

So the conference report was agreed to.

A motion to reconsider the vote whereby said conference report was agreed to was, by unanimous consent, laid on the table.

Ordered, That the Clerk notify the Senate thereof.

¶116.19 FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments to the Senate to the bill (H.R. 4650) "An Act making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes."

¶116.20 PROVIDING FOR THE CONSIDERATION OF H.R. 4683

Mr. MOAKLEY, by direction of the Committee on Rules, called up the following resolution (H. Res. 552):

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4683) to amend the Solid Waste Disposal Act to provide congressional authorization of State control over transportation of municipal solid waste, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed on hour equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. At the conclusion of 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. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommend with or without instructions.

When said resolution was considered. After debate,

On motion of Mr. MOAKLEY, the previous question was ordered on the resolution to its adoption or rejection and under the operation thereof, the resolution was agreed to.

A motion to reconsider the vote whereby said resolution was agreed to was, by unanimous consent, laid on the table.

¶116.21 SOLID WASTE DISPOSAL

The SPEAKER pro tempore, Mr. SKAGGS, pursuant to House Resolution 552 and rule XXIII, declared the House resolved into the Committee of

the Whole House on the state of the Union for the consideration of the bill (H.R. 4683) to amend the Solid Waste Disposal Act to provide congressional authorization of State control over transportation of municipal solid waste, and for other purposes.

The SPEAKER pro tempore, Mr. SKAGGS, by unanimous consent, designated Mrs. UNSOELD as Chairman of the Committee of the Whole; and after some time spent therein,

¶116.22 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment in the nature of a substitute submitted by Mr. RICHARDSON:

Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Municipal Solid Waste Flow Control Act of 1994".

SEC. 2. CONGRESSIONAL AUTHORIZATION OF STATE CONTROL OVER MOVEMENT OF MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIALS.

(A) AMENDMENT.—Subtitle D of the Solid Waste Disposal Act is amended by adding the following new section after section 4010:

"SEC. 4011. CONGRESSIONAL AUTHORIZATION OF STATE CONTROL OVER MOVEMENT OF MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIALS.

"(a) AUTHORITY.—Each State and each political subdivision thereof is authorized to require the movement of municipal solid waste generated, and recyclable material voluntarily relinquished by its owner, within its jurisdiction to one or more waste management facilities or recycling facilities if such requirement—

"(1) is imposed pursuant to a law, ordinance, or other official act of the State or political subdivision in effect on May 15, 1994; and

"(2) has been implemented by designating before May 15, 1994, the particular management facilities in operation as of May 15, 1994, to which the municipal solid waste and recyclables must be moved.

Such authorization shall include any political subdivision that has in fact implemented such requirements prior to May 15, 1994, by requiring municipal solid waste to be sent to particular waste management facilities, but for which the legal authority for requiring such movement of municipal solid waste does not require the designation of particular facilities to receive such waste, or such legal authority resides in a designated official of the political subdivision. The authority of this section shall only extend to the specific classes or categories of municipal solid waste which were actually subject to a requirement of movement to one or more waste management facilities on or before May 15, 1994. With respect to each designated facility, the authority of this section shall be effective for the remaining life of a contract between the State or political subdivision and any other person regarding the movement or delivery of such waste or recyclable materials (as in effect May 15, 1994), or until completion of the schedule for payment of the capital costs of the facility concerned (as in effect May 15, 1994), or for the remaining useful life of the facility, whichever is longer.

"(b) CERTAIN REDESIGNATIONS OF FACILITIES.—Notwithstanding the restrictions in subsection (a)(2), any political subdivision of a State, which (1) required the movement of municipal solid waste or recyclable materials voluntarily relinquished by its owner to

one or more waste management facilities or recycling facilities prior to May 15, 1994; (2) declared its intent to redesignate the facilities receiving such materials prior to May 15, 1994, and (3) as of the date of enactment of this section is in the process of redesignating the facilities receiving such materials, shall be granted the authority in subsection (a).

"(c) COMMITMENT TO CONSTRUCTION.—Notwithstanding the restrictions in subsection (a)(1) and (2), any political subdivision of a State may be granted the authority in subsection (a), if—

"(1) the law, ordinance, regulation, solid waste management plan, or legally binding provision specifically provides for the transportation or disposal of municipal solid waste generated within its boundaries, was in effect prior to May 15, 1994, and, in the case of a solid waste management plan, has the approval of either the State or the Administrator pursuant to this title, and

"(2) commits to the selection of one or more waste management facilities for such method of transportation facilities or disposal of municipal solid waste. Such a commitment to one or more waste management facilities is demonstrated by one or more of the following factors—

"(A) all required permits for the construction of such facility were submitted prior to May 15, 1994.

"(B) contracts for the construction of such facility were in effect prior to May 15, 1994.

"(C) revenue bonds were presented for sale to specifically provide revenue for the construction of such facility prior to May 15, 1994, or

"(D) the State or subdivision submitted to the appropriate regulatory agency or agencies, on or before May 16, 1994, administratively complete permit applications for the construction and operation of the waste management facility.

"(d) RETAINED AUTHORITY.—Upon the request of any generator of municipal solid waste affected by this section, the State or political subdivision may authorize the diversion of all or a portion of the solid wastes generated by the generator making such request to a solid waste facility, other than the facility or facilities originally designated by the political subdivision, where the purpose of such request is to provide a higher level of protection for human health and the environment and reduce potential future liability under Federal or State law of such generator for the management of such wastes. Requests shall include information on the environmental suitability of the proposed alternative treatment or disposal facility and method, compared to that of the designated facility and method. In making such a determination the State or political subdivision shall consider the ability and willingness of both the designated and alternative disposal facility or facilities to indemnify the generator against any cause of action under State or Federal environmental statutes, and against any cause of action for nuisance, personal injury or property loss under any State law.

"(e) FLOW CONTROL STUDY.—The Administrator, in cooperation with the National Academy of Public Administration, shall conduct a study of the extent to which the decision of the United States Supreme Court in *C & A Carbone v. Clarkstown*, New York has affected the ability of public and private agencies and entities to secure or retain financing for solid waste management facilities or services. Such study shall address whether such decision is likely to interfere with the implementation of State solid waste management plans, and whether such decision is likely to reduce the increased use of recycling or composting. The Administrator shall submit a report on such study to Congress, together with recommendations