the Constitution, other statutes, or under any Executive Order relating to equal employment opportunity in the Federal Government.

SECTION 12

This section allows the Chairman of the Commission to establish ten additional positions at the GS–16, GS–17 and GS–18 levels, as needed to carry out the purposes of this Act.

SECTION 13

A new Section 718 is added which provides that no government contract, or portion thereof, can be denied, withheld, terminated, or superseded by a government agency under Executive Order 11246 or any other order or law without according the respective employer a full hearing and adjudication pursuant to 5 U.S.C. § 554 et. seq where such employer has an affirmative action program for the same facility which had been accepted by the Government within the previous twelve months. Such plan shall be deemed to be accepted by the Government if the appropriate compliance agency has accepted such plan and the Office of Federal Contract Compliance has not disapproved of such plan within 45 days. However, an employer who substantially deviates from any such previously accepted plan is excluded from the protection afforded by this section.

SECTION 14

This section provides that the amended provisions of Section 706 would apply to charges filed with the Commission prior to the effective date of this Act.

The PRESIDING OFFICER. The question is on agreeing to the conference report. All those in favor say "aye."

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays on the pending conference report.

The yeas and nays were ordered.

ORDER FOR VOTE ON EEOC CONFERENCE REPORT AT 2 P.M.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the vote on the pending conference report take place today at 2 p.m.

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

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. COTTON). Without objection, it is so ordered.

RECESS TO 1:55 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 1:55 p.m.

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

Thereupon, at 1:23 p.m. the Senate took a recess until 1:55 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. SPONG).

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SPONG). Without objection, it is so ordered.

EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1972—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on the conference report to H.R. 1746.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from North Carolina (Mr. JORDAN), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Connecticut (Mr. RIBICOFF) is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Rhode Island (Mr. PELL), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

On this vote the Senator from North Carolina (Mr. JORDAN) is paired with the Senator from Washington (Mr. JACKSON).

If present and voting, the Senator from North Carolina would vote "nay" and the Senator from Washington would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. TAFT), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from Oklahoma (Mr. BELLMON) is absent because of death in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from New Jersey (Mr. CASE) and the Senator from Maryland (Mr. MATHIAS) are detained on official business.

If present and voting, the Senator from Oregon (Mr. HATFIELD) and the Senator from Maryland (Mr. MATHIAS) would each vote "yea."

On this vote, the Senator from Illinois (Mr. PERCY), is paired with the Senator from Texas (Mr. TOWER). If present and voting, the Senator from Illinois would vote "yea," and the Senator from Texas would vote "nay."

The result was announced—yeas 62, nays 10, as follows:

[No. 88 Leg.]

YEAS—62

Aiken	Dominick	Montoya
Allott	Eagleton	Moss
Anderson	Ellender	Nelson
Baker	Fong	Packwood
Beall	Fulbright	Pastore
Bennett	Griffin	Pearson
Bible	Gurney	Proxmire
Boggs	Hansen	Randolph
Brock	Hart	Roth
Brooke	Hruska	Saxbe
Buckley	Hughes	Schweiker
Burdick	Inouye	Scott
Byrd, Va.	Jordan, Idaho	Smith
Byrd, W. Va.	Kennedy	Spong
Cannon	Long	Stafford
Chiles	Magnuson	Stevens
Church	Mansfield	Stevenson
Cook	McGee	Symington
Cooper	Metcalf	Williams
Cranston	Miller	Young
Curtis	Mondale	

NAYS—10

Allen	Fannin	Talmadge
Cotton	Goldwater	Thurmond
Eastland	Sparkman	
Ervin	Stennis	

NOT VOTING—28

Bayh	Hollings	Muskie
Bellmon	Humphrey	Pell
Bentsen	Jackson	Percy
Case	Javits	Ribicoff
Dole	Jordan, N.C.	Taft
Gambrell	Mathias	Tower
Gravel	McClellan	Tunney
Harris	McGovern	Weicker
Hartke	McIntyre	
Hatfield	Mundt	

So the conference report to H.R. 1746 was agreed to.

PUBLIC DEBT LIMITATION

The PRESIDING OFFICER (Mr. BROCK). The Chair lays before the Senate the unfinished business which will be stated.

The assistant legislative clerk read as follows:

Calendar No. 649, H.R. 12910, a bill to provide for a temporary increase in the public debt limit.

The Senate continued with the consideration of the bill.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER FOR RECOGNITION OF SENATOR PROXMIRE ON WEDNESDAY, MARCH 8

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Wednesday, immediately following the recognition of the two leaders under the standing order, the distinguished Senator from Wisconsin (Mr. PROXMIRE) be recognized for not to exceed 15 minutes.

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

ORDER FOR ADJOURNMENT TO 11:30 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11:30 a.m. tomorrow.

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

ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS AND FOR UNFINISHED BUSINESS TO BE LAID BEFORE THE SENATE TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, immediately after the two leaders have been recognized under the standing order, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair lay before the Senate the unfinished business.

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

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

ADJOURNMENT OVER TO MONDAY NEXT

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that the business in order under the calendar Wednesday rule be dispensed with on Wednesday of next week, March 8.

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

There was no objection.

CORRECTION OF VOTE

Mr. MONAGAN. Mr. Speaker, I am informed that on the last rollcall of today I am recorded as not voting. I was present in the Chamber and voted "yea." I ask unanimous consent that the RECORD be corrected accordingly.

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

There was no objection.

CONFERENCE REPORT ON H.R. 1746, EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1972

Mr. PERKINS submitted the following conference report and statement on the bill (H.R. 1746) to further promote equal employment opportunities for American workers:

CONFERENCE REPORT (H. REPT. No. 92-899)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1746). An Act to further promote equal employment opportunities for American workers, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Equal Employment Opportunity Act of 1972".

SEC. 2. Section 701 of the Civil Rights Act of 1964 (78 Stat. 253; 42 U.S.C. 2000e) is amended as follows:

(1) In subsection (a) insert "governments, governmental agencies, political subdivisions," after the word "individuals".

(2) Subsection (b) is amended to read as follows:

"(b) The term 'employer' means a person engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or any department or agency of the District of Columbia subject by statute to procedures of the competitive service (as defined in section 2102 of title 5 of the United States Code), or (2) a bona fide private membership club (other than a labor organization) which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954, except that during the first year after the date of enactment of the Equal Employment Opportunity Act of 1972, persons having fewer than twenty-five employees (and their agents) shall not be considered employers."

(3) In subsection (c) beginning with the semicolon strike out through the word "assistance".

(4) In subsection (e) strike out between "(A)" and "and such labor organization", and insert in lieu thereof "twenty-five or more during the first year after the date of enactment of the Equal Employment Opportunity Act of 1972, or (B) fifteen or more thereafter,".

(5) In subsection (f), insert before the period a comma and the following: "except that the term 'employee' shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policy making level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency or political subdivision."

(6) At the end of subsection (h) insert before the period a comma and the following: "and further includes any governmental industry, business, or activity".

(7) After subsection (i) insert the following new subsection (j):

"(j) The term 'religion' includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business."

SEC. 3. Section 702 of the Civil Rights Act of 1964 (78 Stat. 255; 42 U.S.C. 2000e-1) is amended to read as follows:

"EXEMPTION

"SEC. 702. This title shall not apply to an employer with respect to the employment of aliens outside any State, or to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities."

SEC. 4. (a) Subsections (a) through (g) of section 706 of the Civil Rights Act of 1964 (78 Stat. 259; 42 U.S.C. 2000e-5(a)-(g)) are amended to read as follows:

"SEC. 705. (a) The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 703 or 704 of this title.

"(b) Whenever a charge is filed by or on behalf of a person claiming to be aggrieved, or by a member of the Commission, alleging that an employer employment agency, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, has engaged in an unlawful employment practice, the Commission shall serve a notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) on such employer, employment agency, labor organization, or joint labor-management committee (hereinafter referred to as the 'respondent') within ten days, and shall make an investigation thereof. Charges shall be in writing under oath or affirmation and shall contain such information and be in such form as the Commission requires. Charges shall not be made public by the Commission. If the Commission determines after such investigation that there is not reasonable cause to believe that the charge is true, it shall dismiss the charge and promptly notify the person claiming to be aggrieved and the respondent of its action. In determining whether reasonable cause exists, the Commission shall accord substantial weight to final findings and orders made by State or local authorities in proceedings commenced under State or local law pursuant to the requirements of subsections (c) and (d). If the Commission determines after such investigation that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such informal endeavor may be made public by the Commission, its officers or employees, or used as evidence in a subsequent proceeding without the written consent of the persons concerned. Any person who makes public information in violation of this subsection shall be fined not more than $1,000 or imprisoned for not more than one year, or both. The Commission shall make its determination on reasonable cause as promptly as possible and, so far as practicable, not later than one hundred and twenty days from the filing of the charge or, where applicable under subsection (c) or (d), from the date upon which the Commission is authorized to take action with respect to the charge.

"(c) In the case of an alleged unlawful employment practice occurring in a State, or political subdivision of a State, which has a State or local law prohibiting the unlawful employment practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, no charge may be filed under subsection (a) by the person aggrieved before the expiration of sixty days after proceedings have been commenced under the State or local law, unless such proceedings have been earlier terminated, provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State or local law. If any requirement for the commencement of such proceedings is imposed by a State or local authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered mail to the appropriate State or local authority.

"(d) In the case of any charge filed by a member of the Commission alleging an unlawful employment practice occurring in a State or political subdivision of a State which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, the Commission shall, before taking any action with respect to such charge, notify the appropriate State or local officials and, upon request, afford them a reasonable time, but not less than sixty days (provided that such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective day of such State or local law), unless a shorter period is requested, to act under such State or local law to remedy the practice alleged.

Rooney, Pa.	Snyder	Waggonner
Rosenthal	Spence	Waldie
Roush	Staggers	Ware
Rousselot	Stanton,	Whalen
Roy	J. William	Whalley
Roybal	Stanton,	White
Ruppe	James V.	Whitehurst
Ruth	Steed	Whitten
Ryan	Steele	Widnall
St Germain	Steiger, Ariz.	Wiggins
Sandman	Steiger, Wis.	Williams
Sarbanes	Stratton	Wilson,
Satterfield	Stuckey	Charles H.
Saylor	Sullivan	Winn
Scherle	Symington	Wolff
Scheuer	Talcott	Wright
Schneebeli	Taylor	Wyatt
Schwengel	Teague, Calif.	Wydler
Scott	Teague, Tex.	Wylie
Sebelius	Terry	Wyman
Seiberling	Thompson, Ga.	Yates
Shriver	Thompson, N.J.	Yatron
Sikes	Thomson, Wis.	Young, Fla.
Sisk	Thone	Young, Tex.
Skubitz	Udall	Zablocki
Slack	Ullman	Zion
Smith, Calif.	Van Deerlin	Zwach
Smith, Iowa	Vander Jagt	
Smith, N.Y.	Vigorito	

NAYS—14

Bennett	Flynt	Rarick
Crane	Gross	Robinson, Va.
de la Garza	Hall	Runnels
Duncan	Mathis, Ga.	Schmitz
Findley	Nichols	

NOT VOTING—57

Anderson,	Hébert	O'Hara
Tenn.	Jonas	O'Neill
Andrews	Kemp	Poage
Annunzio	Kluczynski	Powell
Ashbrook	Kyros	Pryor, Ark.
Baring	Landgrebe	Pucinski
Blatnik	Latta	Purcell
Brasco	Long, Md.	Riegle
Camp	McCloskey	Rostenkowski
Carey, N.Y.	McDonald,	Shipley
Chisholm	Mich.	Shoup
Clay	McMillan	Springer
Collins, Ill.	Macdonald,	Stephens
Dwyer	Mass.	Stokes
Eckhardt	Madden	Stubblefield
Edwards, La.	Mann	Tiernan
Frey	Martin	Vanik
Galifianakis	Metcalfe	Veysey
Goldwater	Mitchell	Wampler
Grasso	Morgan	Wilson, Bob

So the bill was passed.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Andrews.
Mr. Stokes with Mr. Blatnik.
Mr. Annunzio with Mr. Bob Wilson.
Mr. Brasco with Mr. Goldwater.
Mr. Rostenkowski with Mr. McDonald of Michigan.
Mr. Hébert with Mr. Martin.
Mr. Carey of New York with Mr. Clay.
Mr. Kluczynski with Mr. Springer.
Mr. Collins of Illinois with Mr. Kyros.
Mr. Macdonald of Massachusetts with Mr. Kemp.
Mr. Stubblefield with Mr. Ashbrook.
Mr. Tiernan with Mr. Camp.
Mr. O'Hara with Mrs. Chisholm.
Mr. Long of Maryland with Mr. Metcalfe.
Mr. Shipley with Mr. Frey.
Mr. Stephens with Mr. Landgrebe.
Mr. Anderson of Tennessee with Mr. Latta.
Mr. Eckhardt with Mr. McCloskey.
Mr. Purcell with Mr. Riegle.
Mrs. Grasso with Mrs. Dwyer.
Mr. Vanik with Mr. Powell.
Mr. Mann with Mr. Jones.
Mr. Mitchell with Mr. Baring.
Mr. Pucinski with Mr. Shoup.
Mr. Madden with Mr. Veysey.
Mr. Morgan with Mr. Wampler.
Mr. McMillan with Mr. Galifianakis.

Mr. CONYERS changed his vote from "nay" to "yea."

The title was amended so as to read: "A bill to amend the Act of September 30, 1965, relating to high-speed ground transportation, to enlarge the authority of the Secretary to undertake research and development, to remove the termination date thereof, and for other purposes."

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 850, the Committee on Interstate and Foreign Commerce is discharged from further consideration of the bill S. 979.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to strike out all after the enacting clause of the bill S. 979 and to insert in lieu thereof the provisions of H.R. 11384, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the Act of September 30, 1965, relating to high-speed ground transportation, to enlarge the authority of the Secretary to undertake research and development, to remove the termination date thereof, and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 11384) was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to extend their remarks on the bill just passed.

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

There was no objection.

CORRECTION OF ROLLCALL

Mr. BIAGGI. Mr. Speaker, on rollcall No. 53, on February 29, a quorum call, I am recorded as absent. I was present and answered to my name. I ask unanimous consent that the permanent RECORD and Journal be corrected accordingly.

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

There was no objection.

CORRECTION OF VOTE

Mr. CARNEY. Mr. Speaker, on rollcall No. 60 I am recorded as not voting. I was present and voted "yea." I ask unanimous consent that the RECORD be corrected accordingly.

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

There was no objection.

LEGISLATIVE PROGRAM

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

Mr. GERALD R. FORD. Mr. Speaker, I take this time for the purpose of asking the distinguished majority leader the program for the remainder of the week, if any, and the schedule for next week.

Mr. BOGGS. Mr. Speaker, will the distinguished gentleman yield?

Mr. GERALD R. FORD. I yield to the distinguished gentleman from Louisiana.

Mr. BOGGS. Mr. Speaker, in reply to the distinguished minority leader, this completes the program for this week, and I shall ask unanimous consent to go over until Monday after adjournment today.

The program for next week is as follows:

Monday there will be a call of the Consent Calendar, to be followed by consideration of nine suspensions, as follows:

S. 1975, minimum age for Federal court jurors;

H.R. 2589, jury qualification form change;

Senate Joint Resolution 190, Commission on the Bankruptcy Laws Terms Extension;

H.R. 12828, veterans' education and training amendments;

S. 860, Trust Territory of the Pacific Islands;

H.R. 12749, saline water conversion program;

H.R. 10390, Indian Claims Commission;

H.R. 8763, Oregon Dunes National Recreation Area; and

H.R. 10834, authorizing Alaska to operate a ferry.

Tuesday there will be a call of the Private Calendar, and also a motion to send to conference S. 659, the Omnibus Education Amendments of 1972, with Senate amendment thereto.

For Wednesday and the balance of the week there will be consideration of the following:

H.R. 11624, Transpo 72 at Dulles Airport, authorization, subject to a rule being granted;

H.R. 1746, Equal Employment Opportunities Act, a conference report; and

H.R. 10420, Marine Mammal Protection Act, subject to a rule being granted.

Conference reports, of course, may be called up at any time, and any further program will be announced later.

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

Mr. GERALD R. FORD. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

What is the future for that long list of Member bills which were killed off yesterday or the day before yesterday, whichever it was?

Mr. BOGGS. I am unable to answer the gentleman's inquiry. I have not discussed the matter with the distinguished chairman of the Ways and Means Committee. I would think that the gentleman would be free to call them up again under unanimous consent, or, if necessary, to obtain rules.

I would not want to slow down any presidential candidate's campaign, but it might be helpful to know as soon as possible when we are going to be faced with that bunch of bills.

The gentleman might notice they are not called up for next Tuesday, at any rate.

"(e) A charge under this section shall be filed within one hundred and eighty days after the alleged unlawful employment practice occurred and notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) shall be served upon the person against whom such charge is made within ten days thereafter, except that in a case of an unlawful employment practice with respect to which the person aggrieved has initially instituted proceedings with a State or local agency with authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, such charge shall be filed by or on behalf of the person aggrieved within three hundred days after the alleged unlawful employment practice occurred, or within thirty days after receiving notice that the State or local agency has terminated the proceedings under the State or local law, whichever is earlier, and a copy of such charge shall be filed by the Commission with the State or local agency.

"(f) (1) If within thirty days after a charge is filed with the Commission or within thirty days after expiration of any period of reference under subsection (c) or (d), the Commission has been unable to secure from the respondent a conciliation agreement acceptable to the Commission, the Commission may bring a civil action against any respondent not a government, governmental agency, or political subdivision named in the charge. In the case of a respondent which is a government, governmental agency, or political subdivision, if the Commission has been unable to secure from the respondent a conciliation agreement acceptable to the Commission, the Commission shall take no further action and shall refer the case to the Attorney General who may bring a civil action against such respondent in the appropriate United States district court. The person or persons aggrieved shall have the right to intervene in a civil action brought by the Commission or the Attorney General in a case involving a government, governmental agency, or political subdivision. If a charge filed with the Commission pursuant to subsection (b) is dismissed by the Commission, or if within one hundred and eighty days from the filing of such charge or the expiration of any period of reference under subsection (c) or (d), whichever is later, the Commission has not filed a civil action under this section or the Attorney General has not filed a civil action in a case involving a government, governmental agency, or political subdivision, or the Commission has not entered into a conciliation agreement to which the person aggrieved is a party, the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, shall so notify the person aggrieved and within ninety days after the giving of such notice a civil action may be brought against the respondent named in the charge (A) by the person claiming to be aggrieved or (B) if such charge was filed by a member of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon timely application, the court may, in its discretion, permit the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, to intervene in such civil action upon certification that the case is of general public importance. Upon request, the court may, in its discretion, stay further proceedings for not more than sixty days pending the termination of State or local proceedings described in subsections (c) or (d) of this section or further efforts of the Commission to obtain voluntary compliance.

"(2) Whenever a charge is filed with the Commission and the Commission concludes on the basis of a preliminary investigation that prompt judicial action is necessary to carry out the purposes of this Act, the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, may bring an action for appropriate temporary or preliminary relief pending final disposition of such charge. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure. It shall be the duty of a court having jurisdiction over proceedings under this section to assign cases for hearing at the earliest practicable date and to cause such cases to be in every way expedited.

"(3) Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of actions brought under this title. Such an action may be brought in any judicial district in the State in which the unlawful employment practice is alleged to have been committed, in the judicial district in which the employment records relevant to such practice are maintained and administered, or in the judicial district in which the aggrieved person would have worked but for the alleged unlawful employment practice, but if the respondent is not found within any such district, such an action may be brought within the judicial district in which the respondent has his principal office. For purposes of section 1404 and 1406 of title 28 of the United States Code, the judicial district in which the respondent has his principal office shall in all cases be considered a district in which the action might have been brought.

"(4) It shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

"(5) It shall be the duty of the judge designated pursuant to this subsection to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited. If such judge has not scheduled the case for trial within one hundred and twenty days after issue has been joined, that judge may appoint a master pursuant to rule 53 of the Federal Rules of Civil Procedure.

"(g) If the court finds that the respondent has intentionally engaged in or is intentionally engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include, but is not limited to, reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), or any other equitable relief as the court deems appropriate. Back pay liability shall not accrue from a date more than two years prior to the filing of a charge with the Commission. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union, or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled, or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex, or national origin or in violation of section 704(a)."

(b) (1) Subsection (i) of section 706 of such Act is amended by striking out "subsection (e)" and inserting in lieu thereof "this section".

(2) Subsection (j) of such section is amended by striking out "subsection (e)" and inserting in lieu thereof "this section".

SEC. 5. Section 707 of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new subsection:

"(c) Effective two years after the date of enactment of the Equal Employment Opportunity Act of 1972, the functions of the Attorney General under this section shall be transferred to the Commission, together with such personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with such functions unless the President submits, and neither House of Congress vetoes, a reorganization plan pursuant to chapter 9 of title 5, United States Code, inconsistent with the provisions of this subsection. The Commission shall carry out such functions in accordance with subsection (d) and (e) of this section.

"(d) Upon the transfer of functions provided for in subsection (c) of this section in all suits commenced pursuant to this section prior to the date of such transfer, proceedings shall continue without abatement, all court orders and decrees shall remain in effect, and the Commission shall be substituted as a party for the United States of America, the Attorney General, or the Acting Attorney General, as appropriate.

"(e) Subsequent to the date of enactment of the Equal Employment Opportunity Act of 1972, the Commission shall have authority to investigate and act on a charge of a pattern or practice of discrimination, whether filed by or on behalf of a person claiming to be aggrieved or by a member of the Commission. All such actions shall be conducted in accordance with the procedures set forth in section 706 of this Act."

SEC. 6. Subsections (b), (c), and (d) of section 709 of the Civil Rights Act of 1964 (78 Stat. 263; 42 U.S.C. 2000e-8(b)-(d)) are amended to read as follows:

"(b) The Commission may cooperate with State and local agencies charged with the administration of State fair employment practices laws and, with the consent of such agencies, may, for the purpose of carrying out its functions and duties under this title and within the limitation of funds appropriated specifically for such purpose, engage in and contribute to the cost of research and other projects of mutual interest undertaken by such agencies, and utilize the services of such agencies and their employees, and, notwithstanding any other provision of law, pay by advance or reimbursement such agencies and their employees for services rendered to assist the Commission in carrying out this title. In furtherance of such cooperative efforts, the Commission may enter into written agreements with such State or local agencies and such agreements may include provisions under which the Commission shall refrain from processing a charge in any cases or class of cases specified in such agreements or under which the Commission shall relieve any person or class of persons in such State or locality from requirements imposed under this section. The Commission shall rescind any such agreement whenever it determines that the agreement no longer serves the interest f effective enforcement of this title.

"(c) Every employer, employment agency, and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purposes of this title, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which applications were received, and to furnish to the Commission upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any employer, employment agency, labor organization, or joint labor-management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may apply to the Commission for an exemption from the application of such regulation or order, and, if such application for an exemption is denied, bring a civil action in the United States district court for the district where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief. If any person required to comply with the provisions of this subsection fails or refuses to do so, the United States district court for the district in which such person is found, resides, or transacts business, shall, upon application of the Commission, or the Attorney General in a case involving a government, governmental agency or political subdivision, have jurisdiction to issue to such person an order requiring him to comply.

"(d) In prescribing requirements pursuant to subsection (c) of this section, the Commission shall consult with other interested State and Federal agencies and shall endeavor to coordinate its requirements with those adopted by such agencies. The Commission shall furnish upon request and without cost to any State or local agency charged with the administration of a fair employment practice law information obtained pursuant to subsection (c) of this section from any employer, employment agency, labor organization, or joint labor-management committee subject to the jurisdiction of such agency. Such information shall be furnished on condition that it not be made public by the recipient agency prior to the institution of a proceeding under State or local law involving such information. If this condition is violated by a recipient agency, the Commission may decline to honor subsequent requests pursuant to this subsection."

SEC. 7. Section 710 of the Civil Rights Act of 1964 (78 Stat. 264; 42 U.S.C. 2000e–9) is amended to read as follows:

"INVESTIGATORY POWERS

"SEC. 710. For the purpose of all hearings and investigations conducted by the Commission or its duly authorized agents or agencies, section 11 of the National Labor Relations Act (49 Stat. 455; 29 U.S.C. 161) shall apply."

SEC. 8. (a) Section 703(a)(2) of the Civil Rights Act of 1964 (78 Stat. 255; 42 U.S.C. 2000-e–2(a)(2)) is amended by inserting the words "or applicants for employment" after the words "his employees."

(b) Section 703(c)(2) of such Act is amended by inserting the words "or applicants for membership" after the word "membership".

(c)(1) Section 704(a) of such Act is amended by inserting a comma and the following: "or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs," after "employment agency".

(2) Section 704(b) of such Act is amended by (A) striking out "or employment agency" and inserting in lieu thereof "employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs,", and (B) inserting a comma and the words "or relating to admission to, or employment in, any program established to provide apprenticeship or other training by such a joint labor-management committee" before the word "indicating".

(d) Section 705(a) of the Civil Rights Act of 1964 (78 Stat. 258; 42 U.S.C. 2000e–4(a)) is amended to read as follows:

"SEC. 705. (a) There is hereby created a Commission to be known as the Equal Employment Opportunity Commission, which shall be composed of five members, not more than three of whom shall be members of the same political party. Members of the Commission shall be appointed by the President by and with the advice and consent of the Senate for a term of five years. Any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed, and all members of the Commission shall continue to serve until their successors are appointed and qualified, except that no such member of the Commission shall continue to serve (1) for more than sixty days when the Congress is in session unless a nomination to fill such vacancy shall have been submitted to the Senate, or (2) after the adjournment sine die of the session of the Senate in which such nomination was submitted. The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and, except as provided in subsection (b), shall appoint, in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, such officers, agents, attorneys, hearing examiners, and employees as he deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates: *Provided*, That assignment, removal, and compensation of hearing examiners shall be in accordance with sections 3105, 3344, 5362, and 7521 of title 5, United States Code."

(e)(1) Section 705 of such Act is amended by inserting after subsection (a) the following new subsection (b):

"(b)(1) There shall be a General Counsel of the Commission appointed by the President, by and with the advice and consent of the Senate, for a term of four years. The General Counsel shall have responsibility for the conduct of litigation as provided in sections 706 and 707 of this title. The General Counsel shall have such other duties as the Commission may prescribe or as may be provided by law and shall concur with the Chairman of the Commission on the appointment and supervision of regional attorneys. The General Counsel of the Commission on the effective date of this Act shall continue in such position and perform the functions specified in this subsection until a successor is appointed and qualified.

"(2) Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court, provided that the Attorney General shall conduct all litigation to which the Commission is a party in the Supreme Court pursuant to this title."

(2) Subsections (e) and (h) of such section 705 are repealed.

(3) Subsections (b), (c), (d), (i), and (j) of such section 705, and all references thereto, are redesignated as subsections (c), (d), (e), (h), and (i), respectively.

(f) Section 705(g)(6) of such Act, is amended to read as follows:

"(6) to intervene in a civil action brought under section 706 by an aggrieved party against a respondent other than a government, governmental agency or political subdivision."

(g) Section 714 of such Act is amended to read as follows:

"FORCIBLY RESISTING THE COMMISSION OR ITS REPRESENTATIVES

"SEC. 714. The provisions of sections 111 and 1114, title 18, United States Code, shall apply to officers, agents, and employees of the Commission in the performance of their official duties. Notwithstanding the provisions of sections 111 and 1114 of title 18, United States Code, whoever in violation of the provisions of section 1114 of such title kills a person while engaged in or on account of the performance of his official functions under this Act shall be punished by imprisonment for any term of years or for life."

SEC. 9. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new clause:

"(58) Chairman, Equal Employment Opportunity Commission."

(b) Clause (72) of section 5315 of such title is amended to read as follows:

"(72) Members, Equal Employment Opportunity Commission (4)."

(c) Clause (111) of section 5316 of such title is repealed.

(d) Section 5316 of such title is amended by adding at the end thereof the following new clause:

"(131) General Counsel of the Equal Employment Opportunity Commission."

SEC. 10. Section 715 of the Civil Rights Act of 1964 is amended to read as follows:

"EQUAL EMPLOYMENT OPPORTUNITY COORDINATING COUNCIL

"SEC. 715. There shall be established an Equal Employment Opportunity Coordinating Council (hereinafter referred to in this section as the Council) composed of the Secretary of Labor, the Chairman of the Equal Employment Opportunity Commission, the Attorney General, the Chairman of the United States Civil Service Commission, and the Chairman of the United States Civil Rights Commission, or their respective delegates. The Council shall have the responsibility for developing and implementing agreements, policies and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication and inconsistency among the operations, functions and jurisdictions of the various departments, agencies and branches of the Federal Government responsible for the implementation and enforcement of equal employment opportunity legislation, orders, and policies. On or before July 1 of each year, the Council shall transmit to the President and to the Congress a report of its activities, together with such recommendations for legislative or administrative changes as it concludes are desirable to further promote the purposes of this section."

SEC. 11. Title VII of the Civil Rights Act of 1964 (78 Stat. 253; 42 U.S.C. 2000e et seq.) is amended by adding at the end thereof the following new section:

"NONDISCRIMINATION IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 717. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units of the government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on race, color, religion, sex, or national origin.

"(b) Except as otherwise provided in this subsection, the Civil Service Commission shall have authority to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without back pay, as will effectuate the policies of this section, and shall issue such rules, regulations, orders and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

"(1) be responsible for the annual review and approval of a national and regional equal employment opportunity plan which each department and agency and each appropriate unit referred to in subsection (a) of this section shall submit in order to maintain an affirmative program of equal employment opportunity for all such employees and applicants for employment;

"(2) be responsible for the review and evaluation of the operation of all agency equal employment opportunity programs, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit; and

"(3) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to equal employment opportunity.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. The plan submitted by each department, agency, and unit shall include, but not be limited to—

"(1) provisions for the establishment of training and education programs designed to provide a maximum opportunity for employees to advance so as to perform at their highest potential; and

"(2) a description of the qualifications in terms of training and experience relating to equal employment opportunity for the principal and operating officials of each such department, agency, or unit responsible for carrying out the equal employment opportunity program and of the allocation of personnel and resources proposed by such department, agency, or unit to carry out its equal employment opportunity program.

With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

"(c) Within thirty days of receipt of notice of final action taken by a department, agency, or unit referred to in subsection 717(a), or by the Civil Service Commission upon an appeal from a decision or order of such department, agency, or unit on a complaint of discrimination based on race, color, religion, sex or national origin, brought pursuant to subsection (a) of this section, Executive Order 11478 or any succeeding Executive orders, or after one hundred and eighty days from the filing of the initial charge with the department, agency, or unit or with the Civil Service Commission on appeal from a decision or order of such department, agency, or unit until such time as final action may be taken by a department, agency, or unit, an employee or applicant for employment, if aggrieved by the final disposition of his complaint, or by the failure to take final action on his complaint, may file a civil action as provided in section 706, in which civil action the head of the department, agency, or unit, as appropriate, shall be the defendant.

"(d) The provisions of section 706 (f) through (k), as applicable, shall govern civil actions brought hereunder.

"(e) Nothing contained in this Act shall relieve any Government agency or official of its or his primary responsibility to assure nondiscrimination in employment as required by the Constitution and statutes or of its or his responsibilities under Executive Order 11478 relating to equal employment opportunity in the Federal Government."

SEC. 12. Section 5108(c) of title 5, United States Code, is amended by—

(1) striking out the word "and" at the end of paragraph (9);

(2) striking out the period at the end of paragraph (10) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding immediately after paragraph (10) the last time it appears therein in the following new paragraph:

"(11) the Chairman of the Equal Employment Opportunity Commission, subject to the standards and procedures prescribed by this chapter, may place an additional ten positions in the Equal Employment Opportunity Commission in GS–16, GS–17, and GS–18 for the purposes of carrying out title VII of the Civil Rights Act of 1964."

SEC. 13. Title VII of the Civil Rights Act of 1964 (78 Stat. 253; 42 U.S.C. 2000e et seq.) is further amended by adding at the end thereof the following new section:

"SPECIAL PROVISION WITH RESPECT TO DENIAL, TERMINATION, AND SUSPENSION OF GOVERNMENT CONTRACTS

"SEC. 718. No Government contract, or portion thereof, with any employer, shall be denied, withheld, terminated, or suspended, by any agency or officer of the United States under any equal employment opportunity law or order, where such employer has an affirmative action plan which has previously been accepted by the Government for the same facility within the past twelve months without first according such employer full hearing and adjudication under the provisions of title 5, United States Code, section 554, and the following pertinent sections: *Provided,* That if such employer has deviated substantially from such previously agreed to affirmative action plan, this section shall not apply; *Provided further,* That for the purposes of this section an affirmative action plan shall be deemed to have been accepted by the Government at the time the appropriate compliance agency has accepted such plan unless within forty-five days thereafter the Office of Federal Contract Compliance has disapproved such plan."

SEC. 14. The amendments made by this Act to section 706 of the Civil Rights Act of 1964 shall be applicable with respect to charges pending with the Commission on the date of enactment of this Act and all charges filed thereafter.

And the Senate agree to the same.

CARL D. PERKINS,
JOHN H. DENT,
AUGUSTUS F. HAWKINS,
PATSY T. MINK,
PHILLIP BURTON,
WM. L. (BILL) CLAY,
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Managers on the Part of the House.

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ROBERT TAFT, Jr.,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF MANAGERS AT THE CONFERENCE ON H.R. 1746 TO FURTHER PROMOTE EQUAL EMPLOYMENT OPPORTUNITIES FOR AMERICAN WORKERS

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1746) an Act to further promote equal employment opportunities for American workers, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The points in disagreement and the conference resolution of them are as follows:

The House bill provided the short title "Equal Employment Opportunity Act of 1971". The Senate amendment provided the short title "Equal Employment Opportunities Enforcement Act of 1972". The Senate receded with an amendment changing the date in the House provision to 1972.

Under the House bill, there was no provision for an expansion of coverage of Title VII.

The Senate amendment expanded coverage to include:

(1) State and local governments, governmental agencies, political subdivisions (except for elected officials, their personal assistants and immediate advisors) and the District of Columbia departments and agencies (except where such are subject by law to the Federal competitive service). State agencies previously covered by reference to the United States Employment Service continue to be covered; and

(2) employers who employ 15 or more full-time employees and labor organizations with 15 or more members beginning one year after enactment.

In addition, the Senate amendment included a new definition of "religion" to include all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

The House receded with an amendment exempting, in addition to State and local government elected officials, persons chosen by such officials to be on their personal staffs, appointees of such officials on a policymaking level or immediate advisors of such elected officials. The exemption does not include civil service employees.

It is the intention of the conferees to exempt elected officials and members of their personal staffs, and persons appointed by such elected officials as advisors or to policy-making positions at the highest levels of the departments or agencies of State or local governments, such as cabinet officers, and persons with comparable responsibilities at the local level. It is the conferees intent that this exemption shall be construed narrowly. Also, all employees subject to State or local civil service laws are not exempted.

The Senate amendment eliminated the present exemption from Title VII for educational institutions. Also, the Senate provision expanded the exemption for religious organizations from coverage under this title with respect to the employment of individuals of a particular religion in all their activities instead of the present limitation to religious activities. The House bill did not change the existing exemptions. The House receded.

Both the House bill and Senate amendment contained procedures for filing of charges. The Senate amendment provided for charges to be filed by or on behalf of a person claiming to be aggrieved, or by an officer or employee of the Commission upon request of any person claiming to be aggrieved. Charges were to be in writing under oath or affirmation and in the specific form required by the Commission. The Senate amendment further provided that the Commission serve a notice of the charge including the date, place and circumstances of the alleged unlawful employment practice on the respondent within 10 days. Under the Senate amendment, the Commission would dismiss the charge if it determined after investigation that there was not reasonable cause to believe the charge was true and would be required to accord substantial weight to the decision of state and local authorities under state and local equal employment opportunity laws in making such reasonable cause determination. The Senate amendment also required the Commission to make its determination so far as practicable not later than 120 days from the date the Commission was authorized to act on the charge.

The House bill provided for charges to be filed by the person claiming to be aggrieved or by a member of the Commission if he had reasonable cause to believe a violation occurred. The Commissioner's charge had to set forth the facts upon which it was based and the person or persons aggrieved. The House bill also provided that the Commission furnish the respondent with a copy of the charge within five days. Both the House bill and the Senate amendment prohibited disclosure of anything said or done during informal conciliation efforts without the consent of the parties.

The Senate receded with an amendment providing that charges be filed by or on behalf of the person claiming to be aggrieved or by a member of the Commission, alleging that an unlawful employment practice occurred. Charges are to be in writing under oath for affirmation and in such form as the Commission requires. A notice of a charge including the date, place and circumstances of the alleged unlawful employment practice is to be served on the respondent within 10 days. If the Commission determines after investigation that there is not reasonable cause to believe the charge is true, it shall dismiss the charge and notify the parties. The Commission is required to accord substantial weight to the decision of the state or local authorities under state or local equal employment opportunity laws and to make the determination on reasonable cause as promptly as possible and so far as practicable not later than 120 days from the date the Commission was authorized to act on the charge. If the Commission determines that there is reasonable cause to believe the charge is true, it shall attempt conciliation in conformity with the requirements of existing law. Nothing said or done during conciliation may be disclosed without the consent of the parties.

The Senate amendment contained two provisions allowing the Commission to defer to state and local equal employment opportunity agencies. It deleted the language of existing law providing that no charge may be filed during the 60-day period allowed for the deferral and substituted a provision prohibiting the Commission from acting on such a charge until the expiration of the 60-day period .The House bill made no change in existing law. The Senate receded with an amendment that would re-state the existing law on the deferral of charges to state agencies. The conferees left existing law intact with the understanding that the decision in *Love's* v. *Pullman*,—*U.S.*—(February 17, 1972) interpreting the existing law to allow the Commission to receive a charge (but not act on it) during such deferral period is controlling.

Both the House bill and the Senate amendment provided that charges be filed within 180 days. The Senate allowed an additional 120 days if a charge is deferred to a state agency and the House allowed only 30 additional days. The Senate amendment required that notice of the charge be served in 10 days. The House bill provided that charges under Title VII are the exclusive remedy for unlawful employment practices. The House receded.

Both the House bill and the Senate amendment authorized the bringing of civil actions in Federal district courts in cases involving unlawful employment practices.

The Senate amendment provided that the Attorney General bring actions against state and local governments. As to other respondents, suits were to be brought by the Commission. The Senate amendment permitted suits by the Commission or the Attorney General if the Commission was unable to secure from the respondent "a conciliation agreement acceptable to the Commission" while the House bill permitted the Commission to sue if it is unable to obtain "voluntary compliance." The Senate amendment permitted aggrieved persons to intervene in suits and allowed a private action if no case is brought by the Commission or Attorney General within 150 days. The House bill permitted a private action after 180 days. The Senate amendment allowed the General Counsel or Attorney General to intervene in private actions; the House bill permitted only the Attorney General to intervene. The Senate amendment permitted a private action in a case where the Commission entered into a conciliation agreement to which the aggrieved person was not a party (i.e. a signatory).

The conferees adopted a provision allowing the Commission, or the Attorney General in a case against a state or local government agency, to bring an action in Federal district courts if the Commission is unable to secure from the respondent "a conciliation agreement acceptable to the Commission." Aggrieved parties are permitted to intervene. They may bring a private action if the Commission or Attorney General has not brought suit within 180 days or the Commission has entered into a conciliation agreement to which such aggrieved party is not a signatory. The Commission, or the Attorney General in a case involving state and local governments, may intervene in such private action.

The Senate amendment provided for the appointment of a three judge district court in cases certified to be of general public importance, provided for the immediate designation of a single judge if no three judge court was requested, and required cases to be assigned for hearing at the earliest practicable date and to be expedited in every way. The House bill contained no such provision. The Senate receded with an amendment which provides that the chief judge of the district in which a case is filed designate the judge to hear the case which is to be assigned for hearing at the earliest practicable date and expedited in every way. The amendment deleted the provision for the three judge district court. Such a court is now provided for in "pattern or practice" cases.

The Senate amendment authorized the Commission or the Attorney General to seek preliminary injunctive relief. The House bill authorized the Commission to seek preliminary relief and required a showing that substantial and irreparable injury to the aggrieved party would be unavoidable. The Senate receded with an amendment that authorizes the Commission or the Attorney General to seek preliminary injunctive relief and a provision that Rule 65 of the Federal Rules of Civil Procedure should govern all actions brought under this subsection.

The Senate amendment restated existing law as to venue for civil actions except that the term "aggrieved person" was substituted for the word "plaintiff." The House bill left existing law intact. The House receded.

The House bill and the Senate amendment provided for the scope of relief that could be granted by the district courts. The differences were as follows:

1. The Senate amendment required a finding that the respondent engaged in an unlawful employment practice and the House bill required a finding that respondent "intentionally" engaged in such unlawful employment practice.

2. The Senate amendment added the phrase "or any other equitable relief that the court deems appropriate" to the description of the relief available from the court.

3. The Senate amendment limited back pay liability to that which accrues from a date not more than two years prior to the filing of a charge with the Commission; the House bill limited back pay liability to that which accrues not more than two years before the filing of a complaint with the court. Both the House bill and the Senate amendment provided that interim earnings shall operate to reduce the back pay otherwise allowable.

4. The House bill restated the provisions of existing law prohibiting court-ordered remedies based on any adverse action except unlawful employment practices prohibited under Title VII.

5. The House bill prohibited class action lawsuits.

The Senate receded with an amendment that provides the following:

1. A finding that the respondent has intionally engaged or is intentionally engaging in an unlawful employment practice, as the language of the current law reads.

2. Authority for the court to enjoin the respondent from such practices, order such affirmative action as may be appropriate and any other equitable relief that the court deems appropriate.

3. The court is authorized to award back pay except that such back pay liability is limited to that which accrues from the date not more than two years prior to the filing of a charge with the Commission. Interim earnings shall operate to reduce the back pay otherwise allowable.

4. The provisions of existing law prohibiting court ordered remedies based on any adverse action except unlawful employment practices under Title VII are retained.

The Senate amendment permitted payment of costs and counsel fees to small em-

ployers or labor organizations if they prevailed in actions brought against them by the Commission or the United States. An employer or union with 25 or fewer employees or members would have been entitled to up to $5000, and an employer or labor organization with from 25 to 100 employees or members whose average income from such employment was less than $7500, would have been entitled to one-half the cost of its defense up to $2500. The House bill had no comparable provisions. The Senate receded.

The Senate amendment authorized the courts to appoint a special master if the district court had not assigned a case for trial within 120 days after issue had been joined. There was no comparable House provision. The House receded.

The Senate amendment provided for a transfer of the Attorney General's "pattern or practice" jurisdiction to the Commission two years after enactment. In the interim period there would be concurrent jurisdiction. The transfer would be subject to change in accordance with a presidential reorganization plan if not vetoed by Congress. The House bill left pattern or practice jurisdiction with the Attorney General. The House receded.

The Senate amendment revised the Commission's procedures for cooperating with State and local agencies and in its record keeping requirements and provided procedures for compelling compliance with such requirements. The House bill did not amend the provisions of the current law. The House receded.

The Senate amendment simplified procedures for subpoenaing witnesses or records by providing the same investigative authority as is contained in the National Labor Relations Act. The House bill made no changes in existing authority. The House receded.

The Senate amendment provided for the appointment, with the advice and consent of the Senate, of up to four new commission members at any time after one year from the effective date of the act. The proportion of commissioners of one political party to another would remain the same. Regional Directors were to be appointed by the Chairman of the Commission with the concurrence of the General Counsel. The Senate amendment also placed a limit on the time that a Commissioner may serve after the appointment expires and the Senate has not acted. The House bill contained no such provisions. The Senate receded with an amendment limiting the time that a Commissioner may serve after the appointment expires and the Senate has not acted.

The Senate amendment established the office of General Counsel to be appointed by the President for a term of four years with the advice and consent of the Senate. The General Counsel was given the responsibility for filing complaints and the conduct of all litigation for the Commission. Also the General Counsel was given authority to appoint regional attorneys, with the concurrence of the Chairman, and other necessary employees. The House bill did not establish a General Counsel, and required that the Attorney General conduct all litigation to which the Commission is a party in the Supreme Court or in the United States Court of Appeals. All other litigation in which the Commission was a party was to be conducted by the Commission. The Senate receded with an amendment establishing the Office of General Counsel to be appointed by the President for a term of four years with the advice and consent of the Senate giving the General Counsel responsibility for litigation and concurrence with the Chairman in the appointment and supervision of regional attorneys but reserving to the Attorney General the conduct of all litigation to which the Commission is a party in the Supreme Court.

The Senate amendment permitted the Commission to accept uncompensated services for the limited purpose of publicizing in the media the Commission and its activities. The House bill did not provide such authority. The Senate receded.

The Senate amendment permitted the Commission to delegate certain functions, except for rulemaking and the power to make agreements with States. The House bill did not contain such a provision. The Senate receded.

The Senate amendment afforded additional protection to officers and employees of the Commission in the performance of their official duties by including them within section 1114 of Title 18, U.S.C. The House bill contained no such provision. The Senate receded with an amendment affording this new protection but excluding capital punishment for offenders.

The Senate amendment raised the level of the position of the Chairman and members of the Commission and established the position of General Counsel in the executive pay scale. The House bill made no provision for such change. The House receded.

The Senate amendment established an Equal Employment Opportunity Coordinating Council. The House bill had no such provision. The House receded.

The Committee of Conference believes that there are instances in which more than one agency may have legitimate interests in the employment standards applicable to a number of employees. So for example, the merit system standards of the Civil Service Commission should be considered by the Coordinating Council in relation to their effect on the conciliation and enforcement efforts of the Equal Employment Opportunity Commission and the Attorney General with respect to employees of governments, governmental agencies or political subdivisions.

The Senate amendment provided that all personnel actions involving Federal employees be free from discrimination. This policy was to be enforced by the United States Civil Service Commission. Each agency of the Federal Government would be responsible for establishing an internal grievance procedure and programs to train personnel so as to enable them to advance under the supervision of the Civil Service Commission. If final action had been taken by an agency or the Civil Service Commission, an aggrieved party could bring a civil action under the provisions of section 706. The House bill did not cover Federal employees. The House receded. In providing the statutory basis for such appeal or court access, it is not the intent of the Committee to subordinate any discretionary authority or final judgment now reposed in agency heads by, or under, statute for national security reasons in the interests of the United States.

The Senate amendment required consultation among the Executive branch agencies on Equal Employment matters. The House bill had no similar provision. The Senate receded in light of the action of the Conferees in establishing the Equal Employment Opportunity Coordinating Council.

The Senate amendment provided the Commission with authorization for an additional 10 positions at GS–16, GS–17, and GS–18 level. The House bill had no such provision. The House receded.

The Senate amendment provided that the new enforcement provisions of section 706 apply to charges pending before the Commission on enactment. The House bill was silent. The House receded.

The Senate amendment provided that no Government contract, whether subject to Executive Order 11246 or any other equal employment opportunity law such as section 3 of the Housing and Urban Development Act of 1968, as amended, could be terminated, denied, or withheld without a full hearing, where the employer had an affirmative action plan previously accepted within the past twelve months. The House bill had no such provision. The House receded.

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Managers on the Part of the Senate.

CONSUMERS NEED PROTECTION FROM DIRTY MEAT—NOT MORE OF IT

(Mr. MELCHER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MELCHER. Mr. Speaker, in my household we have stopped the use of any meat except American-produced domestic meat which we can examine, as cuts, before they are cooked and consumed.

My wife does not put on our breakfast, dinner, or supper tables any prepared meats, hamburger, meat soups, or other products which may contain imported meat.

As a veterinarian, I have no confidence that many kinds of imported meat can be trusted to be wholesome, healthful and fit for human consumption.

I know that in 1970 we admitted 11 million pounds of meat into the United States from just seven Australian plants which were found unfit to ship to the United States after the determination of unfitness had been made. I know there were hundreds more foreign plants found to be dirty and not fit to export to us but that many times the 11 million pounds were admitted from such substandard plants abroad before they were delisted, or cleaned up, because our review officers inspect only about once a year. Our review staff is inadequate to get around more often than that.

The practice in my home of using American meat only is going to continue until this country cleans up imported meats by establishing an imported meat

inspection system which provides consumer protection instead of a sort of diplomatic immunity from strictly enforced U.S. inspection requirements. That inspection is going to have to include testing for chemical residues which might be injurious to health. Our State Department is shielding the exporting countries from a requirement to set standards equal to ours concerning the use of pesticides and other chemicals that are hazards to human health.

The House Agriculture Committee knuckled under to overwhelming administration pressure from State and Agriculture Departments to delete from a bill equal standards for domestic and foreign food producers in the use of chemicals which leave residues injurious to the health of consumers. The miniscule residue sampling we do on foreign meat imports shows alarming increase of chlorinated hydrocarbon residues such as DDT and benzene hexachloride which are banned in this country for us on livestock.

It is quite shocking to me, Mr. Speaker, that this country is considering increasing meat import allowances to roll back th price of our domestic product, instead of talking with exporting countries about the cleanliness and healthfulness of what we are already getting.

The Comptroller General of the United States has recently supplied this Congress with a report on inspection of foreign packing plants and meat imports—both fresh, chilled, cooked, and canned—that should cause Members to demand suspension of all imports until their wholesomeness and healthfulness can be guaranteed, and we can be assured every pound of it was produced in plants that meet American inspection standards under the eyes of reliable inspectors, and not a corps of people overawed by diplomatic niceties. The report to me is like a rerun of a bad dream because I cited to the House early in 1970 the glaring shortcomings of inspection of foreign meats.

Let me call the House's attention to the sort of thing that is going on in the meatpacking plants that ship to the United States, and what our inspectors, who visit those plants about once a year, and doing about it, as reported by the General Accounting Office.

The GAO sent investigators along with our foreign review officers on visits to 80 plants in four countries that export to the United States.

In Australia, the source of 505 million pounds of imported beef and veal and 25 million pounds of mutton in 1971, they visited 35 plants—10 of them or nearly 30 percent so bad that they had to be delisted and denied the right to ship to the United States, but the meat they had already shipped us was not intercepted. Until the delisting was officially cleared in Washington and transmitted to the foreign government some 6 weeks later the plants continued to unload their unfit meat on us. One other plant was found not in compliance with our U.S. sanitation and health requirements, but not so bad that it was delisted. You can judge what the conditions must have been in the "delisted" plants by the description of the one allowed to continue in operation.

The GAO tells us:

The (U.S.) Consumer and Marketing Service foreign programs officer reported that the (Australian) inspectors at this plant—

Did not require that grossly contaminated carcasses be trimmed before going to the coolers or boning rooms.

Did not require that carcasses be dressed in a sanitary manner.

In performing examinations on beef heads, passed heads even though there were big balls of ingesta in the mouths.

Failed to detect a diseased head which should have been condemned and should have served as the basis for a more complete inspection of the carcass. When the foreign programs officer pointed out the condition to the Australian inspection officials, the carcass was inspected further and the carcass and parts were condemned.

The foreign programs officer reported also that the preoperative sanitation inspection of the plant showed that almost all equipment looked at was dirty and that the filth on some equipment was obviously of many days duration. He stated that the Australian inspector inspected some of the same equipment but took no action to have the equipment cleaned before operations started. The foreign programs officer reported further that he found slaughtering operations in process about 1 hour after the preoperative inspection, that he rechecked some of the equipment and found it to be still dirty and that the Australian inspector permitted the slaughtering operations to continue.

Despite the above-cited deficiencies, and the fact that no action was taken at the time of the review, C&MS gave Australian inspection officials the option of correcting the deficiencies or delisting the plants. C&MS officials told us they did not require the plant to be delisted because the deficiencies pertained mainly to improper inspection by Australian inspectors and could be readily corrected.

A C&MS foreign programs officer's review of the plant about 2½ months later, in July, 1970, showed that deficiencies still existed. The plant was delisted at that time, and as of November, 1972 it had not been recertified for exporting to the United States. Until it was delisted, the plant remained eligible to export meat products to the United States even though it was not in compliance with U.S. requirements.

C&MS records relating to plants in Australia showed that C&MS had not always required inspection officials to correct promptly certain deficiencies in the Australian inspection system or in approved plants.

This episode, which means that American consumers ate dirty and possibly unhealthy meat from a dirty packing plant in Australia for months after our people knew about it, in addition to 10 plants they did not know about for months prior to inspection, is only one of scores of known and unknown cases of this kind, and it is only one of a series of instances of official negligence, resulting in dirty and unwholesome meat reaching our consumers, which reach right here into this House of Representatives.

This House of Representatives has had the laxity of meat inspection called to its attention in the past. I have a bill before it, passed once by the Senate, to require piece-by-piece inspection of meat after it reaches our shores, but it has not been passed, although the evidence piles up that the meat products we are getting from abroad include up to 30 percent from plants which do not meet our inspection standards.

If the filth and carelessness in the Australian plant, which was not delisted, was mainly the result of lax inspection, why did not our inspectors crack down on the Australian inspection system, which our law says must be equivalent to ours? Why was no action taken against the Australian inspector who allowed the practices described? Why did we not notify the Australian Government to get its inspection in compliance with our requirement at once?

And when the Congress of the United States knows that this sort of lax inspection of foreign plants is going on, why do we not crack down on the whole business and take the steps necessary to stop it?

We can get out and pass the bill within days to require piece by piece examination of imported meat after it reaches the United States. The Department of Agriculture has opposed it, both at Senate hearings, and at House hearings.

The Senate proceeded to pass the bill, nonetheless.

The House did not act on it, and it died. Some of my colleagues felt that the introduction of the bill, the hearings and the attention given the subject then would cause necessary reform exporting; that action which might offend the governments of the countries exporting dirty meat was unnecessary, and it might cause retaliation against U.S. products.

As one industry apologist put it: "Yes, we have to eat their dirty meat so they will eat our dirty stuff."

In order to frighten me, he mentioned rat droppings in wheat.

In other words, our consumers must eat filthy products so that handlers, processors, and exploiters both here or abroad would not be required to live up to strict standards.

If the United States is allowing products to be exported from our shores that are dirty, or substandard, we should stop it immediately.

And if the standards we have set to reassure our consumers that the food products they are buying and eating are clean, wholesome, and healthful are being ignored abroad, we should crack down without fear, favor, or any further tolerance of officials who seem to think that a little ingesta, a little manure, a few cysts and lesions, a quantity of dirt and trash, and some blood clots, hair, and bones ought to be tolerated, and that JOHN MELCHER and Senator ABE RIBICOFF who has repeatedly protested in the Senate ought to keep their mouths shut.

Much of this traffic in dirty foreign meat is frozen boneless beef which many consumer groups believe to be sold here at greatly reduced prices to cut the average housewife's grocery bill. Not so. The Provisioner's February 10, 1972, quotation for American produced and graded boneless beef was 69¾ cents as compared to imported bull meat at 66 cents a pound and imported cow meat at 63½ cents a pound, none of which is graded and less than 1 percent of which is actually U.S. inspected.

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Remarks:

The attached excerpt from the Congressional Record is the conference report on the Equal Employment Opportunities bill.

The language which was inserted at our request and which you wanted to see is underscored.

TO 4
Good
LLM

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	ACTION		DIRECT REPLY		PREPARE REPLY
	APPROVAL		DISPATCH		RECOMMENDATION
	COMMENT		FILE		RETURN
	CONCURRENCE		INFORMATION		SIGNATURE

Remarks:

The attached excerpt from the Congressional Record is the conference report on the Equal Employment Opportunities bill.

The language which was inserted at our request and which you wanted to see is underscored.

Note: also sent to Coffey, Bavis, Esher, & OGC

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FROM: NAME, ADDRESS AND PHONE NO.	DATE
Legislative Counsel 7D43 x6121	3-3-72

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1-67