

Y 4
In 8/13
L 22/4/971/
PT. 1

1040

92/4
In 8/13
L 22/4/971/pt. 1

NATIONAL LAND USE POLICY

GOVERNMENT

Storage

DOCUMENTS

64 1971

HEARINGS

BEFORE THE

THE LIBRARY
KANSAS STATE UNIVERSITY

COMMITTEE ON

INTERIOR AND INSULAR AFFAIRS

UNITED STATES SENATE

NINETY-SECOND CONGRESS

FIRST SESSION

ON

S. 632

A BILL TO AMEND THE WATER RESOURCES PLANNING ACT (79 STAT. 244) TO INCLUDE PROVISION FOR A NATIONAL LAND USE POLICY BY BROADENING THE AUTHORITY OF THE WATER RESOURCES COUNCIL AND RIVER BASIN COMMISSIONS AND BY PROVIDING FINANCIAL ASSISTANCE FOR STATEWIDE LAND USE PLANNING

S. 992

A BILL TO ESTABLISH A NATIONAL LAND USE POLICY: TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO MAKE GRANTS TO ENCOURAGE AND ASSIST THE STATES TO PREPARE AND IMPLEMENT LAND USE PROGRAMS FOR THE PROTECTION OF AREAS OF CRITICAL ENVIRONMENTAL CONCERN AND THE CONTROL AND DIRECTION OF GROWTH AND DEVELOPMENT OF MORE THAN LOCAL SIGNIFICANCE; AND FOR OTHER PURPOSES

MAY 18 AND JUNE 7, 1971

PART 1



U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1971

63-988 O

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

HENRY M. JACKSON, Washington, *Chairman*

CLINTON P. ANDERSON, New Mexico

ALAN BIBLE, Nevada

FRANK CHURCH, Idaho

FRANK E. MOSS, Utah

QUENTIN N. BURDICK, North Dakota

GEORGE MCGOVERN, South Dakota

LEE METCALF, Montana

MIKE GRAVEL, Alaska

GORDON ALLOTT, Colorado

LEN B. JORDAN, Idaho

PAUL J. FANNIN, Arizona

CLIFFORD P. HANSEN, Wyoming

MARK O. HATFIELD, Oregon

TED STEVENS, Alaska

HENRY BELLMON, Oklahoma

JERRY T. VERKLER, *Staff Director*

WILLIAM J. VAN NESS, *Chief Counsel*

DANIEL A. DREYFUS, *Professional Staff Member*

STEVEN QUARLES, *Special Counsel*

CHARLES COOK, *Minority Counsel*

(II)

CONTENTS

S. 632	Page
Interior report	4
S. 992	60
Interior report	64
	80

STATEMENTS

Bellmon, Hon. Henry, a U.S. Senator from the State of Oklahoma	110
Goodwin, James T., coordinator of natural resources, State of Texas, representing Hon. William Clayton, Texas State Legislature, Chairman, Intergovernmental Relations Committee, National Legislative Conference Task Force on Natural Resources	188
Knecht, Hon. Robert, mayor, Boulder, Colo., chairman, National Cities Committee on Environment, accompanied by Larry Snowwhite, legislative assistant, National League of Cities and U.S. Conference of Mayors	163
Lucey, Hon. Patrick J., Governor of the State of Wisconsin, accompanied by Prof. Harold Jordahl	174
Morton, Hon. Rogers C. B., Secretary, Department of the Interior; accompanied by Harrison Loesch, Assistant Secretary	81
Quarles, John R., Jr., general counsel and Assistant Administrator for Environmental Protection Agency	120
Romney, Hon. George W., Secretary, Department of Housing and Urban Development, accompanied by Samuel C. Jackson, Assistant Secretary for Metropolitan Planning and Development	130
Train, Hon. Russell E., Chairman, Council on Environmental Quality	86

COMMUNICATIONS

Crowley, John R., chairman, Colorado Land Use Commission: letter to Senator Allott, dated June 4, 1971	154
Loesch, Harrison, Assistant Secretary of the Interior: letter to Senator Jackson, dated June 23, 1971	118
Love, Hon. John A., Governor, State of Colorado: letter to Senator Jackson, dated June 3, 1971	155
Morton, Rogers C. B., Secretary of the Interior: letter to Senator Allott, dated May 28, 1971	109

ADDITIONAL INFORMATION

Colorado Legislature, acts signed by the Governor:	
Senate bill 91	139
Senate bill 92	146
Senate bill 93	150
HUD comments on the desirability of separate land use planning legislation for Alaska	158
Memorandum from Colorado Land Use Commission	154
Supplemental HUD statement regarding arrangements for State coordination	136
Supplemental views of Senators Allott and Jordan on S. 3354 (91st Cong., 2d sess.)	156

APPENDIX

Anderson, Hon. Wendell R., Governor, State of Minnesota: letter to Senator Jackson, dated June 4, 1971	197
Cooper, Charles, chairman, Students for Environmental Action, Fairleigh Dickinson University and others	256
Davis, Hon. Deane C., Governor, State of Vermont—Position of the State of Vermont	197
National Association of Manufacturers, statement of	257
Policy Positions of the National Governors' Conference, August 1970	199
Scott, John W., master of the National Grange, statement of	262

NATIONAL LAND USE POLICY

TUESDAY, MAY 18, 1971

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The committee met, pursuant to recess, at 10 a.m., in room 3110, New Senate Office Building. Senator Henry M. Jackson (chairman of the committee) presiding.

Present: Senators Jackson, Anderson, Moss, Hatfield, Stevens, and Bellman.

Also present: Jerry T. Verkler, staff director; William J. Van Ness, chief counsel; and Charles Cook, minority council.

The CHAIRMAN. The committee will come to order.

The purpose of this morning's hearing is to receive testimony on S. 632 and S. 992, bills to establish a national land use policy and to encourage and assist the States in the preparation and implementation of comprehensive land use programs.

S. 632 is based on a measure which was introduced as S. 3354 early in the second session of the 91st Congress. The Interior and Insular Affairs Committee held 4 days of hearings during the last Congress on S. 3354 and the bill was reported favorably on December 14, 1970. S. 992 was recommended by the administration and, in concept, is quite similar to S. 632.

To a very great extent, all environmental management decisions are ultimately related to land use decisions. All environmental problems are outgrowths of land use patterns. The collective land use decisions which we make today and in the future will dictate our success in providing the American people with quality life in quality surroundings.

Development of a framework within which all proposals to utilize environmental resources can be balanced against one another and measured against the demands they collectively impose upon the environment is, in my view, essential.

Adoption of a balanced national land use policy would make it possible to identify trade offs, to compare, on a national basis, alternative proposals and competing social purposes through the demands they would make upon our most universal and basic resource.

Experience during the past year has strengthened the realization that adoption of a national land use policy is a matter which cannot be delayed. Data from the 1970 census show the trend toward high-density habitation continuing. The latest figures reveal that over 70

percent of the population presently occupies less than 2 percent of the land. The consequent pressures on urban centers, recreation areas, transportation systems and power supply facilities continue to increase.

In addition, our ability to accommodate the energy requirements of a growing population and expanding national economy is a matter of critical concern. Energy demand continues to rise at a rate of 5 percent a year and demand for electricity is expected to increase 284 percent by 1990. There is a real question as to whether or not we will have the resources and management ability to meet this demand. If present trends and policies are allowed to continue, it is clear that we will not.

These and many other examples all point to the need for a comprehensive land use, planning, management, and development policy. Without such a policy, it will be impossible to meet the needs and aspirations of a growing population while conserving for ourselves and for future generations a quality environment.

When one considers the significance of land use planning and management to the achievement of a wide variety of our national goals, it becomes apparent that our past efforts to make rational land use decisions in the overall public interest have been inadequate. Today, most land use decisions remain almost totally private decisions, even though they often result in public costs far beyond the proprietary interest of the decisionmaker.

At the other extreme, public decisions on major facilities such as highways, water resource projects, and airports predetermine the development of land use patterns on a regional scale for decades to come and are often made with scant appreciation of their impact on State and local interests, on the environment, or on the long-range public good.

The Nation can no longer permit public or private decisions to go forward in disregard of the general public demand for environmental quality. We must impose upon both public and private proposals criteria which will present unthinking, unnecessary environmental impairment and which will prohibit the loss of important values in the name of short-term gain or profit.

We certainly welcome the support of the administration in developing such a policy. This committee has been concerned about it, as I indicated, and has already held hearings in the previous Congress on the matter. So, we look forward to taking testimony today from the representatives who have come to appear.

I am delighted that we have the two top representatives of the administration here this morning to give the committee the benefit of their views on what I believe is indeed a crucial aspect of any environmental solution; that is, how we use our land.

We are also happy to have sitting, Senator Anderson, senior and ranking member of this committee, and Senator Moss, who will participate with us this morning.

We are hoping there will be more members of the committee able to come. As every other morning, there are a dozen committee meetings in session. One has to decide which one he must attend.

The CHAIRMAN. We are very pleased to have the Secretary of the Interior, Hon. Rogers C. B. Morton, and also the Chairman of the Council on Environmental Quality, Hon. Russell E. Train.

We would ask these two gentlemen if they would come to the table. We will hear Secretary Morton first. Then we will hear Chairman Train.

We may have questions and want to go back and forth.

Assistant Secretary Loesch, we are glad to have you here, sir.

I direct that the text of both bills and Department reports appear at this point in the record.

(The documents referred to follow:)

92D CONGRESS
1ST SESSION

S. 632

IN THE SENATE OF THE UNITED STATES

FEBRUARY 5 (legislative day, JANUARY 26), 1971

Mr. JACKSON (for himself, Mr. ALLOTT, Mr. CHURCH, Mr. GRAVEL, Mr. JORDAN of Idaho, Mr. MOSS, and Mr. STEVENS) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To amend the Water Resources Planning Act (79 Stat. 244) to include provision for a national land use policy by broadening the authority of the Water Resources Council and river basin commissions and by providing financial assistance for statewide land use planning.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Water Resources Planning Act (79 Stat. 244),
4 as amended (82 Stat. 935), is further amended by this Act
5 to read as follows:

6 "SECTION 1. This Act may be cited as the 'Land and
7 Water Resources Planning Act of 1971'.

3 "SEC. 2. In order to insure that the Nation's limited land

1 resource base is properly planned and managed and in order
2 to meet the Nation's rapidly expanding demands for water,
3 it is hereby declared to be the policy of the Congress to en-
4 courage the conservation, development, and utilization of
5 the land and water resources of the United States on a com-
6 prehensive and coordinated basis by the Federal Govern-
7 ment, States, localities, and private enterprise with the co-
8 operation of all affected Federal agencies, States, local
9 governments, individuals, corporations, business enterprises,
10 and others concerned.

11 "TITLE I—LAND AND WATER RESOURCES
12 COUNCIL

13 "SEC. 101. (a) There is hereby established a Land and
14 Water Resources Council (hereinafter referred to as the
15 'Council').

16 "(b) The Council shall be composed of the Vice Presi-
17 dent; the Secretaries of Agriculture; Commerce; Health,
18 Education, and Welfare; Housing and Urban Development;
19 the Interior; Transportation; and the Army; the Chair-
20 men of the Council on Environmental Quality and the Fed-
21 eral Power Commission; and the Administrator of the En-
22 vironmental Protection Agency.

23 "(c) The Vice President shall be the Chairman of the
24 Council.

25 "(d) The Chairman of the Council shall request the

1 heads of Federal agencies who are not members of the Coun-
2 cil to participate with the Council when matters affecting
3 their responsibilities are considered by the Council.

4 “(e) The Council shall have a Director, who shall be
5 appointed by the President by and with the consent of the
6 Senate. He shall serve at the pleasure of the President and
7 shall be compensated at the rate provided for level IV of the
8 Executive Schedule Pay Rates (5 U.S.C. 5315). The Di-
9 rector shall have such duties and responsibilities as the Chair-
10 man, after consultation with the members of the Council,
11 may assign.

12 “(f) Each member of the Council shall designate a
13 member of his staff to work with the Director in formulating
14 policies for the approval of the Council. These designees
15 shall meet at the call of the Director.

16 “(g) In addition to the designee appointed pursuant to
17 subsection (f), each member of the Council shall appoint one
18 member of his staff as a permanent liaison officer between
19 the Council and the department, council, or commission
20 represented by the member.

21 “SEC. 102. The Council shall—

22 “(a) prepare an inventory and maintain a continu-
23 ing study of the land resources of the United States, and
24 report biennially to the President and the Congress on
25 land resources and uses, projections of development and

1 uses of land, and analyses of current and emerging prob-
2 lems of land use;

3 “(b) maintain a continuing study of the adequacy
4 of administrative and statutory means of the coordina-
5 tion of Federal programs which have an impact upon
6 land use and of the compatibility of such programs with
7 State and local land-use planning and management ac-
8 tivities; it shall appraise the adequacy of existing and
9 proposed Federal policies and programs which affect
10 land use; and it shall make recommendations to the
11 President with respect to such policies and programs;

12 “(c) maintain a continuing study and issue bien-
13 nially or at such less frequent intervals as the Council
14 may determine, an assessment of the adequacy of sup-
15 plies of water necessary to meet the water requirements
16 in each water resource region in the United States and
17 the national interest therein; and

18 “(d) maintain a continuing study of the relation of
19 regional or river basin plans and programs to the re-
20 quirements of larger regions of the Nation and of the
21 adequacy of administrative and statutory means for the
22 coordination of the water and related land resources poli-
23 cies and programs of the several Federal agencies; it
24 shall appraise the adequacy of existing and proposed
25 policies and programs to meet such requirements; and it

1 shall make recommendations to the President with re-
2 spect to Federal policies and programs.

3 "SEC. 103. The Council shall establish, after such con-
4 sultation with other interested entities, both Federal and
5 non-Federal, as the Council may find appropriate, and with
6 the approval of the President, principles, standards, and
7 procedures for Federal participants in the preparation of
8 comprehensive regional or river basin plans and for the
9 formulation and evaluation of Federal water and related land
10 resources projects. Such procedures may include provision
11 for Council revision of plans for Federal projects intended to
12 be proposed in any plan or revision thereof being prepared
13 by a river basin planning commission.

14 "SEC. 104. Upon receipt of a plan or revision thereof
15 from any river basin commission under the provisions of
16 section 204 (c) of this Act, the Council shall review the plan
17 or revision with special regard to—

18 "(a) the efficacy of such plan or revision in achiev-
19 ing optimum use of the land and water resources in the
20 area involved;

21 "(b) the effect of the plan on the achievement of
22 other programs for the development of agricultural,
23 urban, energy, industrial, recreational, fish and wild-
24 life, and other resources of the entire Nation; and

25 "(c) the contributions which such plan or revision

1 will make in obtaining the Nation's economic, social,
2 and environmental goals.

3 Based on such review the Council shall—

4 “(1) formulate such recommendations as it deems
5 desirable in the national interest; and

6 “(2) transmit its recommendations, together with
7 the plan or revision of the river basin commission and
8 the views, comments, and recommendations with respect
9 to such plan or revision submitted by any Federal
10 agency, Governor, interstate commission, or United
11 States section of an international commission, to the
12 President for his review and transmittal to the Congress
13 with his recommendations in regard to authorization of
14 Federal projects.

15 “SEC. 105. The Council shall—

16 “(a) consult with other officials of the Federal
17 Government responsible for the administration of Fed-
18 eral land use planning assistance programs to States,
19 their political subdivisions, and other eligible agencies
20 in order to enhance coordination; and

21 “(b) periodically review (1) provisions of the
22 statewide land use plans, (2) State water resources
23 planning programs, and (3) interstate agency studies
24 and plans, to the extent necessary or desirable for the
25 proper administration of this Act.

1 "FEDERAL PLANNING INFORMATION CENTER

2 "SEC. 106. (a) The Council shall develop and maintain
3 an information and data center, with such regional branches
4 as the Council may deem appropriate, which has on file—

5 "(1) copies of all approved statewide land use
6 plans, including approved modifications and variances;

7 "(2) copies of all federally initiated and federally
8 assisted plans for activities which directly affect or in-
9 volve land use;

10 "(3) to the extent practicable and appropriate, the
11 plans of local government and private enterprise which
12 have more than local significance for land use planning;

13 "(4) statistical data and information on past, pres-
14 ent, and projected land use patterns which are of national
15 significance;

16 "(5) studies pertaining to techniques and methods
17 for the procurement, analysis, and evaluation of infor-
18 mation relating to land use planning and management;

19 "(6) such other information pertaining to land-use
20 planning and management as the Council deems appro-
21 priate.

22 "(b) All Federal agencies are required, as a part of
23 their planning procedures on projects involving a major
24 land-use activity, to consult with the Council for the purpose
25 of determining whether the proposed activity would conflict

1 in any way with the plans of other Federal, State, or local
2 agencies. In the event a conflict is discovered, the matter
3 shall be reported to the Council. If the conflict is not re-
4 solved by the agencies involved within a reasonable period
5 of time, the Council shall investigate the conflict and re-
6 port its findings, along with its recommendation concerning
7 the proper resolution of the issue, to the Congress, the
8 President, the State agency or agencies responsible for land-
9 use planning and enforcement of any approved statewide
10 land use plan in the State concerned, and any other State
11 or local agency involved.

12 “(c) The Council shall make the information main-
13 tained at the center available to Federal, State, and local
14 agencies involved in land use planning and to members of
15 the public, to the extent practicable. The Council may charge
16 reasonable fees to defray the expenses incident to making
17 such information available.

18 “TITLE II—RIVER BASIN COMMISSIONS

19 “CREATION OF COMMISSIONS

20 “SEC. 201. (a) The President is authorized to declare
21 the establishment of a river basin land and water resources
22 commission upon request therefor by the Council, or request
23 addressed to the Council by a State within which all or part
24 of the basin or basins concerned are located if the request by
25 the Council or by a State (1) defines the area, river basin, or

1 group of related river basins for which a commission is re-
2 quested, (2) is made in writing by the Governor or in such
3 manner as State law may provide, or by the Council, and
4 (3) is concurred in by the Council and by not less than one-
5 half of the States within which portions of the basin or basins
6 concerned are located and, in the event the Upper Colorado
7 River Basin is involved, by at least three of the four States
8 of Colorado, New Mexico, Utah, and Wyoming or, in the
9 event the Columbia River Basin is involved, by at least three
10 of the four States of Idaho, Montana, Oregon, and Washing-
11 tion. Such concurrences shall be in writing.

12 “(b) Each such commission for an area, river basin, or
13 group of river basins shall, to the extent consistent with sec-
14 tion 401 of this Act—

15 “(1) serve as the principal agency for the coordi-
16 nation of Federal, State, interstate, local, and nongov-
17 ernment plans for the development of land and water
18 resources in its area, river basin, or group of river basins;

19 “(2) upon written request of the Council and of the
20 Governors of not less than one-half of the participating
21 States, prepare and keep up to date, to the extent
22 practicable, a comprehensive, coordinated joint plan of
23 Federal, regional, State, local, and nongovernmental
24 plans which significantly involve land use or have sig-

1 nificant impacts upon land-use patterns; of zoning and
2 other land-use regulations. The comprehensive plan shall
3 specifically indicate the relation of planned or proposed
4 Federal projects to land-use development in the region;

5 “(3) prepare and keep up to date, to the extent
6 practicable, a comprehensive coordinated joint plan for
7 Federal, regional, State, local, and nongovernmental
8 development of water and related resources. The plan
9 shall include an evaluation of all reasonable alternative
10 means of achieving optimum development of water and
11 related land resources of the area, basin, or basins, and
12 it may be prepared in stages, including recommendations
13 with respect to individual projects;

14 “(4) recommend long-range schedule of priorities
15 for the collection and analysis of basic data and for in-
16 vestigation, planning, and construction of projects; and

17 “(5) foster and undertake such studies of land-use
18 and water resources problems in its area, river basin,
19 or group of river basins as are necessary in the prepa-
20 ration of the plans described in clauses (2) and (3) of
21 this subsection.

22 “(c) River basin commissions established pursuant to
23 the Water Resources Planning Act (79 Stat. 244) prior to
24 the date of enactment of this amendment shall continue to
25 function after its enactment, and shall be governed by its
26 terms.

1 “MEMBERSHIP OF COMMISSIONS

2 “SEC. 202. Each river basin commission shall be com-
3 posed of members appointed as follows:

4 “(a) A chairman appointed by the President who shall
5 also serve as chairman and coordinating officer of the Federal
6 members of the commission and who shall represent the
7 Federal Government in Federal-State relations on the com-
8 mission and who shall not, during the period of his service
9 on the commission, hold any other position as an officer or
10 employee of the United States, except as a retired officer or
11 retired civilian employee of the Federal Government.

12 “(b) One member from each Federal department or
13 independent agency determined by the President to have a
14 substantial interest in the work to be undertaken by the com-
15 mission, such member to be appointed by the head of such
16 department or independent agency and to serve as the repre-
17 sentative of such department or independent agency.

18 “(c) One member from each State which lies wholly or
19 partially within the area, river basin, or group of river basins
20 for which the commission is established, and the appoint-
21 ment of each such member shall be made in accordance with
22 the laws of the State which he represents. In the absence
23 of governing provisions of State law, such State member shall
24 be appointed and serve at the pleasure of the Governor.

25 “(d) One member appointed by any interstate agency

1 created by an interstate compact to which the consent of
2 Congress has been given, and whose jurisdiction extends
3 to the lands or waters of the area, river basin, or group of
4 river basins for which the river basin commission is created.

5 “(e) When deemed appropriate by the President, one
6 member, who shall be appointed by the President, from the
7 United States section of any international commission cre-
8 ated by a treaty to which the consent of the Senate has been
9 given, and whose jurisdiction extends to the waters of the
10 area, river basin, or group of river basins for which the river
11 basin commission is established.

12 “ORGANIZATION OF COMMISSIONS

13 “SEC. 203. (a) Each river basis commission shall orga-
14 nize for the performance of its functions within ninety days
15 after the President shall have declared the establishment of
16 such commission, subject to the availability of funds for
17 carrying on its work. A commission shall terminate upon
18 decision of the Council or agreement of a majority of the
19 States composing the commission. Upon such termination,
20 all property, assets, and records of the commission shall
21 thereafter be turned over to such agencies of the United States
22 and the participating States as shall be appropriate in the
23 circumstances: *Provided*, That studies, data, and other ma-
24 terials useful in land and water resources planning to any

1 of the participants shall be kept freely available to all such
2 participants.

3 “(b) State members of each commission shall elect a
4 vice chairman, who shall serve also as chairman and co-
5 ordinating officer of the State members of the commission
6 and who shall represent the State governments in Federal-
7 State relations on the commission.

8 “(c) Vacancies in a commission shall not affect its
9 powers but shall be filled in the same manner in which
10 the original appointments were made: *Provided*, That the
11 chairman and vice chairman may designate alternates to
12 act for them during temporary absences.

13 “(d) In the work of the commission every reasonable
14 endeavor shall be made to arrive at a consensus of all
15 members on all issues; but failing this, full opportunity
16 shall be afforded each member for the presentation and re-
17 port of individual views: *Provided*, That at any time the
18 commission fails to act by reason of absence of consensus,
19 the position of the chairman, acting in behalf of the Fed-
20 eral members, and the vice chairman, acting upon instruc-
21 tions of the State members, shall be set forth in the
22 record: *Provided further*, That the chairman, in consulta-
23 tion with the vice chairman, shall have the final authority,
24 in the absence of an applicable bylaw adopted by the com-

1 mission or in the absence of a consensus, to fix the times
2 and places for meetings, to set deadlines for the submis-
3 sion of annual and other reports, to establish subcommit-
4 tees, and to decide such other procedural questions as may
5 be necessary for the commission to perform its functions.

6 "DUTIES OF THE COMMISSIONS

7 "SEC. 204. Each river basin commission shall—

8 "(a) engage in such activities and make such
9 studies and investigations as are necessary and desir-
10 able in carrying out the policy set forth in section 2 of
11 this Act and in accomplishing the purposes set forth
12 in section 201 (b) of this Act;

13 "(b) submit to the Council and the Governor of
14 each participating State a report on its work at least
15 once each year. Such report shall be transmitted through
16 the President to the Congress. After such transmission,
17 copies of any such report shall be sent to the heads of
18 such Federal, State, interstate, and international agencies
19 as the President or the Governors of the participating
20 States may direct;

21 "(c) submit to the Council for transmission to the
22 President and by him to the Congress, and the Governors
23 and the legislatures of the participating States a com-
24 prehensive, coordinated, joint plan, or any major portion
25 thereof or necessary revisions thereof, for water and

1 related land resources development in the area, river
2 basin, or group of river basins for which such commission
3 was established. Before the commission submits such a
4 plan or major portion thereof or revision thereof to the
5 Council, it shall transmit the proposed plan or revision
6 to the head of each Federal department or agency, the
7 Governor of each State, and each interstate agency, from
8 which a member of the commission has been appointed,
9 and to the head of the United States section of any inter-
10 national commission if the plan, portion or revision
11 deals with a boundary water or a river crossing a
12 boundary, or any tributary flowing into such boundary
13 water or river, over which the international commis-
14 sion has jurisdiction or for which it has responsibility.
15 Each such department and agency head, Governor,
16 interstate agency, and United States section of an in-
17 ternational commission shall have ninety days from
18 the date of the receipt of the proposed plan, portion,
19 or revision to report its views, comments, and recom-
20 mendations to the commission. The commission may
21 modify the plan, portion, or revision after considering
22 the reports so submitted. The views, comments, and
23 recommendations submitted by each Federal depart-
24 ment or agency head, Governor, interstate agency, and
25 United States section of an international commission

1 shall be transmitted to the Council with the plan, por-
 2 tion, or revision;

3 “(d) undertake such studies of regional land use
 4 conditions, patterns, and projections as may be requested
 5 by the Council and concurred in by the Governors of at
 6 least one-half of the States included within the commis-
 7 sion’s jurisdiction; and

8 “(e) submit to the Council at the time of submitting
 9 the plans and studies required by subsections (c) and
 10 (d) of this section any recommendations it may have
 11 for continuing the functions of the commission and for
 12 implementing the plans or study recommendations, in-
 13 cluding means of keeping the plans up to date.”

14 “POWERS AND ADMINISTRATIVE PROVISIONS OF THE
 15 COMMISSIONS

16 “SEC. 205. (a) For the purpose of carrying out the
 17 provisions of this title, each river basin commission may—

18 “(1) hold such hearings, sit and act at such times
 19 and places, take such testimony, receive such evidence,
 20 and print or otherwise reproduce and distribute so much
 21 of its proceedings and reports thereon as it may deem
 22 advisable;

23 “(2) acquire, furnish, and equip such office space
 24 as is necessary;

25 “(3) use the United States mails in the same man-

1 ner and upon the same conditions as departments and
2 agencies of the United States;

3 “(4) employ and compensate such personnel as it
4 deems advisable, including consultants, at rates not to
5 exceed \$100 per diem, and retain and compensate such
6 professional or technical service firms as it deems ad-
7 visable on a contract basis;

8 “(5) arrange for the services of personnel from
9 any State or the United States, or any subdivision or
10 agency thereof, or any intergovernmental agency;

11 “(6) make arrangements, including contracts, with
12 any participating government, except the United States
13 or the District of Columbia for inclusion in a suitable
14 retirement and employee benefit system of such of its
15 personnel as may not be eligible for or continuing in an-
16 other governmental retirement or employee benefit sys-
17 tem or otherwise provide for such coverage of its
18 personnel;

19 “(7) purchase, hire, operate, and maintain passen-
20 ger motor vehicles; and

21 “(8) incur such necessary expenses and exercise
22 such other powers as are consistent with and reason-
23 ably required to perform its functions under this Act.

24 “(b) The chairman of a river basin commission, or

1 any member of such commission designated by the chair-
2 man thereof for the purpose, is authorized to administer
3 oaths when it is determined by a majority of the commis-
4 sion that testimony shall be taken or evidence received
5 under oath.

6 “(c) To the extent permitted by law, all appropriate
7 records and papers of each river basin commission shall be
8 made available for public inspection during ordinary office
9 hours.

10 “(d) Upon request of the chairman of any river basin
11 commission, or any member or employee of such commis-
12 sion designated by the chairman thereof for the purpose,
13 the head of any Federal department or agency is author-
14 ized (1) to furnish to such commission such information as
15 may be necessary for carrying out its functions and as
16 may be available to or procurable by such department
17 or agency, and (2) to detail to temporary duty with such
18 commission on a reimbursable basis such personnel within
19 his administrative jurisdiction as it may need or believe
20 to be useful for carrying out its functions, each such detail
21 to be without loss of seniority, pay, or other employee status.

22 “(e) The chairman of each river basin commission
23 shall, with the concurrence of the vice chairman, appoint
24 the personnel employed by such commission, and the chair-
25 man shall, in accordance with the general policies of such

1 commission with respect to the work to be accomplished
2 by it and the timing thereof, be responsible for (1) the
3 supervision of personnel employed by such commission, (2)
4 the assignment of duties and responsibilities among such
5 personnel, and (3) the use and expenditure of funds avail-
6 able to such commission.

7 "COMPENSATION OF COMMISSION MEMBERS

8 "SEC. 206. (a) Any member of a river basin commis-
9 sion appointed pursuant to section 202 (b) and (e) of this
10 Act shall receive no additional compensation by virtue of
11 his membership on the commission, but shall continue to
12 receive, from appropriations made for the agency from
13 which he is appointed, the salary of his regular position
14 when engaged in the performance of the duties vested in
15 the commission.

16 "(b) Members of a commission, appointed pursuant to
17 section 202 (c) and (d) of this Act, shall each receive such
18 compensation as may be provided by the State or the inter-
19 state agency, respectively, which they represent.

20 "(c) The per annum compensation of the chairman of
21 each river basin commission shall be determined by the Presi-
22 dent, but when employed on a full-time annual basis shall
23 not exceed the maximum scheduled rate for grade GS-18 of
24 the Classification Act of 1949, as amended; or when engaged
25 in the performance of the commission's duties on an inter-

1 mittent basis such compensation shall be not more than \$100
2 per day and shall not exceed \$12,000 in any year.

3 "SEC. 207. (a) Each commission shall recommend what
4 share of its expenses shall be borne by the Federal Govern-
5 ment, but such share shall be subject to approval by the
6 Council. The remainder of the commission's expenses shall be
7 otherwise apportioned as the commission may determine.
8 Each commission shall prepare a budget annually and trans-
9 mit it to the Council and the States. Estimates of proposed
10 appropriations from the Federal Government shall be in-
11 cluded in the budget estimates submitted by the Council
12 under the Budgeting and Accounting Act of 1921, as
13 amended, and may include an amount for advance to a com-
14 mission against State appropriations for which delay is an-
15 ticipated by reason of later legislative sessions. All sums
16 appropriated to or otherwise received by a commission shall
17 be credited to the commission's account in the Treasury of
18 the United States.

19 "(b) A commission may accept for any of its purposes
20 and functions, appropriations, donations, and grants of
21 money, equipment, supplies, materials, and services from
22 any State or the United States or any subdivision or agency
23 thereof, or intergovernmental agency, and may receive,
24 utilize, and dispose of the same.

25 "(c) The commission shall keep accurate accounts of

1 all receipts and disbursements. The accounts shall be audited
2 at least annually in accordance with generally accepted
3 auditing standards by independent certified or licensed public
4 accountants, certified or licensed by a regulatory authority
5 of a State, and the report of the audit shall be included in
6 and become a part of the annual report of the commission.

7 “(d) The accounts of the commission shall be open at
8 all reasonable times for inspection by representatives of
9 the jurisdictions and agencies which make appropriations,
10 donations, or grants to the commission.

11 “TITLE III—A NATIONAL LAND-USE POLICY
12 AND PROGRAM OF ASSISTANCE TO THE
13 STATES

14 “PART 1—FINDINGS, POLICY, AND PURPOSE

15 “FINDINGS

16 “SEC. 301. (a) The Congress hereby finds that there is
17 a national interest in a more efficient and comprehensive sys-
18 tem of national, regional, statewide, and local land-use plan-
19 ning and decisionmaking and that the rapid and continued
20 growth of the Nation’s population, expanding urban develop-
21 ment, proliferating transportation systems, large-scale indus-
22 trial and economic growth, conflicts in emerging patterns of
23 land use, the fragmentation of governmental entities exercise-
24 ing land-use planning powers, and the increased size, scale,
25 and impact of private actions, have created a situation in

1 which land-use management decisions of national, regional,
2 and statewide concern are often being made on the basis of
3 expediency, tradition, short-term economic considerations,
4 and other factors which are often unrelated to the real con-
5 cerns of a sound national land-use policy.

6 “(b) The Congress further finds that a failure to con-
7 duct competent, ecologically sound land-use planning has, on
8 occasion, required public and private enterprise to delay,
9 litigate, and cancel proposed public utility and industrial
10 and commercial developments because of unresolved land-use
11 questions, thereby causing an unnecessary waste of human
12 and economic resources and a threat to public services and
13 often resulting in decisions to locate utilities and industrial
14 and commercial activities in the area of least public and
15 political resistance, but without regard to relevant ecological
16 and environmental land-use considerations.

17 “(c) The Congress further finds that many Federal
18 agencies are deeply involved in national, regional, State,
19 and local land-use planning and management activities which
20 because of the lack of a consistent policy often result in need-
21 less, undesirable, and costly conflicts between agencies of
22 Federal, State, and local government; that existing Federal
23 land-use planning programs have a significant effect upon the
24 location of population, economic growth, and on the character
25 of industrial, urban, and rural development; that the purposes

1 of such programs are frequently in conflict, thereby subsidiz-
2 ing undesirable and costly patterns of land-use development;
3 and that a concerted effort is necessary to interrelate and
4 coordinate existing and future Federal, State, local and pri-
5 vate decisionmaking within a system of planned develop-
6 ment and established priorities that is in accordance with a
7 national land-use policy.

8 “(d) The Congress further finds that while the primary
9 responsibility and constitutional authority for land-use plan-
10 ning and management of non-Federal lands rests with State
11 and local government under our system of government, it is
12 increasingly evident that the manner in which this responsi-
13 bility is exercised has a tremendous influence upon the
14 utility, the value, and the future of the public domain,
15 the national parks, forests, seashores, lakeshores, recreation,
16 and wilderness areas and other Federal lands; that the in-
17 terest of the public in State and local decisions affecting
18 these areas extends to the citizens of all States; and that the
19 failure to plan and, in some cases, poor land-use planning at
20 the State and local level, pose serious problems of broad
21 national, regional, and public concern and often result in
22 irreparable damage to commonly owned assets of great na-
23 tional importance such as estuaries, ocean beaches, and other
24 areas in public ownership.

25 “(e) The Congress further finds that the land-use de-

1 cisions of the Federal Government often have a tremendous
2 impact upon the ecology, the environment and the patterns
3 of development in local communities; that the substance and
4 the nature of a national land-use policy ought to take into
5 consideration the needs and interests of State, regional, and
6 local government as well as those of the Federal Govern-
7 ment, private groups and individuals; and that Federal land-
8 use decisions require greater participation by State and local
9 government to insure that they are in accord with the highest
10 and best standards of land-use management and the desires
11 and aspirations of State and local government.

12 "DECLARATION OF POLICY

13 "SEC. 302. (a) In order to promote the general welfare
14 and to provide full and wise application of the resources
15 of the Federal Government in strengthening the environ-
16 mental, recreational, economic, and social well-being of the
17 people of the United States, the Congress declares that it is a
18 continuing responsibility of the Federal Government, consist-
19 ent with the responsibility of State and local government for
20 land-use planning and management, to undertake the de-
21 velopment of a national policy, to be known as the national
22 land-use policy, which shall incorporate ecological, environ-
23 mental, esthetic, economic, social, and other appropriate fac-
24 tors. Such policy shall serve as a guide in making specific
25 decisions at the national level which affect the pattern of

1 environmental, recreational, and industrial growth and de-
2 velopment on the Federal lands, and shall provide a frame-
3 work for development of regional, State, and local land-
4 use policy.

5 “(b) The Congress further declares that it is the na-
6 tional land-use policy to—

7 “(1) favor patterns of land-use planning, manage-
8 ment, and development which are in accord with sound
9 ecological principles and which encourage the wise and
10 balanced use of the Nation’s land and water resources;

11 “(2) foster beneficial economic activity and de-
12 velopment in all States and regions of the United States;

13 “(3) favorably influence patterns of population dis-
14 tribution in a manner such that a wide range of scenic,
15 environmental, and cultural amenities are available to
16 the American people;

17 “(4) contribute to the revitalization of existing
18 rural communities and encourage, where appropriate,
19 new communities;

20 “(5) assist State government to assume land-use
21 planning responsibility for activities within their
22 boundaries;

23 “(6) facilitate increased coordination in the ad-
24 ministration of Federal programs so as to encourage
25 desirable patterns of land-use planning; and

1 “(7) systematize methods for the exchange of land
2 use, environmental and ecological information in order
3 to assist all levels of government in the development
4 and implementation of the national land-use policy.

5 “(c) The Congress further declares that intelligent
6 land-use planning and management provides the single most
7 important institutional device for preserving and enhancing
8 the environment, for ecologically sound development, and for
9 maintaining conditions capable of supporting a quality life
10 and providing the material means necessary to improve the
11 national standard of living.

12 “PURPOSE

13 “SEC. 303. It is the purpose of this title—

14 “(a) to establish a national policy to encourage and
15 assist the several States to more effectively exercise their
16 constitutional responsibilities for the planning, manage-
17 ment, and administration of the Nation's land resources
18 through the development and implementation of compre-
19 hensive statewide land use plans and management pro-
20 grams designed to achieve an ecologically and environ-
21 mentally sound use of the Nation's land resources;

22 “(b) to establish a grant-in-aid program to assist
23 State and local governments to hire and train the per-
24 sonnel, and establish the procedures necessary to develop,
25 implement, and administer a statewide land use plan

1 which meets Federal guidelines and which will be re-
2 sponsive and effective in dealing with the growing
3 pressure of conflicting demands on a finite land resource
4 base;

5 “(c) to establish reasonable and flexible Federal
6 guidelines and requirements to give individual States
7 guidance in the development of statewide land use plans
8 and to condition the distribution of certain Federal funds
9 on the establishment of an adequate statewide land use
10 plan;

11 “(d) establish the authority and responsibility of the
12 Land and Water Resources Council (formerly the Water
13 Resources Council) to administer the Federal grant-in-
14 aid program, to review the statewide land use plans and
15 State water resources programs for conformity to the
16 provisions of this title, and to assist in the coordination
17 of Federal agency activities with statewide land use
18 plans;

19 “(e) to develop and maintain a national policy with
20 respect to federally conducted and federally supported
21 projects having land use implications; and

22 “(f) to coordinate planning and management re-
23 lating to Federal lands with planning and management
24 relating to non-Federal lands.

1 "PART 2—STATEWIDE AND INTERSTATE LAND USE
2 PLANNING GRANTS

3 "SEC. 304. (a) In order to carry out purposes of this
4 title the Council is authorized to make land use planning
5 grants to—

6 "(1) an appropriate single State agency, designated
7 by the Governor of the State or established by law,
8 which has statewide land use planning responsibilities
9 and which meets the guidelines and requirements set out
10 in section 305 of this title; and

11 "(2) any interstate agency which is authorized by
12 Federal law or interstate compact to plan for land use.

13 "(b) The Council is authorized to make land use plan-
14 ning grants in accordance with the provisions of this title
15 to assist and enable eligible State and interstate regional
16 agencies—

17 "(1) to prepare an inventory of the State's or re-
18 gion's land and related resources;

19 "(2) to compile and analyze information and data
20 related to—

21 "(A) population densities and trends;

22 "(B) economic characteristics and projections;

23 "(C) directions and extent of urban and rural
24 growth and changes;

25 "(D) public works, public capital improve-

1 ments, land acquisitions, and economic development
2 programs, projects, and associated activities;

3 “(E) ecological, environmental, geological, and
4 physical conditions which are of relevance to deci-
5 sions concerning the location of new communities,
6 commercial development, heavy industries, transpor-
7 tation and utility facilities, and other land uses;

8 “(F) the projected land-use requirements with-
9 in the State or region for agriculture, recreation,
10 urban growth, commerce, transportation, the gen-
11 eration and transmission of energy, and other im-
12 portant uses for at least fifty years in advance;

13 “(G) governmental organization and financial
14 resources available for land-use planning and man-
15 agement within the State and the political subdivi-
16 sions thereof or within the region; and

17 “(H) other information necessary to conduct
18 statewide land-use planning in accord with the
19 provisions of this title.

20 “(3) to provide technical assistance and training
21 programs for appropriate interstate, State, and local
22 agency personnel on the development, implementation,
23 and management of statewide land-use planning pro-
24 grams;

1 “(4) to arrange with Federal agencies for the coop-
2 erative planning of Federal lands located within and
3 near the State's or region's boundaries;

4 “(5) to develop, use, and encourage common in-
5 formation and data bases for Federal, regional, State
6 and local land-use planning;

7 “(6) to establish arrangements for the exchange
8 of land-use planning information among State agencies;
9 and among the various governments within each State
10 and their agencies; between the governments and agen-
11 cies of different States; and among States and interstate
12 compact agencies, river basin commissions, and regional
13 commissions;

14 “(7) to establish arrangements for the exchange of
15 information with the Federal Government for use by the
16 Council and the State and interstate agencies in dis-
17 charging their responsibilities under this Act;

18 “(8) to conduct hearings, prepare reports, and
19 solicit comments on reports concerning specific portions
20 of the plans and the plans in their entirety; and

21 “(9) to conduct such other related planning and
22 coordination functions as may be approved by the
23 Council.

1 "FEDERAL GUIDELINES AND REQUIREMENTS FOR STATE-
2 WIDE LAND USE PLANS

3 "SEC. 305. (a) A State agency specified in section
4 304 (a) must meet or give assurances that it will meet the
5 following requirements in the development of a statewide
6 land use plan to be eligible for statewide land use planning
7 grants under this title—

8 " (1) a single State agency, designated by the Gov-
9 ernor or established by law, shall have primary authority
10 and responsibility for the development and administra-
11 tion of the statewide land use plan;

12 " (2) a competent and adequate interdisciplinary
13 professional and technical staff, as well as special con-
14 sultants, will be available to the State agency to develop
15 the statewide land use plan;

16 " (3) to the maximum extent feasible, pertinent
17 local, State, and Federal plans, studies, information, and
18 data on land use planning already available shall be
19 utilized in order to avoid unnecessary repetition of effort
20 and expense.

21 " (b) During the five complete fiscal year period fol-
22 lowing the initial publication of regulations by the Council
23 implementing the provisions of this title, the State agency

1 must, as a condition of continued grant eligibility, develop
2 a statewide land use plan which—

3 “(1) identifies the portions of the State subject to
4 enforcement of the statewide land use plan, which shall
5 include all lands within the boundaries of the State
6 except—

7 “(A) lands the use of which is by law subject
8 solely to the discretion of or which is held in trust
9 by the Federal Government, its officers or agents;
10 and

11 “(B) at the discretion of the State agency, lands
12 located within the boundaries of any incorporated
13 city having a population in excess of two hundred
14 and fifty thousand or in excess of 20 per centum of
15 the State's total population, which has land use plan-
16 ning and regulation authority;

17 “(2) identifies those areas (within the State, except
18 where otherwise indicated) —

19 “(A) where ecological, environmental, geo-
20 logical, and physical conditions dictate that certain
21 types of land use activities are undesirable;

22 “(B) where the highest and best use, based
23 upon projected local, State, and National needs, on
24 the Statewide Outdoor Recreation Plan required

1 under the Land and Water Conservation Fund Act,
2 and upon other studies, is recreational-oriented use;

3 “(C) which are best suited for agricultural,
4 mineral, industrial, and commercial development;

5 “(D) where transportation and utility facilities
6 are or it appears should, in the future, be located;

7 “(E) which furnish the amenities and the basic
8 essentials to the development of new towns and the
9 revitalization of existing communities;

10 “(F) which, notwithstanding Federal owner-
11 ship or jurisdiction, are important to the State for
12 industrial, commercial, mineral, agricultural, recrea-
13 tional, ecological, or other purposes; and

14 “(G) which although located outside the State,
15 have substantial actual or potential impact upon land
16 use patterns within the State; and

17 “(H) which are of unusual national signifi-
18 cance and value.

19 “(3) includes appropriate provisions designed to
20 insure that projected requirements for material goods,
21 natural resources, energy, housing, recreation, and en-
22 vironmental amenities have been given consideration;

23 “(4) includes provisions designed to insure that the
24 plan is consistent with applicable local, State, regional,

1 and Federal standards relating to the maintenance and
2 enhancement of the quality of the environment and the
3 conservation of public resources;

4 “(5) provides for assuring orderly patterns of land
5 use and development;

6 “(6) includes provisions to insure that transporta-
7 tion and utility facilities do not interfere with Congres-
8 sional policies relating to the status and use of Federal
9 lands, and are established in compliance with regional
10 and State needs, State policies, and policies and goals
11 set forth in other Federal legislation;

12 “(7) provides for measures such as buffer zones,
13 scenic easements, prohibitions against nonconforming
14 uses, and other means of assuring the preservation of
15 aesthetic qualities, to insure that federally designated,
16 financed, and owned areas, including but not limited to
17 elements of the national park system, wilderness areas,
18 and game and wildlife refuges are not damaged or de-
19 graded as a result of inconsistent or incompatible land
20 use patterns in the same immediate geographical region;

21 “(8) provides for flood plain identification and
22 management;

23 “(9) provides for other appropriate factors hav-
24 ing significant land use implications.

25 “(c) To retain eligibility for statewide land use plan-

1 ning grants after the end of five complete fiscal years from
2 the beginning of the first fiscal year after the initial publi-
3 cation of regulations by the Council implementing the pro-
4 visions of this title, the statewide land use plan developed
5 in accordance with subsection (b) of this section and the
6 State land use planning agency must meet the following
7 Federal guidelines and requirements—

8 “(1) the statewide land use plan must be approved
9 by the Council in accordance with section 306;

10 “(2) the agency must have authority to implement
11 the approved plan and enforce its provisions;

12 “(3) the agency’s authority may include the power
13 to acquire interests in real property;

14 “(4) the agency’s authority must include the power
15 to prohibit, under State police powers, the use of any
16 lands in a manner which is inconsistent with the pro-
17 visions of the plan;

18 “(5) the agency must have authority to conduct
19 public hearings, allowing full public participation and
20 granting the right of appeal to aggrieved parties, in con-
21 nection with the dedication of any area of the State as an
22 areas subject to restricted or special use under the state-
23 wide land use plan; and

24 “(6) the agency must have established reasonable
25 procedures for periodic review of the plan for purposes

1 of granting variances from and making modifications of
2 the plan, including public notice and hearings, in order
3 to meet changed future conditions and requirements.

4 “(d) Nothing in this section shall be deemed to pre-
5 clude a State from planning for land use or from imple-
6 menting a statewide land use plan in stages, with respect to
7 either (1) particular geographical areas including but not
8 limited to coastal zones, or (2) particular kinds of uses, as
9 long as the other requirements of this Act are met.

10 “(e) Nothing in this Act shall be deemed to preclude
11 the delegation by the State agency to local governmental en-
12 tities of authority to plan for land use and enforce land use
13 restrictions adopted pursuant to the statewide land use plan,
14 including the assignment of funds authorized by this Act,
15 to the extent available, except that—

16 “(1) the State agency shall have ultimate responsi-
17 bility for approval and coordination of local plans and
18 enforcement procedures;

19 “(2) only the plan submitted by the State agency
20 will be considered by the Council;

21 “(3) the statewide land use plan submitted by the
22 State agency must be consistent with the guidelines estab-
23 lished by this Act; and

24 “(4) the State agency shall be responsible to the
25 Council for the management and control of any Federal

1 funds assigned or delegated to any agency of local gov-
2 ernment within the State concerned.

3 "REVIEW OF STATEWIDE LAND USE PLANS

4 "SEC. 306. (a) Upon completion of each statewide land
5 use plan—

6 "(1) The State agency responsible for the development
7 of the plan shall submit it to the Council.

8 "(2) The Council shall submit the plan for review and
9 comments to those Federal agencies the Council considers to
10 have significant interest in or impact upon land use within
11 the State concerned. A period of ninety days shall be pro-
12 vided for the review.

13 "(3) Upon completion of the review period established
14 by paragraph (2) of this subsection, the Council shall review
15 the plan along with the agency comments and approve the
16 plan if it—

17 "(A) conforms with the policy, guidelines, and re-
18 quirements declared in this title;

19 "(B) is compatible with the plans and proposed
20 plans of other States, so that regional and national land
21 use considerations are accommodated; and

22 "(C) does not conflict with the objectives of Fed-
23 eral programs authorized by the Congress.

24 "(b) A State may at any time make modifications of or
25 grant variances from its statewide land use plan: *Provided,*

1 That such modification or variance does not render the state-
2 wide land use plan inconsistent with the policies, guidelines,
3 and requirements declared in this Act: *And provided further,*
4 That such modification or variance is reported to the Council
5 on or before its effective date. The Council shall approve the
6 modification or variance unless it causes the plan to no
7 longer meet the criteria set forth in subsection (a).

8 “(c) (1) In the event the Council determines that
9 grounds exist for disapproval of a statewide land use plan
10 or, having approved such a plan, subsequently determines
11 that grounds exist for withdrawal of such approval pursuant
12 to section 314, it shall notify the President, who shall order
13 the establishment of an ad hoc hearing board, the member-
14 ship of which shall consist of:

15 “(A) The Governor of a State other than that which
16 submitted the plan, whose State does not have a partic-
17 ular interest in the approval or disapproval of the plan,
18 selected by the President, or such alternate person as the
19 Governor selected by the President may designate;

20 “(B) One knowledgeable, impartial Federal official,
21 selected by the President, who is not a member of or
22 responsible to a member of the Council;

23 “(C) One knowledgeable, impartial private citizen,
24 selected by the other two members: *Provided,* That if the
25 other two members cannot agree upon a third member

1 within twenty days after the appointment of the second
2 member to be appointed, the third member shall be se-
3 lected by the President.

4 “(2) The hearing board shall meet as soon as practi-
5 cable after all three members have been appointed. The Coun-
6 cil shall specify in detail to the hearing board its reasons for
7 considering disapproval or withdrawal of approval of the
8 plan. The hearing board shall hold such hearings and receive
9 such evidence as it deems necessary. The hearing board shall
10 then determine whether disapproval or withdrawal of ap-
11 proval would be reasonable, and set forth in detail the rea-
12 sons for its determination. If the hearing board determines
13 that disapproval would be unreasonable, the Council shall
14 approve the plan.

15 “(3) Members of hearing boards who are not regular
16 full-time officers or employees of the United States shall,
17 while carrying out their duties as members, be entitled to
18 receive compensation at a rate fixed by the President, but
19 not exceeding \$150 per diem, including travel time, and
20 while away from their homes or regular places of business
21 they may be allowed travel expenses, including per diem
22 in lieu of subsistence as authorized by law for persons in
23 Government service employed intermittently. Expenses shall
24 be charged to the account of the Executive Office of the
25 President.

1 “(4) Administrative support for hearing boards shall
2 be provided by the Executive Office of the President.

3 “(5) The President may issue such regulations as may
4 be necessary to carry out the provisions of this subsection.

5 “COORDINATION OF FEDERAL PROGRAMS

6 “SEC. 307 (a) All Federal agencies conducting or sup-
7 porting activities involving land use in an area subject to an
8 approved statewide land use plan shall operate in accordance
9 with the plan. In the event that a departure from the plan
10 appears necessary in the national interest, the agency shall
11 submit the matter to the Council. The Council may approve
12 a federally conducted or supported project a portion or por-
13 tions of which may be inconsistent with the plan if it finds
14 that (1) the project is essential to the national interest and
15 (2) there is no reasonable and prudent alternative which
16 would not be inconsistent with an approved statewide land
17 use plan. In the event that the Council fails to approve the
18 project, the project may be undertaken only upon the express
19 approval of the President. The President may approve proj-
20 ects inconsistent with a statewide land use plan only when
21 overriding considerations of national policy require such
22 approval.

23 “(b) State and local governments submitting applica-
24 tions for Federal assistance for activities having signifi-
25 cant land use implications in an area subject to an approved

1 statewide land use plan shall indicate the views of the State
2 land use planning agency as to the consistency of such
3 activities with the plan. Federal agencies shall not approve
4 proposed projects that are inconsistent with the plan.

5 “(c) All Federal agencies responsible for administering
6 grant, loan, or guarantee programs for activities that have
7 a tendency to influence patterns of land use and develop-
8 ment, including but not limited to home mortgage and inter-
9 est subsidy programs and water and sewer facility
10 construction programs, shall take cognizance of approved
11 statewide land use plans and shall administer such programs
12 so as to enable them to support controlled development, rather
13 than administering them so as merely to respond to uncon-
14 trolled growth and change.

15 “(d) Federal agencies conducting or supporting public
16 works activities in areas not subject to an approved state-
17 wide land use plan shall, to the extent practicable, conduct
18 those activities in such a manner as to minimize any ad-
19 verse impact on the environment resulting from decisions con-
20 cerning land use.

21 “(e) Officials of the Federal Government charged with
22 responsibility for the management of federally owned lands
23 shall take cognizance of the planning efforts of State land
24 use planning agencies of States within which and near the
25 boundaries of which such Federal lands are located, and

1 shall coordinate Federal land use planning for those lands
2 with State land use planning to the extent such coordination
3 is practicable and not inconsistent with paramount national
4 policies, programs, and interests.

5 "PART 3—STATE WATER RESOURCES PLANNING GRANTS

6 "SEC. 308. In recognition of the need for increased
7 participation by the States in water resources planning, and
8 to carry out the purposes of this title, the Council is author-
9 ized to make water resources planning grants to an appro-
10 priate single State agency designated by the Governor of the
11 State or established by law to carry out a program which
12 meets the criteria set forth in section 309. The agency may
13 be the same as the one designated pursuant to section 305
14 (a) (1) for administration of the statewide land use plan.

15 "SEC. 309. The Council shall approve any program for
16 comprehensive water and related land resources planning
17 which is submitted by a State, if such program—

18 "(a) provides for comprehensive planning with re-
19 spect to intrastate or interstate water resources, or both,
20 in such State to meet the needs for water and water-
21 related activities, taking into account prospective de-
22 mands for all purposes served through or affected by
23 water and related land resources development, with ade-
24 quate provision for coordination with all Federal, State,

1 and local agencies, and nongovernmental entities having
2 responsibilities in affected fields;

3 “(b) provides, where comprehensive statewide de-
4 velopment planning is being carried on with or with-
5 out assistance under section 701 of the Housing Act of
6 1954, or under the Land and Water Conservation Fund
7 Act of 1965, for full coordination between comprehensive
8 water resources planning and other statewide planning
9 programs and for assurances that such water resources
10 planning will be in conformity with the general develop-
11 ment policy in such State;

12 “(c) designates a State agency to administer the
13 program;

14 “(d) provides that the State agency will make
15 such reports in such form and containing such infor-
16 mation as the Council from time to time reasonably
17 requires to carry out its functions under this title;

18 “(e) sets forth the procedure to be followed in
19 carrying out the State program and in administering
20 such program;

21 “(f) provides such accounting, budgeting, and other
22 fiscal methods and procedures as are necessary for
23 keeping appropriate accountability of the funds and
24 for the proper and efficient administration of the pro-
25 gram; and

1 “(g) includes adequate provision for consolidation
 2 or coordination with the statewide land use plan.
 3 The Council shall not disapprove any State water resources
 4 program without first giving reasonable notice and an op-
 5 portunity for hearing to the State agency administering
 6 such program.

7 “PART 4—ADMINISTRATION OF LAND USE AND WATER
 8 RESOURCES PLANNING GRANTS

9 “ALLOTMENTS

10 “SEC. 310. (a) From the sum appropriated pursuant to
 11 section 404 the Council is authorized to make State land use
 12 planning grants to agencies the proposals of which are ap-
 13 proved in any amount not to exceed ninety per centum of
 14 the estimated cost of the planning for the five full fiscal
 15 years after the initial publication by the Council of regula-
 16 tions implementing the provisions of this title. Thereafter,
 17 grants may be made in an amount not to exceed two-thirds
 18 of the State agency's planning and operating costs.

19 “(b) Land use planning grants shall be allocated to the
 20 States with approved programs based on regulations of the
 21 Council, which shall take into account the amount and na-
 22 ture of the State's land resource base, population, pressures
 23 resulting from growth, financial need, and other relevant
 24 factors.

25 “(c) Any land use planning grant made for the pur-

1 pose of this title shall increase, and not replace State funds
2 presently available for State land use planning activities.
3 Any grant made pursuant to this title shall be in addition to,
4 and may be used jointly with, grants or other funds available
5 for land use planning surveys, or investigations under other
6 federally assisted programs.

7 “(d) No funds granted pursuant to this Act may be
8 expended for the acquisition of any interest in real property.

9 “SEC. 311. (a) From the sums appropriated pursuant
10 to section 404 of this Act for any fiscal year the Council
11 shall from time to time make allotments to the States for
12 water resources planning, in accordance with its regulations
13 and the provisions of this Act, on the basis of (1) the popu-
14 lation, (2) the land area, (3) the need for comprehensive
15 water and related land resources planning programs, and
16 (4) the financial need of the respective States. For the pur-
17 poses of this section the population of the States shall be
18 determined on the basis of the latest estimates available
19 from the Department of Commerce, and the land area of the
20 States shall be determined on the basis of the official records
21 of the United States Geological Survey.

22 “(b) From each State’s allotment under this section
23 for any fiscal year the Council shall pay to such State an
24 amount which is not more than 50 per centum of the cost
25 of carrying out its State program approved under section

1 309, including the cost of training personnel for carry-
2 ing out such program and the cost of administering such
3 program.

4 "PAYMENTS

5 "SEC. 312. The method of computing and paying
6 amounts pursuant to this title shall be as follows:

7 "(1) The Council shall, prior to the beginning of each
8 calendar quarter or other period prescribed by it, esti-
9 mate the amounts to be paid to each State under the pro-
10 visions of this title for such period, such estimate to be
11 based on such records of the State and information fur-
12 nished by it, and such other investigation, as the Council
13 may find necessary.

14 "(2) The Council shall pay to the State, from the allot-
15 ments available therefor, the amounts so estimated by it
16 for any period, reduced or increased, as the case may be,
17 by any sum (not previously adjusted under this para-
18 graph) by which it finds that its estimate of the amount
19 to be paid such State for any prior period under this title
20 was greater or less than the amount which should have
21 been paid to such State for such prior period under this
22 title. Such payments shall be made through the disbursing
23 facilities of the Treasury Department, at such times and
24 in such installments as the Council may determine.

1 "FINANCIAL RECORDS

2 "SEC. 313. (a) Each recipient of a grant under this
3 Act shall keep such records as the Director of the Council
4 shall prescribe, including records which fully disclose the
5 amount and disposition of the funds received under the
6 grant, and the total cost of the project or undertaking in con-
7 nection with which the grant was made and the amount and
8 nature of that portion of the cost of the project or undertak-
9 ing supplied by other sources, and such other records as will
10 facilitate an effective audit.

11 "(b) Such other records shall be kept and made avail-
12 able and such reports and evaluations shall be made as the
13 Director may require regarding the status and application
14 of Federal funds made available under the provisions of this
15 title.

16 "(c) The Director of the Council and the Comptroller
17 General of the United States, or any of their duly authorized
18 representatives, shall have access for the purpose of audit and
19 examination to any books, documents, papers, and records of
20 the recipient of the grant that are pertinent to the determina-
21 tion that funds granted are used in accordance with this Act.

22 "SANCTIONS FOR NONCOMPLIANCE

23 "SEC. 314. (a) The Council shall have authority to ter-
24 minate any financial assistance extended to a State agency for

1 land use planning under this title and withdraw its approval
2 of a statewide land use plan, whenever, after the State con-
3 cerned has been given notice of a proposed termination and
4 an opportunity for hearing, the Council finds that—

5 “(1) the designated State land use planning agency
6 has failed to adhere to the guidelines and requirements of
7 this title in the development of the land use plan;

8 “(2) the State has not enacted legislation which
9 allows the State agency to meet the requirements of sub-
10 section (c) of section 305; or

11 “(3) the plan submitted by such State and approved
12 under section 306 has been so changed or so admin-
13 istered that it no longer complies with a requirement
14 of such section.

15 “(b) Whenever the Council after reasonable notice and
16 opportunity for hearing to a State agency finds that—

17 “(1) the program submitted by such State and ap-
18 proved under section 309 has been so changed that it no
19 longer complies with a requirement of such section; or

20 “(2) in the administration of the program there is
21 a failure to comply substantially with such a requirement,
22 the Council shall notify such agency that no further payments
23 will be made to the State under this title until it is satisfied
24 that there will no longer be any such failure. Until the Coun-

1 cil is so satisfied, it shall make no further payments to such
2 State for water resources planning under this title.

3 "SEC. 315. (a) After the end of five fiscal years from
4 the beginning of the first fiscal year after the initial issuance
5 of regulations by the Council implementing the provisions
6 of this title, no Federal agency shall, except with respect to
7 Federal lands, propose or undertake any new action or fi-
8 nancially support any new State-administered action which
9 may have a substantial adverse environmental impact or
10 which would or would tend to irreversibly or irretrievably
11 commit substantial land or water resources in any State which
12 has not prepared and submitted a statewide land use plan
13 in accordance with this Act.

14 "(b) Upon application by the Governor of the State or
15 head of the Federal agency concerned, the President may
16 temporarily suspend the operation of paragraph (a) with
17 respect to any particular action, if he deems such suspension
18 necessary for the public health, safety, or welfare: *Provided,*
19 That no such suspension shall be granted unless the State
20 concerned submits a schedule, acceptable to the Council, for
21 submission of a statewide land use plan: *And provided*
22 *further,* That no subsequent suspension shall be granted un-
23 less the State concerned has exercised due diligence to comply
24 with the terms of that schedule.

1 "TITLE IV—GENERAL

2 "EFFECT ON EXISTING LAWS

3 "SEC. 401. Nothing in this Act shall be construed—

4 "(a) to expand or diminish either Federal or State
5 jurisdiction, responsibility, or rights in the field of land
6 and water resources planning, development, or control;
7 nor to displace, supersede, limit, or modify any inter-
8 state compact or the jurisdiction or responsibility of any
9 legally established joint or common agency of two or
10 more States, or of two or more States and the Federal
11 Government; nor to limit the authority of Congress to
12 authorize and fund projects;

13 "(b) to change or otherwise affect the authority
14 or responsibility of any Federal official in the discharge
15 of the duties of his office except as required to carry
16 out the provisions of this Act;

17 "(c) as superseding, modifying, or repealing exist-
18 ing laws applicable to the various Federal agencies
19 which are authorized to develop or participate in the
20 development of land and water resources or to exercise
21 licensing or regulatory functions in relation thereto,
22 except as required to carry out the provisions of this
23 Act; nor to affect the jurisdiction, powers, or preroga-
24 tives of the International Joint Commission, United
25 States and Canada, the Permanent Engineering Board

1 and the United States operating entity or entities estab-
2 lished pursuant to the Columbia River Basin Treaty,
3 signed at Washington January 17, 1961, or the Inter-
4 national Boundary and Water Commission, United
5 States and Mexico;

6 “(d) as authorizing any entity established or act-
7 ing under the provisions hereof to study, plan, or recom-
8 mend the transfer of waters between areas under the
9 jurisdiction of more than one river basin commission
10 or entity performing the function of a river basin
11 commission.

12 “DEFINITIONS

13 “SEC. 402. For the purposes of this Act—

14 “(a) the term ‘State’ means a State, the Dis-
15 trict of Columbia, the Commonwealth of Puerto Rico,
16 or any territory or possession of the United States;

17 “(b) the term ‘interstate agency’ means any river
18 basin commission or interstate compact agency estab-
19 lished in accordance with Federal law;

20 “(c) the terms ‘basin’ and ‘river basin’ are descrip-
21 tive of geographical areas and have identical meaning;
22 and

23 “(d) the term ‘new action’, as used in section 315,
24 means any action which has not been previously author-
25 ized by the Congress.

1 "AUTHORIZATION OF APPROPRIATIONS

2 "SEC. 403. There are authorized to be appropriated not
3 more than \$16,000,000 annually for the administration of
4 this Act, no more than \$10,000,000 of which may be used
5 for contract studies.

6 "SEC. 404. There are hereby authorized to be appro-
7 priated to the Council for grants to States, river basin com-
8 missions, and interstate agencies not more than \$100,000,-
9 000 annually to carry out the purposes of this Act.

10 "ADMINISTRATIVE PROVISIONS

11 "SEC. 405. (a) For the purpose of carrying out the
12 provisions of this Act, the Director with the concurrence of
13 the Council may: (1) hold such hearings, sit and act at
14 such times and places, take such testimony, receive such
15 evidence, and print or otherwise reproduce and distribute
16 so much of its proceedings and reports thereon as he may
17 deem advisable; (2) acquire, furnish, and equip such office
18 space as is necessary; (3) use the United States mails in
19 the same manner and upon the same conditions as other
20 departments and agencies of the United States; (4) em-
21 ploy and fix the compensation of such personnel as it
22 deems advisable, in accordance with the civil service laws
23 and Classification Act of 1949, as amended; (5) procure
24 services as authorized by section 15 of the Act of August 2,
25 1946 (5 U.S.C. 55a), at rates not to exceed \$100 per diem

1 for individuals; (6) purchase, hire, operate, and maintain
2 passenger motor vehicles; and (7) incur such necessary
3 expenses and exercise such other powers as are consistent
4 with and reasonably required for the performance of its
5 functions under this Act.

6 “(b) Any member of the Council is authorized to ad-
7 minister oaths when it is determined by a majority of the
8 Council that testimony shall be taken or evidence received
9 under oath.

10 “(c) To the extent permitted by law, all appropriate
11 records and papers of the Council may be made available
12 for public inspection during ordinary office hours.

13 “(d) The Council shall be responsible for (1) the
14 appointment and supervision of its personnel, (2) the as-
15 signment of duties and responsibilities among such per-
16 sonnel, and (3) the use and expenditures of funds.

17 “DELEGATION OF FUNCTIONS

18 “SEC. 406. (a) The Council is authorized to delegate
19 to the Director of the Council its administrative functions,
20 including the detailed administration of the grant programs
21 under title III.

22 “(b) The Council may not delegate the responsibilities
23 of a policy nature vested in it by this Act. This restriction
24 applies specifically to, but is not necessarily limited to, the
25 following responsibilities of the Council—

1 “(1) the recommendation function set forth in sub-
2 section (b) of section 106;

3 “(2) the approval and disapproval functions set
4 forth in section 306;

5 “(3) the approval and disapproval functions set
6 forth in section 309;

7 “(4) the approval functions set forth in subsection
8 (b) of section 315; and

9 “(5) the functions set forth in section 410.

10 “UTILIZATION OF PERSONNEL

11 “SEC. 407. (a) The Council may, with the consent of
12 the head of any other department or agency of the United
13 States, utilize such officers and employees of such agency on
14 a reimbursable basis as are necessary to carry out the pro-
15 visions of this Act.

16 “(b) Upon request of the Council, the head of any
17 Federal department or agency is authorized (1) to furnish
18 to the Council such information as may be necessary for
19 carrying out its functions and as may be available to or
20 procurable by such department or agency, and (2) to de-
21 tail to temporary duty with the Council on a reimbursable
22 basis such personnel within his administrative jurisdiction
23 as the Council may need or believe to be useful for carrying
24 out its functions, each such detail to be without loss of senior-
25 ity, pay, or other employee status.

1 "TECHNICAL ASSISTANCE

2 "SEC. 408. The Council may provide technical assist-
3 ance to any eligible State, river basin commission, or inter-
4 state agency to assist it in the performance of its functions
5 under this Act.

6 "STUDIES

7 "SEC. 409. The Council may, by contract or otherwise,
8 make studies and publish information on subjects related to
9 State, regional, and national land use planning and water
10 resources use.

11 "RULES AND REGULATIONS

12 "SEC. 410. The Council, except with respect to subsec-
13 tion (c) of section 306—

14 "(a) shall promulgate rules and regulations for the
15 administration of title III, including the detailed terms
16 and conditions under which grants may be made, and

17 "(b) with the approval of the President, shall pre-
18 scribe such rules, establish such procedures, and make
19 such arrangements and provisions relating to the per-
20 formance of its functions under title III and the use of
21 funds available therefor, as may be necessary in order
22 to assure (1) coordination of the program authorized
23 by this Act with related Federal planning assistance
24 programs, including the program authorized under sec-
25 tion 701 of the Housing Act of 1954 and (2) appro-

1 prate utilization of other Federal agencies administering
2 programs which may contribute to achieving the pur-
3 poses of this Act.

4 “(c) shall make such other rules and regulations
5 as it may deem necessary or appropriate for carrying
6 out its duties and responsibilities under the provisions of
7 this Act.”

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 17, 1971.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on S. 632, a bill to amend the Water Resources Planning Act (79 Stat. 244) to include provision for a national land use policy by broadening the authority of the Water Resources Council and river basin commissions and by providing financial assistance for statewide land use planning.

We recommend that in lieu of S. 632 there be enacted S. 992, the Administration's National Land Use Policy Act of 1971.

S. 632 expands the scope of the Water Resources Planning Act to include as an additional function of the Water Resources Council, the administration of a national land use policy and program which is contained in title III of the bill.

Titles I, II and IV of S. 632 are basically the original Water Resources Planning Act rewritten to reflect the expanded function of the Water Resources Council, renamed the "Land and Water Resources Council," and to expand the duties of the river basin commissions to include coordination of land use activities.

Title III of S. 632 is the most significant addition to the Water Resources Planning Act. It creates "A National Land Use Policy and program of assistance to the States." The extensive statement of findings, policy and purpose which preface title III vividly outlines the need for far-reaching changes in the ways in which land use decisions are made in this country. It cites the irreparable environmental damage, the waste of human and economic resources, and the proliferating urban sprawl which has resulted from lack of planning and coordination in land use decisions. Issues of lasting concern to the well-being of a State, region or even of the Nation are frequently decided on the basis of expediency or the short term economic benefit to individuals or local communities, to the detriment of the broader interests.

On February 8, 1971, in his message to the Congress on the environment, President Nixon stated:

"The use of our land not only affects the natural environment but shapes the pattern of our daily lives. Unfortunately, the sensible use of our land is often thwarted by the inability of the many competing and overlapping local units of government to control land use decisions which have regional significance.

"While most land use decisions will continue to be made at the local level, we must draw upon the basic authority of State government to deal with land use issues which spill over local jurisdictional boundaries. The States are uniquely qualified to effect the institutional reform that is so badly needed, for they are closer to the local problems than is the Federal Government and yet removed enough from local tax and other pressures to represent the broader regional interests of the public. Federal programs which influence major land use decisions can thereby fit into a coherent pattern."

On February 11, 1971, this Department sent to Congress the Administration's proposed bill to establish a national land use policy. This bill has been introduced and is now pending before your Committee as S. 992. For reasons discussed below, we feel that S. 992 will better accomplish the important objectives common to both bills than S. 632, and we recommend that S. 992 be enacted in lieu of S. 632.

Both bills are directed at the same basic problem and there are many similarities in the proposed solutions. Both recognize that the States have primary constitutional authority for land use regulation and both would encourage, by means of Federal grants, the States to exercise this authority better. Grants are conditioned upon compliance with specific statutory criteria which largely consist of procedural directives. The State must establish a land use planning agency with sufficient authority to develop methods for controlling certain types of land use. Both bills provide for coordination of State plans with plans of other States, Federal agencies or other interested parties.

Both bills require Federal actions and federally-supported activities generally to conform to federally approved State plans.

Of all man's activities, his use of the land has the most far-reaching impact on the environment. Adverse impacts are often irreversible, and as pressures from population and economic growth expand, the number of adverse impacts will increase. To reverse trends which could in a few life times cause irretrievable damage to the natural values formed through billions of years, will require nothing less than a profound reshaping of the institutions and attitudes that make up the pattern of land use in this country; attitudes toward property and natural resources that date back to the American frontier and before.

This will not be accomplished overnight, or by a single piece of legislation. It will certainly require the efforts of all the sectors of our society working together to provide a quality environment based on ecologically sound principles of development.

The National Environmental Policy Act and other specific pollution control measures have brought us closer to this goal. S. 992 and S. 632 are intended to be a next logical step. The principal difference between them is, in our view, that S. 632 tries to cover so much ground in a single stride that its directives sometimes lack clarity and sharp focus. The efforts it seeks to promote are likely to be too widely diffused to achieve its objectives. The expressed aim of S. 632 is to develop a national land use policy incorporating "ecological, environmental, esthetic, economic, social and other appropriate factors." The bill further states that the policy would favor ecologically sound land use planning, management and development and, at the same time, foster beneficial economic activity in all States and regions of the United States, favorably influence patterns of migration to make available to the American people a wide range of scenic, environmental and cultural amenities, revitalize rural communities, facilitate coordination of Federal programs, and systematize methods for the exchange of land use, environmental and ecological information.

This charter is so all encompassing that its objectives are not brought into sharp focus and the effort it engenders will, we feel, be diffused too broadly to accomplish meaningful results.

Much of the effort it promotes is directed at developing planning data and data exchange centers. The immediate problem is not, in our view, attributable to lack of good plans but to the lack of effective methods to implement them. Until the institutions which control land use are restructured, the further accumulation of planning data would be largely fruitless.

SELECTIVE IDENTIFICATION OF PRIORITIES

The Administration's bill is more selective and specific and for that reason, we feel has a greater probability of achieving its overall aims. It concentrates on what we consider the two most immediate aspects of the problem: reforming the State institutions in which land use decisions of more than local concern are made, and coordinating Federal programs or federally supported programs which have an impact on land use.

The State agency provided for in the Administration's bill would not, as in S. 632, be responsible for planning and control of land use for virtually the entire State. S. 992 recognizes that the great majority of land use decisions are of purely local interest and should continue to be made locally. The Administration's bill would require the State agency to regulate only those land use decisions which the State decides are of more than local importance.

Narrowing the scope of the bill in this way serves two purposes. First, it concentrates State and Federal resources on the most critical problems; and second, it limits State involvement in local affairs to those issues of State or regional importance. Where the State does become involved, it will not always be to the detriment of local interests. A Statewide planning agency may provide a stability and continuity necessary for certain types of development. Other issues will involve decisions which might not result in increase of the local tax revenues, normally an important consideration to any community, but which might produce greater long term benefits to the community as, for example, by assuring available recreation areas to attract future residents.

As the States gain experience in developing methods to effectively implement land use plans, they and the Federal agency which administers the program, will develop a better grasp of the type of planning data which is relevant to effective land use planning.

FEDERAL JURISDICTION

A major specific difference between S. 992 and S. 632 is the provision for Federal jurisdiction over the program. S. 632 gives Federal administrative control to an expanded Water Resource Council whereas the Administration's bill places primary administrative responsibility in the Department of the Interior with provision that no program management grant will be approved unless the Secretary of Housing and Urban Development is satisfied that those aspects of the State program dealing with large-scale development, key facilities development of land use of regional benefit and new communities meet the bills requirements for such grants.

The Department of the Interior has leading land and natural resource management expertise in the Federal government. The Department of Housing and Urban Development has leading expertise in urban planning. Both Departments currently conduct or sponsor a great number of Federal programs which would directly relate to and require coordination with approved State land use plans. Accordingly, we feel that S. 992 is highly preferable in this respect.

ORGANIZATION OF STATE AGENCY

S. 632 contains some fairly specific requirements for the make up of the State agency. (§§ 304, 305). S. 992, in keeping with the Administration's objective of giving maximum responsibility to the States, provides simply (§ 104(g)) that the Governor shall develop the organizational basis for the program. Following this principle the Administration's proposal provides a variety of acceptable methods for implementing the program ranging from court enforcement of State set standards to outright State regulation or joint State-local regulations with a provision for the State to override the locality in cases of more than local impact. Land acquisition authority is intentionally omitted. State acquisition is regarded as the least desirable means of accomplishing sound environmental planning since it is costly and tends to discourage constructive innovation. Moreover, the burden of managing the acquired land might divert the agency from its principal objective.

COASTAL ZONE

The Administration's bill gives specific attention to the coastal zone which includes river estuaries, coastal marshes and all other coastal wetlands. These areas are choice targets for developers. When filled they provide easily developed, choice waterfront property. Marine biologists have long realized that these areas are essential breeding grounds and nurseries for much of the marine population. To destroy our coastal wetlands may produce short term economic gain but greater long term losses.

Since the principal threat to these coastal areas is essentially land based activity, we are treating the coastal zone problem in the broader context of comprehensive land-use policy.

To assure that coastal zone and estuarine management receive the priority attention of coastal States, S. 992 would identify the coastal zones and estuaries as "areas of critical environmental concern" and require that a State's land use program include a method for inventorying and designating such areas. Further the Secretary would be authorized to make grants for program management only if State laws affecting land use in the coastal zone and estuaries take into account (1) the aesthetic and ecological values of wetlands for wildlife habitat, food production sources for aquatic life, recreation, sedimentation control, and shoreland storm protection and (2) the susceptibility of wetlands to permanent destruction through draining, dredging,

and filling, and the need to restrict such activities. Most important, perhaps, funds for program development and management would be allocated to the States under regulations which must take into account the nature and extent of coastal zones and estuaries.

S. 632 makes no specific provision for the problems of the coastal zone.

PROGRAM DEVELOPMENT GRANTS

The Administration's bill provides two annual "program development grants" conditioned on expressed intent to use the money to develop a land use program meeting the requirements of the Act. S. 632 embodies the same concept of a program development grant with two differences: it extends the period of eligibility from two to five years and adds nine specific conditions for "continued grant eligibility" during the five years. It is unclear to what extent each condition must be met by the end of each year. In any event we feel that two years is sufficient time to develop the basic program and that successive grants should be conditioned upon specific accomplishments.

AUTHORIZED FUNDING

A major difference between the two bills is the amount authorized and the sharing formula. S. 632 authorizes \$100 million annually with the Federal government paying up to 90% of the costs in the first five years and 66 $\frac{2}{3}$ % thereafter. S. 992 authorizes \$20 million annually for fiscal years 1972 through 1976 with the Federal government paying up to 50% of all costs.

The lower amount provided by S. 992 is consistent with its selective identification of priorities. We feel that Federal dollars are better spent by concentrating efforts on the areas where the needs are greatest and the objectives more specific. Several States are already moving toward some of the objectives of S. 992. Today all States have some form of planning department as compared with only 39 in 1960. A number of States have laws meeting some of the requirements of the Act and the number is increasing. Therefore we feel that the amount of funds and the sharing ratio provided in S. 992 for grant assistance is reasonable.

FEDERAL PROGRAMS RELATION TO STATE PLANS

Neither bill includes Federal land within the State plans. Both bills require that except in case of overriding national interest, Federal programs and federally assisted programs shall be "in accordance" (S. 632) or "consistent" (S. 992) with approved State plans.

S. 992 provides that where a State has no approved plan any major Federal action proposed after December 31, 1974 which would significantly affect the use of non-federal lands must be preceded by a public hearing at least 180 days in advance, to determine the effect of the action on land use. We feel that this is preferable to the provision of S. 632 which, if a State fails to submit a Statewide land use plan within 5 years after the issuance of regulations by the council, would prohibit any new federally supported action which "may have a substantial adverse environmental impact or which would or would tend to irreversibly or irretrievably commit substantial land or water resources" in the State unless the President intervened for the sake of public health, safety or welfare. It is unclear what would constitute a plan for the purposes of this provision.

Accordingly, for the reasons recited above, we recommend that S. 992 be enacted in lieu of S. 632.

The Office of Management and Budget has advised that there is no objection to the presentation of this report and that enactment of S. 992 is in accord with the program of the President.

Sincerely yours,

ROGERS C. B. MORTON,
Secretary of the Interior.

92D CONGRESS
1ST SESSION

S. 992

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25 (legislative day, FEBRUARY 17), 1971

Mr. BYRD of West Virginia (for Mr. JACKSON) (for himself, Mr. ALLOTT, Mr. BELLMON, Mr. FANNIN, Mr. HATFIELD, Mr. JORDAN of Idaho, and Mr. STEVENS) (by request) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To establish a national land use policy; to authorize the Secretary of the Interior to make grants to encourage and assist the States to prepare and implement land use programs for the protection of areas of critical environmental concern and the control and direction of growth and development of more than local significance; and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That this Act may be cited as the "National Land Use Policy
- 4 Act of 1971".

2

1 FINDINGS AND DECLARATIONS OF POLICY

2 SEC. 101. (a) The Congress hereby finds and declares
3 that decisions about the use of land significantly influence the
4 quality of the environment, and that present State and local
5 institutional arrangements for planning and regulating land
6 use of more than local impact are inadequate, with the
7 result—

8 (1) that important ecological, cultural, historic, and
9 aesthetic values in areas of critical environmental con-
10 cern which are essential to the well-being of all citizens
11 are being irretrievably damaged or lost;

12 (2) that coastal zones and estuaries, flood plains,
13 shorelands, and other lands near or under major bodies
14 or courses of water which possess special natural and
15 scenic characteristics are being damaged by ill-planned
16 development that threaten these values;

17 (3) that key facilities such as major airports, high-
18 way interchanges, and recreational facilities are inducing
19 disorderly development and urbanization of more than
20 local impact;

21 (4) that the implementation of standards for the
22 control of air, water, noise, and other pollution is im-
23 peded;

24 (5) that the selection and development of sites for

3

1 essential private development of regional benefit has
2 been delayed or prevented;

3 (6) that the usefulness of Federal or federally
4 assisted projects and the administration of Federal pro-
5 grams are being impaired;

6 (7) that large-scale development often creates a
7 significant adverse impact upon the environment.

8 (b) The Congress further finds and declares that there
9 is a national interest in encouraging the States to exercise
10 their full authority over the planning and regulation of non-
11 Federal lands by assisting the States, in cooperation with
12 local governments, in developing land use programs includ-
13 ing unified authorities, policies, criteria, standards, methods,
14 and processes for dealing with land use decisions of more
15 than local significance.

16 DEFINITIONS

17 SEC. 102. For purposes of this Act, (a) "Areas of
18 critical environmental concern" are areas where uncon-
19 trolled development could result in irreversible damage to
20 important historic, cultural, or esthetic values, or natural
21 systems or processes, which are of more than local signifi-
22 cance; or life and safety as a result of natural hazards of
23 more than local significance. Such areas shall include:

24 (1) Coastal zones and estuaries: "Coastal zones"

4

1 means the land, waters, and lands beneath the waters
2 in close proximity to the coastline (including the Great
3 Lakes) and strongly influenced by each other, and
4 which extend seaward to the outer limit of the United
5 States territorial sea and include areas influenced or
6 affected by water from an estuary such as, but not
7 limited to, salt marshes, coastal and intertidal areas,
8 sounds, embayments, harbors, lagoons, inshore waters,
9 channels, and all other coastal wetlands. "Estuary"
10 means the part of the mouth of a river or stream or
11 other body of water having unimpaired natural connec-
12 tion with the open sea and within which the sea water
13 is measurably diluted with fresh water derived from
14 land drainage.

15 (2) shorelands and flood plains of rivers, lakes, and
16 streams of State importance;

17 (3) rare or valuable ecosystems;

18 (4) scenic or historic areas; and

19 (5) such additional areas of similar valuable or
20 hazardous characteristics which a State determines to
21 be of critical environmental concern.

22 (b) "Key facilities" are public facilities which tend to
23 induce development and urbanization of more than local
24 impact and include the following:

25 (1) any major airport that is used or is designed
26 to be used for instrument landings;

1 (2) interchanges between the Interstate Highway
2 System and frontage access streets or highways; major
3 interchanges between other limited access highways and
4 frontage access streets or highways; and

5 (3) major recreational lands and facilities.

6 (c) "Development and land use of regional benefit"
7 includes land use and private development for which there
8 is a demonstrable need affecting the interests of constituents
9 of more than one local government which outweighs the
10 benefits of any applicable restrictive or exclusionary local
11 regulations.

12 (d) "State" includes the fifty States of the United
13 States, the Commonwealth of Puerto Rico, Guam, American
14 Samoa, and the Virgin Islands.

15 PROGRAM DEVELOPMENT GRANTS

16 SEC. 103. (a) The Secretary of the Interior (herein-
17 after referred to as the "Secretary") is authorized to make
18 not more than two annual grants to each State to assist that
19 State in developing a land use program meeting the require-
20 ments set forth in section 104 of this Act. Such grants shall
21 not exceed 50 per centum of the costs of program develop-
22 ment. Prior to making the first grant, the Secretary shall be
23 satisfied that such grant will be used in development of a
24 land use program meeting the requirements set forth in sec-
25 tion 104. Prior to making a second grant, the Secretary shall

1 be satisfied that the State is adequately and expeditiously
2 proceeding with the development of a land use program
3 meeting the requirements of section 104.

4 (b) States receiving grants pursuant to this section
5 shall submit to the Secretary not later than one year after the
6 date of award of the grant a report on work completed toward
7 the development of a State land use program. A State land
8 use program meeting the requirements of section 104 of this
9 Act shall satisfy the requirements for such a report.

10 (c) The authority to make grants under this section ex-
11 pires three years from date of enactment.

12 PROGRAM MANAGEMENT GRANTS

13 SEC. 104. Following his review of a State's land use pro-
14 gram, the Secretary is authorized to make a grant to that
15 State to assist it in managing the State land use program.
16 Successive grants for this purpose may be made annually to
17 any State resubmitting its land use program for review by
18 the Secretary. Grants made pursuant to this section shall not
19 exceed 50 per centum of the cost of managing the land use
20 program. Grants authorized by this section shall be made by
21 the Secretary only if, in his judgement:

22 (a) the State's land use program includes:

23 (1) a method for inventorying and designating
24 areas of critical environmental concern;

1 (2) a method for inventorying and designating
2 areas impacted by key facilities;

3 (3) a method for exercising State control over
4 the use of land within areas of critical environ-
5 mental concern and areas impacted by key facilities;

6 (4) a method for assuring that local regula-
7 tions do not restrict or exclude development and
8 land use of regional benefit;

9 (5) a policy for influencing the location of
10 new communities and a method for assuring appro-
11 priate controls over the use of land around new
12 communities;

13 (6) a method for controlling proposed large-
14 scale development of more than local significance in
15 its impact upon the environment;

16 (7) a system of controls and regulations per-
17 taining to areas and developmental activities pre-
18 viously listed in this subsection which are designed to
19 assure that any source of air, water, noise, or other
20 pollution will not be located where it would result in
21 a violation of any applicable air, water, noise, or
22 other pollution standard or implementation plan;

23 (8) a method for periodically revising and up-
24 dating the State land use program to meet changing
25 conditions; and

1 (9) a detailed schedule for implementing all
2 aspects of the program.

3 For purposes of complying with paragraphs (1)
4 through (7) of this subsection (a), any one or a com-
5 bination of the following general techniques is accept-
6 able: (i) State establishment of criteria and standards
7 subject to judicial review and judicial enforcement of
8 local implementation and compliance; (ii) direct State
9 land use planning and regulation; (iii) State adminis-
10 trative review of local land use plans, regulations and
11 implementation with full powers to approve or dis-
12 approve.

13 (b) in designating areas of critical environmental
14 concern, the State has not excluded any areas of critical
15 environmental concern to the Nation.

16 (c) in controlling land use in areas of critical en-
17 vironmental concern to the Nation, the State has pro-
18 cedures to prevent action (and, in the case of successive
19 grants, the State has not acted) in substantial disregard
20 for the purposes, policies and requirements of its land
21 use program.

22 (d) States laws, regulations and criteria affecting
23 areas and developmental activities listed in subsection
24 (a) of this section are in accordance with the policy,
25 purpose and requirements of this Act; and that State

1 laws, regulations and criteria affecting land use in the
2 coastal zone and estuaries further take into account:

3 (1) the esthetic and ecological values of wet-
4 lands for wildlife habitat, food production sources
5 for aquatic life, recreation, sedimentation control,
6 and shoreland storm protection; and

7 (2) the susceptibility of wetlands to perma-
8 nent destruction through draining, dredging, and
9 filling, and the need to restrict such activities.

10 (e) the State is organized to implement its State
11 land use program.

12 (f) the State land use program has been reviewed
13 and approved by the Governor.

14 (g) the Governor has appropriate arrangements
15 for administering the land use program management
16 grant.

17 (h) the State, in the development, revision, and
18 implementation of its land use program, has provided
19 for adequate dissemination of information and for ade-
20 quate public notice and public hearings.

21 (i) the State has:

22 (1) coordinated with metropolitanwide plans
23 existing on January 1 of the year in which the State
24 land use program is submitted to the Secretary,
25 which plans have been developed by an areawide

1 agency designated pursuant to regulations estab-
2 lished under section 204 of the Demonstration Cities
3 and Metropolitan Development Act of 1966;

4 (2) coordinated with appropriate neighboring
5 States with respect to lands and waters in interstate
6 areas;

7 (3) taken into account the plans and programs
8 of other State agencies and of Federal and local
9 governments.

10 (j) the State utilizes for the purpose of furnishing
11 advice to the Federal Government as to whether Fed-
12 eral and federally assisted projects are consistent with
13 the State land use program, procedures established pur-
14 suant to section 204 of the Demonstration Cities and
15 Metropolitan Development Act of 1966, and title IV of
16 the Intergovernmental Cooperation Act of 1968.

17 FEDERAL REVIEW OF GRANT APPLICATIONS AND
18 STATE LAND USE PROGRAMS

19 SEC. 105. (a) The Secretary before making a program
20 management grant pursuant to section 104, shall consult
21 with the heads of all Federal agencies which conduct or
22 participate in construction, development, or assistance pro-
23 grams significantly affecting land use in the State, and shall
24 consider their views and recommendations. The Secretary
25 shall not approve a grant pursuant to section 104 until he

1 has ascertained that the Secretary of Housing and Urban
2 Development is satisfied that those aspects of the State's
3 land use program dealing with large-scale development, key
4 facilities, development and land use of regional benefit, and
5 new communities meet the requirements of section 104 for
6 funding of a program management grant.

7 (b) The Secretary shall take final action on a State's
8 application for a grant authorized under section 104 not
9 later than six months following receipt for review of the
10 State's land use program.

11 CONSISTENCY OF FEDERAL ACTIONS WITH STATE

12 LAND USE PROGRAMS

13 SEC. 106. (a) Federal projects and activities signifi-
14 cantly affecting land use shall be consistent with State land
15 use programs funded under section 104 of this Act except in
16 cases of overriding national interest. Program coverage and
17 procedures provided for in regulations issued pursuant to
18 section 204 of the Demonstration Cities and Metropolitan
19 Development Act of 1966 and title IV of the Intergovern-
20 mental Cooperation Act of 1968 shall be applied in deter-
21 mining whether Federal projects and activities are consistent
22 with State land use programs funded under section 104 of
23 this Act.

24 (b) After December 31, 1974, or the date the Secre-
25 tary approves a grant under section 104, whichever is

1 earlier, Federal agencies submitting statements required by
2 section 102 (2) (C) of the National Environmental Policy
3 Act shall include a detailed statement by the responsible
4 official on the relationship of proposed actions to any ap-
5 plicable State land use program which has been found eli-
6 gible for a grant pursuant to section 104 of this Act.

7 FEDERAL ACTION IN THE ABSENCE OF STATE LAND
8 USE PROGRAMS

9 SEC. 107. Where any major Federal action significantly
10 affecting the use of non-Federal lands is proposed after
11 December 31, 1974, in a State which has not been found
12 eligible for a program management grant pursuant to sec-
13 tion 104 of this Act, the responsible Federal agency shall
14 hold a public hearing in that State at least one hundred
15 eighty days in advance of the proposed action concerning
16 the effect of the action on land use taking into account the
17 relevant considerations set out in section 104 of this Act,
18 and shall make findings which shall be submitted for review
19 and comment by the Secretary, and where appropriate, by
20 the Secretary of Housing and Urban Development. Such
21 findings of the responsible Federal agency and comments
22 of the Secretary or the Secretary of Housing and Urban
23 Development shall be part of the detailed statement re-
24 quired by section 102 (2) (C) of the National Environ-
25 mental Policy Act (42 U.S.C. 4321 et seq.). This section

1 shall be subject to exception where the President deter-
2 mines that the interests of the United States so require.

3 AVAILABILITY OF FEDERAL EXPERTISE

4 SEC. 108. (a) The Secretary shall provide advice upon
5 request to States concerning the designation of areas of criti-
6 cal environmental concern to the Nation.

7 (b) Federal agencies with data or expertise relative to
8 land use and conservation shall take appropriate measures,
9 subject to appropriate arrangement for payment or reim-
10 bursement, to make such data or expertise available to States
11 for use in preparation, implementation, and revision of State
12 land use programs.

13 GUIDELINES

14 SEC. 109. The President is authorized to designate an
15 agency or agencies to issue guidelines to the Federal agencies
16 to assist them in carrying out the requirements of this Act.

17 ALLOCATION OF FUNDS

18 SEC. 110. (a) Funds for grants authorized by sections
19 103 and 104 of this Act shall be allocated to the States
20 based on regulations issued by the Secretary which shall
21 take into account State population and growth; nature and
22 extent of coastal zones and estuaries and other areas of
23 critical environmental concern and other relevant factors.

24 (b) No grant funds shall be used to acquire real prop-
25 erty.

14

1 (c) A refusal by the Secretary to provide a program
2 development or program management grant authorized by
3 this Act shall be in writing.

4 MISCELLANEOUS

5 SEC. 111. (a) The Secretary shall develop, after appro-
6 priate consultation with other interested parties, both Fed-
7 eral and non-Federal, such rules and regulations covering
8 the submission and review of applications for grants au-
9 thorized by sections 103 and 104 as may be necessary to
10 carry out the provisions of this Act.

11 (b) A State receiving a grant under the provisions of
12 section 103 or 104 of this Act, the agency designated by
13 the Governor to administer such grant, and State agencies
14 allocated a portion of a grant shall make reports and eval-
15 uations in such form, at such times, and containing such
16 information concerning the status and application of Federal
17 funds and the operation of the approved management pro-
18 gram as the Secretary may require, and shall keep and make
19 available such records as may be required by the Secretary
20 for the verification of such reports and evaluations.

21 (c) The Secretary, and the Comptroller General of the
22 United States, or any of their duly authorized representa-
23 tives, shall have access, for purposes of audit and examina-
24 tion, to any books, documents, papers, and records of a grant

15

1 recipient that are pertinent to the grant received under the
2 provisions of section 103 or 104 of this Act.

3 (d) Nothing herein shall be interpreted to extend the
4 territorial jurisdiction of any State.

5 (e) Nothing herein shall be construed to imply Federal
6 consent to or approval of any State or local actions which
7 may be required or prohibited by other Federal statutes or
8 regulations.

9 APPROPRIATION AUTHORIZATION

10 SEC. 112. (a) There are hereby authorized to be appro-
11 priated not to exceed \$20,000,000 in each fiscal year, 1972
12 through 1976, for grants authorized by sections 103 and 104
13 of this Act, such funds to be available until expended.

14 (b) There are hereby authorized to be appropriated
15 such sums as may be necessary for the Secretary of the
16 Interior and the Secretary of Housing and Urban Develop-
17 ment to administer the program established by this Act.

SECTION-BY-SECTION ANALYSIS

The proposed bill would establish a National Land Use Policy to encourage the States to plan and regulate land use in certain critical areas.

Section 101.—declares Congressional findings that present State and local institutional arrangements for planning and regulating land use are inadequate and have resulted in haphazard land development and the loss of important environmental values. It is in the national interest to encourage and assist the States in strengthening the institutional framework for planning and controlling the use of non-Federal lands.

Section 102.—contains definitions. "Areas of critical environmental concern" are areas where uncontrolled development could result in irreversible damage to important values. Such areas include coastal zones and estuaries and other similar areas. "Key facilities" are public facilities which tend to induce development of more than local impact, such as airports and highway interchanges. "Development and land use of regional benefit" means private development, the regional need for which outweighs a local conflicting interest.

Section 103.—authorizes the Secretary of the Interior to make two successive annual grants of up to 50% of the cost to States of developing a land use program. Prior to receiving the second grant, the State must submit a report of its progress in developing a program.

Section 104.—authorizes the Secretary to make grants of up to 50% of the cost to States of managing their land use program. Such grants will be made only if the State program, in the Secretary's judgment, meets certain specified criteria. It must include methods for inventorying, designating and exercising State control over areas of critical environmental concern and areas impacted by key facilities, a method for assuring that local regulations do not restrict land use and private development of regional benefit, a policy for influencing the location of new communities, a method for controlling the use of land around new communities, a method for controlling proposed large-scale development of more than local impact on the environment and a detailed schedule for implementing all aspects of the program. The program must not exclude areas of critical environmental concern to the Nation and must take into account the unique values and fragile nature of coastal zones and estuaries, particularly coastal wetlands. The program must also meet certain other organizational and procedural requirements.

Section 105.—requires the Secretary to consult with Federal agencies with activities or programs affecting land use before making a program management grant. The Secretary shall not approve such a grant unless the Secretary of Housing and Urban Development is satisfied that those aspects of the State land use program dealing with large-scale development and key facilities, development and land use of regional benefit, and new communities meet the requirements of section 104. The Secretary shall act on a program management grant application within 6 months after receipt of the State's land use program.

Section 106.—establishes a requirement for consistency of Federal projects and activities with State land use programs. It also requires that Federal agencies submitting environmental statements pursuant to the National Environmental Policy Act include a detailed statement of the relationship of the proposed Federal action to any applicable State land use program which has been found eligible for a management grant.

Section 107.—requires that where a State has not been found eligible for a management grant, any major Federal action significantly affecting the use of non-Federal lands proposed after December 31, 1974, must be preceded by a public hearing at least 180 days before the proposed action, followed by detailed findings upon which the Secretaries of the Interior or Housing and Urban Development will be allowed to comment, unless the President determines that the interests of the United States are to the contrary.

Section 108.—authorizes the Secretary to provide advice upon request to States about areas of critical environmental concern to the Nation and directs Federal agencies to share pertinent expertise with the States.

Section 109.—authorizes the President to designate an agency to issue guidelines to assist Federal agencies carrying out their responsibilities under the Act.

Section 110.—authorizes the Secretary to allocate grant funds to the States on the basis of State population and growth, extent of coastal areas and

areas of critical environmental concern and other relevant factors. No grant funds shall be used by the State to acquire real property.

Section 111.—authorizes the Secretary to develop, in consultation with other interested parties, rules and regulations covering the submission and review of grant applications and to require reports concerning the status and operation of the program. It requires that certain records be kept and authorizes the Secretary and the Comptroller General to audit and examine such records. It further provides that nothing in this Act shall extend State territorial jurisdiction or be construed to conflict with other Federal statutes or regulations.

Section 112.—authorizes the appropriation of \$20 million in each fiscal year 1972 through 1976 for grants to States. It further authorizes the appropriation of such sums as necessary for the Departments of Interior and Housing and Urban Development to administer the program.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 11, 1971.

HON. SPIRO T. AGNEW.
President of the U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of a proposed bill "To establish a national land use policy to authorize the Secretary of the Interior to make grants to encourage and assist the States in the preparation and implementation of land use programs for the protection of areas of critical environmental concern and the control and direction of growth and development of more than local significance; and for other purposes."

We recommend that the bill be referred to the appropriate committee for consideration and we recommend that it be enacted.

This legislative proposal was referred to in President Nixon's message on the environment, which was submitted to the Congress on February 8, 1971. In it President Nixon stated:

"The use of our land not only affects the natural environment but shapes the pattern of our daily lives. Unfortunately, the sensible use of our land is often thwarted by the inability of the many competing and overlapping local units of government to control land use decisions which have regional significance.

"While most land use decisions will continue to be made at the local level, we must draw upon the basic authority of State government to deal with land use issues which spill over local jurisdictional boundaries. The States are uniquely qualified to effect the institutional reform that is so badly needed, for they are closer to the local problems than is the Federal Government and yet removed enough from local tax and other pressures to represent the broader regional interests of the public. Federal programs which influence major land use decisions can thereby fit into a coherent pattern."

The proposed bill encourages the States to exercise their responsibility more fully to deal with certain critical land use problems of more than local impact. Under the proposal Federal grants would be made to assist States in developing and managing land use programs. Grants for up to 50% of cost would be made to develop State land use programs, including plans covering selected areas, and laws or regulations necessary to implement the programs.

Grants would also be made for up to 50% of the cost of managing State land use programs which meet certain requirements set forth in the draft bill. For example, the programs should include methods for inventorying, designating and exercising control over the use of land within areas of critical environmental concern or areas impacted by key facilities, as well as methods for controlling large-scale development and methods for assuring that local laws and regulations do not restrict development of regional benefit, and for controlling land use around new communities.

The proposed bill authorizes the President to designate an agency to issue guidelines to assist Federal agencies in carrying out the requirements of this Act. I understand that the President intends to give this responsibility to the Council on Environmental Quality.

While the Department of the Interior is assigned the primary responsibility for the administration of this program, the Department of Housing and Urban Development will share this responsibility with regard to those aspects of the State land use program dealing with large-scale development, key facilities, development and land use of regional benefit and new communities.

A section-by-section analysis of the bill is enclosed.

The Office of Management and Budget has advised that enactment of this proposed legislation would be in accord with the program of the President.

Sincerely yours,

ROGERS C. B. MORTON,
Secretary of the Interior.

STATEMENT OF HON. ROGERS C. B. MORTON, SECRETARY, DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY HARRISON LOESCH, ASSISTANT SECRETARY

Secretary MORTON. Thank you, Mr. Chairman. I have Assistant Secretary Loesch with me. And also with me and available for questions are Mr. Bracken, legislative counsel, and Mr. Allen, his assistant who has done a lot of work on this bill.

The CHAIRMAN. We are glad to have you gentlemen present.

Secretary MORTON. Mr. Chairman, it is a great pleasure for me to appear before this distinguished committee today to discuss legislation to create a national land use policy.

It was just over a year ago that I testified before your committee on the same subject. At that time I said I was wearing two hats, one as a Congressman from the State of Maryland and the other as an individual firmly convinced that the existing system of land controls in this country needs complete overhaul if the land is to continue to sustain useful and productive life.

This time I wear a different hat, but my conviction is stronger than ever. And, due in part to the efforts of this committee, a great many other Americans are coming to share that conviction.

We are beginning, Mr. Chairman, to realize that most of our environmental ailments are the result, not of men scheming to destroy the country for their own profit, but simply a lack of foresight, planning, and coordination in activities that affect the environment.

The American genius for attacking problems by breaking them down into narrow areas of specialization has made us the world leader in technology and production; it has also been responsible for many of our environmental problems. The single-minded purpose with which we have pursued development goals has often blinded us to the environmental consequences of these activities.

Government programs, frequently single minded, are often at cross-purposes with one another and with the environment.

Examples of our failures are everywhere. Our population continues to migrate to high density urban areas which lack adequate parks, recreation areas, and many other amenities. What little open space remains is in jeopardy of being turned into new parkways, which bring more traffic congestion, noise, and fumes into our metropolitan areas.

Irreplaceable wildlife habitat, particularly coastal wetlands, are being swallowed up in large chunks by developers seeking lines of

least resistance to locate activities which may have unforeseen environmental effects.

Underground water tables in some areas of our country are being drained so heavily that springs and streams are drying up and sea water is seeping into wells. It is happening at this moment in south Florida, where the ground water has sunk to alarmingly low levels, putting municipal water supplies in jeopardy from sea water. It has happened in recent years on Long Island; at Savannah and Brunswick, Ga.; at Houston, Tex.; in the Los Angeles-Long Beach area.

A few years ago during the long east coast drought, heavy usage of the Delaware River by New York and other municipalities had reduced the flow of that great river so that Philadelphia's fresh water intakes were menaced by ocean tidal flows.

Manmade lakes—from Barcroft and Occoquan in nearby Virginia, to Lake Mead behind the Hoover Dam—are silting up. And the mineral content of the waters we drink and use for every purpose is changing. On parts of the Colorado River, scientists of the Geological Survey have calculated that salinity is double what it was when the river ran free.

We are learning painfully that the environment cannot be dealt with piecemeal. We can do much to restore the damage, but often at very great cost, and even then it may be no more than a temporary holding action. We can reinject sewage effluent into the ground under pressure as a buffer against sea water incursions, but we have much to learn about the problems involved. We can build expensive diversion works to reduce the salinity of the Colorado and other rivers, but the side effects remain to be fully measured.

Natural systems answer to their own impersonal laws of physics and chemistry and biology. They are naturally interdependent. We tamper with them at our peril. John Muir, the great naturalist, understood this when, with insight unusual for his era, he said: "When we try to pick out anything by itself, we find it hitched to everything in the universe."

The land is our basic resource. It supports most of our natural systems, and its misuse has grave consequence.

Therefore, I wholeheartedly endorse the administration's proposal for a national land use policy. I believe that to reverse the patterns of land use which have led to so many environmental shortcomings will require far-reaching changes in the attitudes and institutions which govern land use in this country; attitudes toward property and natural resources which can be traced back to the American frontier when land was virtually inexhaustible. Today when a farm is worn out, the farmer can no longer simply move on to a new one.

We need to develop a new respect for the totality of nature in our use of the land. We need to learn to regard the environment as a whole system, not in isolated fragments.

This restructuring of basic attitudes and traditional institutions will not be accomplished overnight or by a single piece of legislation. It will require time and the concerted efforts of all sectors of our society.

A good foundation has already been laid, and this committee has been one of its architects. The National Environmental Policy Act signed by President Nixon on January 1, 1970, was one of the great

achievements of the 91st Congress and was in great part the work of your committee. It has given the Federal Government a new perspective on the environment. That act and other pollution control measures have brought us closer to the goal of a quality environment.

A national land use policy is the next logical step toward total environmental thinking. The two bills before the committee today are directed at this objective.

Your bill, Mr. Chairman, S. 632, is the successor of the bill I testified in support of before this committee a year ago. The public concern which was generated by those hearings was an important factor leading toward the administration's proposal, which I transmitted to Congress on February 11, 1971.

The two bills have many similarities. Both recognize that the primary constitutional authority for land use regulation resides in the States, and both seek to encourage the States, by means of Federal grants, to exercise this authority more fully, so that land use decisions will be based on broad consideration of sound environmental principles.

Under both bills, States, to receive grants, must establish land use planning agencies with sufficient authority to control certain types of land use. Both bills provide for coordination of State plans with plans of other States, Federal agencies or other interested parties.

Both bills require Federal actions and federally supported activities generally to conform to State-approved plans.

A major premise of the administration's bill is that the principal obstacle to environmentally sound land use is less a consequence of the lack of good land use plans or architectural models than of the lack of governmental institutions capable of implementing these plans. When zoning was accepted in the 1920's as a legitimate use of the State police power, State legislatures quickly and willingly delegated to the local governments within the State the authority to pass zoning ordinances.

Local zoning ordinances have become the traditional tool in dealing with land use problems. However effective this local control has been in dealing with purely local problems, it is increasingly clear that in dealing with land use issues which spill over local jurisdictional boundaries or involve values of statewide concern, it has often proved a hindrance. Environmental values frequently fall into this category. Where a proposed development project will increase local tax revenues and provide new jobs in the immediate community, noneconomic values will normally not be reflected in the decision unless the decision is made at a level where the countervailing interests of a larger region can override the local economic pressures.

An excellent example of the problem with local land use controls can be found in the south San Francisco Bay area of California. In the midst of a densely populated urban center, where open space and the natural environment are in short supply, marshlands of San Francisco Bay have been dredged, filled, and developed at an alarming rate. New communities replace wildlife habitat as the bay recedes. In the 20-year period between 1947 and 1967, some 256,000 acres, or 67 percent, of California's estuarine habitat was destroyed in this way. Not even the threat of subsidence, which has caused

land levels to fall 4 feet since 1960 in some areas, can deter new construction. On both sides of the South Bay from San Francisco to San Jose, less than 10 miles of shoreline remain available for public use by the 5 million people which inhabit the area.

Plans, and good intentions, abound, but neither have proved adequate in the absence of effective land use control. A welter of political subdivisions, including counties, cities, towns, and special service districts, is ill-equipped to resist the economic temptation of further development. Thus, those Bay front communities that would benefit most from preservation of the natural environment have been unwitting parties to its destruction. It now appears that nothing short of Federal intervention can help to save the day.

The administration's bill concentrates on the need for institutional reform. It does not, however, repudiate the entire existing State mechanism for land use control. It recognizes that the great majority of land use decisions are of purely local interest and should continue to be made at the local level. The administration's bill requires the State agency to select and regulate only those decisions which it considers to be of more than local importance. We have defined those issues more specifically as areas of critical environmental concern; areas impacted by key facilities such as airports, and major highway interchanges; land use and development of regional benefits; land around new communities; and large-scale development of more than local significance in its impact upon the environment.

I feel that this provision in the administration's bill for the selective identification by the State of those land use issues which should be decided on a higher than local level is a major improvement over S. 632. It has two distinct advantages. It concentrates State and Federal resources on the most critical problems and it minimizes State involvement in the affairs of the constituent governments.

Two other features should be noted. First, the administration's bill is not simply exclusionary or protectionist-designed to tell developers where they cannot develop. It is also designed to assist development and land use projects of regional benefit to overcome local exclusionary ordinances and find places where they can develop. The types of development we are talking about here are things which everyone agrees are necessary but no one wants in their own community such as waste-treatment facilities and institutions for incurables or mental patients.

The second important feature is a purposeful flexibility. We are asking the States to undertake the very delicate task of restructuring their relationship with their local governments. We in Washington cannot and should not try to tell the States exactly how to go about this. The administration's bill sets out three broad techniques which the States may use. The first is direct State regulation; the second is concurrent State and local regulation; the third is local implementation of State established criteria with judicial review and enforcement.

A major difference between the administration's bill and S. 632 is the provision for Federal administrative responsibility. The administration's bill places primary administrative responsibility in the Department of the Interior with provision that no program management grant will be approved unless the Secretary of Housing

and Urban Development is satisfied that those aspects of the State program dealing with large-scale development, key facilities, development of land use of regional benefit and new communities, meet the requirements for such grants.

S. 632 places Federal responsibility in an expanded Water Resources Council.

As the chairman of the Water Resources Council, I naturally am familiar with the fine job which it has done in keeping this country abreast of its water problems. However, the administration has concluded that an interagency type of organization does not have a sufficient base to provide the leadership for an effective Federal-State land use program.

The administration's bill puts Federal jurisdiction in the Departments of the Interior and Housing and Urban Development because of their recognized expertise in the fields of concern, and their extensive program contact with government officials at the State and local level.

It is unnecessary to review for this committee the range of land and natural resources management programs which are conducted in the Department of the Interior. Reclamation, power, natural resource and land management, wildlife management, recreation and mineral development are all essential aspects of land use.

The Department of Housing and Urban Development is, of course, the expert in urban development with its myriad of interrelated problems of transportation, energy, and essential services.

A major thrust of both H. 992 and 632 is to improve the coordination of Government programs. The President's proposal to reorganize seven of the executive departments is also directed at coordinating Government programs by consolidating functions into larger departments. The administration's land use policy proposal, I believe, will further the objective of coordination by vesting Federal jurisdiction in two line agencies rather than expanding the functions of an interagency council.

We have made some organizational changes in the Interior Department to accommodate this new program. I have formed a major new division within the Department to be directed by an Assistant Secretary for Programs. Within that division will be an Office of Regional Planning whose primary function will be river basin planning, economic development planning, regional planning for Alaska, plus responsibility for administration of the National Land Use Policy Act of 1971, and the Power Plant Siting Act of 1971 should those two bills be passed. We are now staffing this new division which, of course, in carrying out its land use and power siting responsibilities will draw upon the expertise of the Department's operating bureaus.

I would like to conclude, Mr. Chairman, by emphasizing my conviction that we can continue to have economic growth and prosperity in this country without sacrificing the environment and the quality of our life. But it will take a major effort on the part of all the sectors of our society. Our failure to act now could have grave consequences. We must learn to relate our activities to the integrity of the natural systems. The administration's National Land Use Policy Act of 1971 seeks to place land use planning on an environ-

mentally sound basis and to coordinate many of the activities which threaten to misuse this essential resource. It should be one of the very highest legislative priorities of this Congress. I sincerely hope the President will be given the opportunity to sign it into law before the year is out.

That concludes my prepared statement, Mr. Chairman. I will be happy to answer any questions. I apologize for the length of the statement, but I feel so strongly about it and so strongly about the importance of it that I wanted to cover all the bases.

The CHAIRMAN. Thank you, Mr. Secretary. It is a very fine and complete statement, and undoubtedly we will want to have a few questions answered.

But I think perhaps we will hear from the chairman of the Environmental Council first, and then perhaps questions may be posed either to you or to Mr. Train.

Mr. Train.

STATEMENT OF HON. RUSSELL E. TRAIN, CHAIRMAN, COUNCIL ON ENVIRONMENTAL QUALITY

Mr. TRAIN. Thank you, Mr. Chairman.

My statement has been distributed. If you will turn to the last page, you will see it is very extensive in terms of the number of pages. I submit it might be an imposition, both upon the Secretary and this committee, if I proceeded to read the entire statement.

I commend it to you. It goes into great detail on a number of matters with respect to which I think this committee will be very interested and concerned as it proceeds to develop the legislation.

The CHAIRMAN. We surely do want to examine it in detail. We at least would like to have a summary from you.

Mr. TRAIN. I do appreciate, Mr. Chairman, this opportunity to testify on this exceedingly important subject and to appear in support of the President's proposal for a national land use policy. In my view, it is a matter of the utmost urgency that we proceed now to develop more effective land use policies and regulations, nationwide.

I don't think there is any question but that the matter of effective land use controls is the single most critical element affecting the quality of our environment which remains substantially unaddressed as a matter of national policy.

As I point out in my statement, land is perhaps our most valuable resource. It is absolutely finite in quantity. There will never be any more of it. Yet, at the same time, with increasing populations, a growing economy, increasing technology, the pressures on this land are increasingly very rapidly. So that the time to act is very definitely now. We, indeed, cannot postpone acting effectively much longer if we are going to have an opportunity to do an effective job to protect this basic resource.

I think it is important to bear in mind that what we are talking about in terms of values is the basic resource, not just for our own use and enjoyment, but the basic resource upon which the quality of life and indeed the survival of all succeeding generations must be based.

So that the actions we take now, either consciously or by failure to make decisions, will necessarily affect the options of our children and their children. You will recall over a year ago I first testified here on the subject of a national land use policy. I think that the thrust of my testimony then was that we very much needed at that time public debate, congressional discussion, and a great deal more public understanding of the issues of land use than we then had.

We were talking about what I conceived as a rapidly evolving field of national policy interest, and the kind of legislation which this committee developed and presented to the Congress and made the subject of extensive hearings and discussion did a great deal, in our view, to provide that kind of public education and governmental education.

So that the leadership that this committee has taken in this field has been very significant and has made a very substantial contribution to what I think, as I have indicated, is a highly critical area of public policy.

In late 1969, the administration submitted to the Congress a proposed coastal zone management program. We had indicated to this committee the very high priority which the administration gave to land use as a matter of national priority. And I believe this commitment was borne out in the first instance by the coastal zone legislation which I described.

Following that, in the first annual report of the Council on Environmental Quality, which was transmitted to the Congress by the President last August, we devoted an entire chapter to the need for a national land use policy and to the identification and description of the problems of land use all across the Nation.

The President at the same time that he transmitted that report singled out land use as a matter of high national priority in need and he stated in part:

The time has come when we must accept the idea that none of us has a right to abuse the land and that on the contrary society as a whole has a legitimate interest in proper land use. There is a national interest in effective land use planning all across the nation.

With that very strong Presidential statement of purpose and commitment, our Council, in developing the President's legislative program in the field of environment for this year, devoted a great deal of attention to the need for a national land use policy and S. 992, which is now before this committee, was the result.

I might just say in the overall that the administration's objective, as set forth at the bottom of page 10 of my statement, in developing this policy is to reform the institutions of Government in such a way that important conservation areas are protected, vital developmental needs are accommodated, and major developments and facilities are controlled.

And these are the priorities within which the administration formulated its land use policy proposal.

At the present time, as you are fully aware, the major emphasis on land use lies at the local level of government, the town, the county, where almost all significant land use decisions are made. And yet, at the same time I think we are all aware that there are significant land use decisions, the impact of which, particularly in an environmental sense, extends well beyond the boundaries of the governmental unit making the particular decision.

That, I suppose, in the very briefest sense is a description of the problem which we are all addressing. Having said that, we recognize that local control of land use in most cases is appropriate and in most cases is working reasonably well. And it is certainly not the President's intention to move the land use decisionmaking process to any higher level of Government than is absolutely necessary.

Local control does work well and in line with the President's commitment to keep government as close to the people as it is possible to do, the principle upon which this legislation has been developed is very definitely to leave with the local government those land use decisions which really are primarily of local significance and not to interfere with that decisionmaking process.

The current system does not, as I have indicated, work well where regional interests and values are involved. There are many reasons for this. There are property tax considerations. There are economic, competitive considerations—a wide range of reasons why regional interests often are not best served by local decisionmaking.

I suppose a very basic reason is that the character of this country has changed very radically since land use regulations were first developed. In the early days, if you will excuse the expression, if you loused up the land you could always find some more to try to do a better job with. Or, if you used up an available wetland, there was usually another one around the corner. This, as I think we are all aware, is no longer true. We have used up substantially the available land, certainly in and around our most populated areas of the country.

So that we are today confronted with the fact that the ever-expanding frontier is a thing of the past.

Senator Moss (presiding). One thing that concerns me is how are we going to handle this problem of fragmentation, to which both you and the Secretary have pointed. Land planning and zoning is broken down and really the municipalities and villages have very narrow interests and consequently have not done a very good job of planning.

You both have said that one goal is to leave the major part of the planning still with the local entities, and to introduce State intervention and finally Federal control only when there are large interests impinging. But how are you going to break that out? Where are you going to draw that line?

Mr. TRAIN. I think this is a very crucial question, Senator Moss, with respect to the entire legislative proposal. I think the answer which I will give helps highlight one of the major differences between S. 632 and S. 992. The administration's bill, in the first instance, seeks to focus the land use policy and State action on certain specific kinds of areas, such as areas of critical environmental concern; key facilities which are defined in certain ways as being particularly development generating.

There is no effort here within this bill to bring all land use under State direction and control. I think S. 632 does indicate that outside of major metropolitan areas—I think defined as cities of 250,000 and up—all areas must be subjected to a State planning process and an identification of six major kinds of uses: commerce, transportation, recreational, agricultural, and so forth.

The administration's bill does not do this. The administration's bill, as I say, singles out certain kinds of areas where we believe the problems are particularly critical and complex and says in those areas, leaving it very much to the State very broadly to identify the particular areas that will be brought under control, the States must develop and present to the Secretary of the Interior an effective system of control and regulation.

Then the bill provides, on page 8, for a choice of three ways—and I believe Secretary Morton has already identified these—in which the State can work out its system of regulation and as part of that work out the relationship of State responsibility to local control. I think this begins on line 3 of page 8.

For purposes of complying with paragraph 1 through 7 of this subsection—which sets out the areas in which methods of control must be provided by the State—anyone or a combination of the following general techniques is acceptable: One, State establishment of criteria and standards subject to judicial review and judicial enforcement of local implementation and compliance; secondly, direct State land use planning and regulation; third, State administrative review of local land use plans, regulations and implementation with full powers to approve or disapprove.

And I believe a State could work out various combinations of those three options. The major point to remember is that we are not suggesting that the State take over all land use decisions from local government. Instead, I would say this would require the taking of only a reasonably small percentage of those decisions from local government.

Senator Moss. One of the reasons that we have had rather poor land use planning by smaller communities is the competitive aspect. We need more industry, more jobs, and if somebody wants to build a pier out onto the stream and fill in some wetlands, it is going to make more jobs. There is an inclination of the mayor and council to say, "Go ahead and do it." This undoubtedly has caused many of our difficulties.

You were talking about the San Francisco Bay. But don't the State also possess this same drive? Isn't there competition for getting industry, jobs and so on into one State as against letting them go into another State?

Mr. TRAIN. Of course, there is no question about that. I don't think we are suggesting that we are going to make the problem go away by virtue of the legislation which the administration proposes. But we do believe that by elevating some of these crucial environmental decisions to the State level, or at least giving the State a much stronger hand in those decisions, we will substantially improve the situation and certainly bring a much broader regional concern to bear upon the decisionmaking process.

It will not, obviously, avoid a competition between neighboring States. The legislation does require the development of a State land use program. The State must take into account what its neighbors are doing. So we do provide for consultation and coordination. This presumably would be taken into account by the Federal Government in reviewing programs.

Secretary MORTON. I would like to make one addition to that, Senator Moss.

This program or plan does not preclude a development plan for the States. What we are doing here is creating an institution at the State level that has the capacity to do a great many things: inventory the critical environmental areas, develop policy for location of new communities, methods for controlling large-scale development.

But I don't want it thought of as being a freezing, a land freezing program. It is not a land freezing program. It is an orderly program that protects certain aspects of the environment and also insures certain compatibilities such as the location of major facilities, like airports, highway interchanges, and that sort of thing.

I don't believe the competition for economic development and growth will be diminished by this plan, but I think the plan in itself will perhaps give the States a little better way of attracting new industries and new facilities, because I think today industry has got such an important environmental constituency that they don't want to get trapped into the situations that they have been trapped in in the past. I think they are looking for the kind of land use planning around their new locations that will assure them of the capacity and capability to remain free of criticism and actually remain free from destroying those environmental values which they also want to protect.

So I think what we are doing here is putting an institution together at the State level through the establishment of a responsibility that will do the thing that you address your question to, and get the job done.

Senator Moss. Do you think the drive now on industry to reconcile their functions with environmental problems is so great that they will restrain themselves?

Let me give you an example. We had the Indiana Dunes problem in this committee for a long time and they were determined to build on the lake. They did. They just moved in the bulldozer and pushed the dunes down, built the ditch and plant and said, "This is what we have planned to do. We are going to do it."

All of the entreaties that we could make to them weren't heeded at all because we didn't have the legal power at that point to inhibit them.

Secretary MORTON. No, and the State of Indiana did not have a land use plan that protected the critical environmental area of the Indiana Dunes.

I think if we had the plan in effect that dealt with the critical environment, which is certainly well identified, there would have been a handle on the thing. We could have handled the issue in a way that would have fully protected the dunes.

But that is exactly what this bill intends to do. It sets up a state planning institution that will develop plans that meet certain criteria. One of the criteria, of course, is to protect these areas of environmental concern.

Senator Moss. The administration bill retains, as far as the Federal Government is concerned, control in the Interior Department and the Department of Housing and Urban Development, whereas 632 places this policy with the Water Resources Council and the River Basin Commissions.

Both of you referred, I think in your statements, to this idea of everything being intertwined, a systems approach; that you really

couldn't plan one thing without the other. If we are busy planning on river basins, and the Water Resources Council, why wouldn't this logically fit in there? If you are going to decide what you need to do in this river drainage, why aren't you deciding what you need to do with the land?

Secretary MORTON. I think you put the responsibility too far away from the people who are responsible here to get this thing done. You tend to really develop a great big new bureau here in the Water Resources Council, which I don't think is necessary. Also, I think there are many things other than water resources development that are involved in land use regulation that might be deemphasized because of the traditional responsibilities and thrust of the Water Resources Council.

I think the whole proposition ought to be at the secretariat level at both Interior and HUD to get the most out of it and exercise the most influence over the States to do the job.

Those are part of my personal feelings, that it should be a responsibility of the departments themselves and not a coordinating agency, because I think a lot of leadership is going to be required in working with the States to get these land use plans up to a level that they have to be to be effective.

Mr. TRAIN. Could I just add to that? I think the Secretary really just made the point that I wanted to make, and that is that the Water Resources Council, any interagency group of that sort may be a useful device for coordinating programs, but it is very weak when it comes to giving real leadership and direction to the development and implementation of a program. That has been true in the Water Resources Council, with all due respect to the Council. It is true of any kind of interagency committee, which that is.

So I think the Secretary is quite right; to really give the kind of direction and strong leadership that this program requires, it should be fixed in one operating agency, as this legislation does in the Department of the Interior, giving the Department of Housing and Urban Development a very strong special role in areas that are particularly within its expertise as development matters.

This is spelled out in my statement in quite some length.

The bill also provides for very strong interagency consultation and coordination throughout this process, because, as Secretary Morton pointed out, there are going to be a lot more interests involved in these land use questions—for example, agricultural—which should be taken into account in the orderly development of these plans.

Senator MOSS. I accept the need for line responsibility.

What power of enforcement will the Secretary have for States, if they are not willing to conform to the plan?

Secretary MORTON. Secretary Loesch?

Mr. LOESCH. Mr. Chairman, of course the administration bill provides for examination of the State plan by the Secretary. The effort, however, is simply to require the States to provide the mechanism by which the States will themselves take the proper things into consideration in making the plan. I don't believe that there is a thought in the administration bill that the Secretary will devote himself—he has no power to say that because a certain facility is to be located here or there, the State plan is not appropriate. But if the

State does not set up a mechanism by which it can control or, if after doing so it does not control, this would be evidence, I presume, that the Secretary should disqualify, you might say, the State plan.

I think that is responsive to your question.

Senator MOSS. In other words, you are saying it is purely a consultative and cooperative sort of consultation and there is no residual power in the Secretary to require a State plan to conform to any given standard.

Mr. LOESCH. If it covers the particular sections or areas of environmental concern, key facilities, coastal zones, the things set out in the bill, then it meets the requirement.

The CHAIRMAN. I wonder if we could clarify this point—

Secretary MORTON. We are dealing with apples and oranges, I think. I think we are talking about whether the plan is approved or how to deal with those States that don't have a plan.

The CHAIRMAN. I wonder if we can't get right to the nub of the difference between S. 632 and the administration bill. The administration proposal contemplates incentives to the States. In other words, it says if you are going to get planning money, you have to do A, B, C, and so on.

The bill that we introduced earlier, S. 632, does provide a penalty, and that is found in section 315(a). It says, starting on line 6:

No federal agency shall, except with respect to federal lands, propose or undertake any new action or financially support any new state administered action which may have a substantial adverse environmental impact or which would or would tend to irreversibly or irretrievably commit substantial land or water resources in any state which has not prepared and submitted a state-wide land use plan in accordance with this Act.

I think this is one of the major differences here between the two bills. You rely on grant-in-aid incentives. We go a step further. We provide grant-in-aid, but we also provide that as to the future any new project which is to be undertaken no Federal agency shall undertake any new project which does not have a land-use plan.

Mr. TRAIN. But as I read the bill, Senator, it does not require that that land-use plan be approved or conformed to any particular criteria.

The CHAIRMAN. Although we do require that it must be prepared and they must submit a statewide land-use plan, we started out earlier, as you recall, to take away grant-in-aid funds on a pass-off decision basis. But we felt that this was the minimum that we could insist upon in order to get a State to really plan their land on a statewide basis, to provide for statewide zoning.

I think there are obviously honest differences of opinion here. But there is a real question in my mind whether simply providing for grant-in-aid funds is ample to induce the States to do this job, because it is a tough one. Let's face it.

Mr. TRAIN. Let me comment on that further, if I may, Senator Jackson.

We agree that we are asking the State to undertake and make a very difficult decision here. It is not going to be easy to do. Therefore, we agree that if they could be worked practically and appropriately, that some sort of penalty provisions with respect to States that do not have qualified programs would be desirable. We have

not, by our way of thinking, identified what we consider really appropriate penalties of that sort.

As I think you are aware, the early development of this legislation by the administration included the withholding of certain categorical funds, particularly in the field of highway construction and airport funds. It then developed that these specific programs were the subject of revenue sharing, and to put this kind of string on those funds would be completely inconsistent in principle with the administration's proposed revenue-sharing program.

So this is the reason why that particular approach did not appear in this bill. But it is not because we are opposed in principle to what you are seeking in your legislation.

As I indicated, I have very serious questions in my mind whether there is any kind of an effective penalty in S. 632 when there is no approval required of the State program for qualification for these funds.

As I understand it, if a State simply submits a statewide plan, whatever it contains, your legislation would not provide for the withholding of any Federal funds.

Senator Moss. If you had a practical problem, say you had two States and a river formed the boundary between them. One of the State plans provides for keeping that open and wetlands along there, no development at all on their side. Whereas, the other State comes in and provides that this may be industrialized property and fill up to the shore, put docks in, and whatever else. Those two are very incompatible.

Secretary MORTON. In the bill, in order that these plans would be subject to approval or subject to satisfaction of both the Secretary of Interior and the Secretary of HUD, the plans would have to be coordinated and made compatible with each other in a regional sense.

We address ourselves to that in the standards, which would show what the plan would have to include. And in addition to that, we have authority to issue guidelines or more detailed specifications which would address themselves to this problem.

One of the advantages in having the State plans reviewed by both Departments, is that neither one of the plans would be approved until they were compatible with each other.

Senator Moss. Would the Secretary then, by withholding his approval, be able in that way to persuade the State that had the poorer plan to alter it and make a good plan?

Secretary MORTON. I think that would be the skill of the middle. There is no question about the problems. They can range all the way from the intricate problems of something as massive as New York's and New Jersey's relationship to Metropolitan New York to a much more simple problem that might exist in a border river or border stream in a more rural area.

But I do believe that if these were environmentally critical areas, the plans would have to address themselves to these areas. I think if you will look down the laundry list of what a plan has to take into consideration, I think you will see that it is going to be relatively easy to make these two plans compatible.

Mr. TRAIN. There is an additional element in the approval of State programs that hasn't been referred to. That is the fact that if a

State program has not been approved, then any proposed Federal project or activity to take place in that State without a program must, if it has any effect on land use, be the subject of hearings at least 180 days in advance of the proposed action in the State.

This could be a bit like the processes that have been developing of the section 102 of the National Environmental Policy Act. I think here is a possible strengthening of the incentives, shall we say, on the part of the State to have an approved program.

I think that does fit into the picture.

Senator Moss. Is there provision for altering or amending the State plan in the event there is going to be some amendment? One thing I am thinking about is the continued population pressure. Maybe a State, by reason of the great increase in population, just feels it has to change its land-use plan. How does it do that?

Mr. TRAIN. The bill provides that the State plans must contain provisions for later amendment and revision, because obviously we are talking about a constantly evolving mix of priorities and circumstances. A plan must doubtless change.

Senator Moss. But it just proceeds with the amendment process and then submits an amended plan to the Department. Is that the way it would be?

Mr. TRAIN. That is my understanding, that any such change would be presumably transmitted to the Secretary.

Assuming it didn't destroy any of the basic characteristics of the State program which led to its approval in the first instance, there is no problem insofar as the State doing that. In fact, the State is encouraged to update its program constantly.

If I could refer to two or three of the differences between the administration's bill and S. 632, I think it might be useful.

Both bills are similar in principle. They both seek to get at better land use through the strengthening of the State as an instrumentality for decisionmaking.

But having said that, there are some rather basic differences, I think. The emphasis in S. 632; as I read it, is on strengthening the planning process within the States, statewide. The emphasis in S. 992 is not on planning so much as on regulation and control. There is very little injection of the Federal Government into the substantive planning process under the administration's proposal.

The review by the Federal Government in most instances is limited to the effectiveness of the regulatory process adopted by the State. So that the decisions are really left to the State substantively speaking as to what should go where within its confines.

This is true in all cases except those areas that we call critical areas of national concern where the Secretary would be issuing guidelines affecting substantive matters, presumably.

S. 632 affects, as I indicated earlier, all planning activities within the State outside of major metropolitan areas. S. 992 is directed entirely to matters of environmental significance that affects the land environment. S. 632 covers all activities in the planning process, whether or not they are of purely local significance. There is no distinction made in S. 632 between those activities which only impact on the local area or those things which have an impact that goes well beyond the local jurisdiction.

S. 992 is directed solely to those land-use decisions which have an impact beyond the local area; to put it another way, those decisions which are of regional significance. Therefore, we do not believe that this bill interferes in any way with what we consider to be the entirely appropriate and desirable role of local government in land-use decisionmaking.

I think these are sort of key points. They are oversimplifications, obviously.

The CHAIRMAN. I just have a couple of questions in that connection.

The administration bill is silent on Federal lands. It seems to me that with the Federal Government owning one-third of all the real estate in the United States it would be wise to require some coordination as we do in S. 632.

Would you care to comment on that?

Secretary MORTON. I think two things are involved in it, Senator Jackson. One is that the State planning coordinated with the public domain. But it seemed to us that we were institutionalizing State planning here and concurrently it is necessary, I think, that we develop land use plans of the same order or higher order for the public lands.

We do address ourselves to the coordination of State lands on a regional basis and on a narrowing State basis. Obviously, the regional basis would address itself to the relationship between non-Federal lands and Federal lands.

But I believe that we now have reached a point; and certainly with the work of the Public Land Law Review Commission, we feel keenly the responsibility of developing land use plans for the public domain.

Obviously, the State plans and Federal plans in a given area will have to be coordinated with each other. We have addressed ourselves to this in the bill by making these plans regionally compatible and compatible on a narrowing State basis.

Hopefully, we can get ahead of the parade by having our Federal land use plans developed perhaps even sooner than we would be able to get any detailed State plans developed.

The CHAIRMAN. It seems to me that there may be a need here for some Federal-State plan, in areas like Alaska which is virtually all Federal. Nevada has 80 percent of its lands Federal. Utah is about 70 percent.

It seems to me that realistically it is a tail wagging the dog. You have got a real problem that I wish you would take a look at.

Secretary MORTON. We are getting pretty well downstream on some of these. As you know, we have been instructed to develop a comprehensive land use plan for northern Alaska. I am sure that Secretary Loesch can address the question of how we are proceeding on the public lands under the Bureau of Land Management. I feel that we have a real opportunity here to do this in a way that will be compatible and coordinated with the States. I don't believe we need legislation to do it.

Mr. LOESCH. If I could add just a word, Mr. Chairman, section 106(a) of 992 provides that Federal projects and activities significantly affecting land use shall be consistent with the State land

use program, which certainly means in my mind that such acts as are taken in connection with the use of public land in any State must be at least of the same order of regulation and not inconsistent with the State plan where that land is located.

Mr. TRAIN. Could I make one point in this question?

As I indicated, the administration's bill is directed to the need for developing better regulatory control over critical land use decisions, and encourages the States to do this. With respect to the public lands, this problem does not really exist, as I understand it. We may or may not be doing a good job of exercising that control, but the authority resides in the Federal Government.

So that there is no impediment at the present time to the exercise of better land use responsibilities on the part of the Federal Government.

The CHAIRMAN. What if a State plan is totally inconsistent with the existing Federal plan? We are talking now of States with a majority of the land owned by the Federal Government.

It seems to me that there is a need here for some kind of Federal-State coordination or we are going to run into a conflict. You run into conflicts in any event, especially in certain parts of the State, in relation to Federal lands.

Secretary MORTON. I don't think that the conflict is as bad as you think, Senator Jackson, because there is quite a limitation on what can be done with different classes of Federal land. If we have the environmental areas that are critical and important identified, and we do a good job of classifying the Federal lands—

The CHAIRMAN. What if a State wanted to build a cement plant right next to the park line, not build it, but zone it?

Secretary MORTON. We would require in there land buffer zones around these facilities. This is an area of critical environmental concern. It is identified. Any land use plan that doesn't protect that with a proper buffer zone certainly would not be approved.

The CHAIRMAN. But, of course, the State, without any real hard penalties wouldn't have to come up with a State plan. Their own areas are sovereign, unless you came in and condemned the land. You couldn't do anything about it legally, I don't think.

Secretary MORTON. You mean acquire the land?

The CHAIRMAN. No. I mean the land is under the jurisdiction, it is private land or it could be State-owned land. It is under the police power of the State and it has been zoned for purposes of industrial use. It seems to me the only legal alternative you would have would be to condemn it, wouldn't you?

Secretary MORTON. Under either proposal, we have got this very problem right now in the case of a big swamp, which is a critical area, environmentally quite critical because it is a buffer to the Everglades National Park. We are trying to work out a program with all parties involved: the State, the owners, and everybody else to protect the watershed. Short of that, the only way you are going to do it is to acquire it. You are dealing with fabulous amounts of money.

The CHAIRMAN. In connection with the State plans to be submitted, we lay down Federal guidelines. On page 34 of S. 632, subdivision 7, line 12:

Provides for measures such as buffer zones, easements, prohibitions against nonconforming uses, and other means of assuring the preservation of esthetic qualities to insure that federally designated, financed and owned areas, included, but not limited, to elements of national parks, wilderness areas, game and wildlife refuges, are not damaged or mistreated as a result of inconsistent and incompatible land use patterns in the same immediate geographical region.

I don't believe there is a similar provision in the administration's bill.

Mr. TRAIN. I think very close to that. I don't think there is any real inconsistency there.

The CHAIRMAN. You agree there needs to be this sort of protection?

Mr. TRAIN. Certainly.

Let me say one point on the matter of sanctions. This has obviously troubled us, as it has this committee, from the beginning. It seems to be a key element in the development of an effective land use program.

I have described to you some of our own problems in trying to work this out. I simply want to say at this point that the administration would be happy to work with this committee in trying to develop practical, appropriate teeth, if you will, in this program.

The CHAIRMAN. I understand that. We will certainly work closely with you and the Secretary in that regard, because I think we have all been working on this problem for some time. There is a division. Members of this committee have a different point of view. There is probably a division within the administration about how far we should go. Honest people can differ on that.

One last question. I wanted to clarify one thing. In S. 992, on page 5, under (d), you define States to include the 50 States of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands. What about the District of Columbia?

Mr. TRAIN. May I speak as a longtime resident of the District of Columbia? I come as close to being a citizen in the District as anybody. There is no intention, let me say, to either downgrade the District or leave the District out of the benefits of legislation. It is my understanding that the reason for this is that the authority over land use in the District is exercised by the Congress, by statute, and as in the case of the public lands, the authority already exists. So it is not really a matter of creating and encouraging the creation of a process or an authority.

The CHAIRMAN. What about planning grants and that sort of thing? They are not eligible for planning grants in the District, I don't think.

Secretary MORTON. They get any planning grants, Capital Commission planning grants, come through the District committee, appropriated by the Congress.

The CHAIRMAN. They are not included in the regular Federal programs and are not eligible unless, of course, they are specifically provided for. I think that is the general rule. That is why I raise this question. Of course, it gets into the question of how far the Federal Government should be involved in planning and how far the local citizens should be involved.

Mr. TRAIN. I certainly think we would be openminded to this.

I think one other reason is we have not really considered these as planning grants in our bill, because the administration's bill's emphasis is more on regulation than on the development of plans. We would be happy to look into this further with you.

Senator Moss. I am not sure whether you finished your statement or not. If I have cut you off any, I apologize.

Mr. TRAIN. I think I have said as much as I probably ought to say at this time, Senator.

Senator Moss (presiding). We do have the full statement. It will go in the record in full. I don't want to cut you off, if you had more that you wanted to tell us orally. We will study this statement. We started the questioning and we would like to continue that, if we may.

(Mr. Train's prepared statement follows:)

STATEMENT OF RUSSELL E. TRAIN
CHAIRMAN, COUNCIL ON ENVIRONMENTAL QUALITY

Mr. Chairman, and members of the Committee, I welcome the opportunity to testify in support of the President's proposal for a national land use policy. In my view, it is a matter of urgency that we develop more effective nationwide land use policies and regulations. Land use is the single most important element affecting the quality of our environment which remains substantially unaddressed as a matter of national policy. Land is our most valuable resource. There will never be any more of it. Rapidly rising human numbers and expectations place rapidly rising pressures on the land. It is imperative that we act now to adopt a national land use policy which will both protect our heritage of irreplaceable land values and provide guidance for future development and growth.

Mr. Chairman, you will recall that it was a little over a year ago that I first testified before this distinguished committee on the subject of a national land use policy. I suggested then that a policy this important should evolve over a period of time as a result of discussion both in Congress and among the public generally, and I emphasized the need for increased public awareness and understanding of land use problems.

This committee has done much to stimulate and inform public discussion on land use. Your hearings have elicited debate from a broad spectrum of authorities which have helped place the problems of land use policy high on the national agenda. Pioneering in this field required courage, for any solution to the hard questions must resolve the most sensitive issues of intergovernmental relations, and of public-private roles in controlling the uses of property. The testimony last year before this committee, and the draft bills which have been considered, have been immensely useful to the Administration in formulating its own national land use policy proposal. The approach of the Administration's legislation, S. 992, while differing in part, is still fundamentally similar to that of S. 632, in that its primary emphasis is on encouraging broader State responsibilities in the field of land use regulation. These fundamental similarities demonstrate a common concern for reform in an area which influences nearly all of our environmental problems.

The Administration's National Land Use Policy bill, S. 992, is similar in some respects to S. 632. It differs in two essential respects. First, S. 632 would encourage States to classify all lands outside their largest urban areas into six land uses. How closely the States would subsequently control the use of lands in these areas is not completely clear from S. 632.

S. 992 would encourage States to classify certain specific lands and take responsibility for dealing with certain problems in which we believe there is a true State interest. States would be expected to assert full State control over the uses made of these areas. The lands over which States would have authority under S. 992 include "areas of critical environmental concern" (eg. coastal wetlands, flood plains, lakefronts and riverfronts, rare or valuable ecosystems, and scenic and historic areas). Areas around which States are asked to control land use by S. 992 also include key public facilities (major highway interchanges, major airports and recreational facilities). S. 992 also

calls upon States to control all "large-scale development," and to assure that "development of regional benefit" is accommodated by local governments.

Thus, S. 992 is designed to be selective by inviting State involvement only over matters of State concern or priority, while leaving the remainder of land use problems of purely local significance subject to local control.

Second, where S. 632 appears to contemplate a more traditional planning approach by assigning areas to one of five or six uses, without making clear exactly what State-local relationships are envisioned in these areas, S. 992 sets out three explicit forms of State control, any one or a combination of which is acceptable. S. 992 thus makes clear that with respect to the priority land use problems State planning alone is not enough; there must also be true State regulatory power to assure that plans are more than just advisory. S. 992 is an expression of our strong conviction that planning without control and implementation powers is ineffectual.

Before discussing the legislative proposals before us, it might be useful first to examine land use policy in historical perspective, for while we often speak of the need for better land use planning, at the heart of the present dilemma is our regulatory system and it is in this area where the President's legislation would have most immediate impact. Modern American land use regulation began in New York City in 1916 when Fifth Avenue merchants became alarmed at the pace of encroaching industrial development on the downtown shopping area. As originally conceived, zoning was a radical departure from traditional notions about private property use, which previously had been circumscribed by little more than the law of nuisance. Ours was a society struggling for order in the midst of dynamic growth, which quickly recognized the need to segregate activities according to compatible uses in order to protect certain established patterns of neighborhood organization. By 1922, the reformers had won over the Federal government and Herbert Hoover's Department of Commerce issued a Standard Zoning Enabling Act to guide the States in adopting laws to encourage zoning. States responded quickly by enacting laws on the order of that proposed by the Commerce Department, which authorized municipalities, counties and other local governments to classify and control land uses according to a comprehensive plan. The overriding concern of these laws was to make possible local regulation with virtually no State oversight. The constitutionality of the new technique was tested and upheld in 1926 by the U.S. Supreme Court in the historic case of *Village of Euclid v. Amber Realty Co.*, 272 U.S. 365.

During the ensuing forty years the techniques of land use planning and regulation have become more sophisticated. The original system of strict classification and segregation of use has been refined in many areas to permit "floating zones" and some forms of planned unit development which permit mixed uses and variable densities. The static land use plan with colored areas indicating which activities are permitted there has tended to yield to more flexible procedures which give planning authorities discretion to permit variable uses, densities and designs subject to site plan reviews, performance standards and satisfaction of stated community objectives.

No plan is ever any better than the regulatory apparatus upon which its implementation depends. Zoning is nothing more than a tool with which a group of people, generally in a small area, determine what land uses are to be allowed. The land use control or "zoning" process is seldom really based on planning, but rather on what public officials may think significant at a given moment. Plans, even when they are prepared by a State with respect to broad areas, cannot work unless States also control the regulations which give effect to the plans.

However useful new land use control techniques may be, it is impossible to ignore the evidence of poor land use planning and regulation in the United States. There is something clearly wrong with a process which indiscriminately slices up land for development on the urban fringe without regard to its natural characteristics or needs. A system which encourages the steady destruction of coastal wetlands vital to the continued existence of waterfowl and marine life must be reformed while there are still wetlands to save. Land use practices around our metropolitan areas, which are often designed to exclude multi-family housing, privately-sponsored educational and charitable activities and even some public enterprises such as sanitary landfills, waste land by obstructing logical patterns of growth, burden those

who must travel longer distances to work, and often help perpetuate unsatisfactory conditions of life in the inner city.

We need no new studies to describe the problems. A number of studies considering land use from various points of view have concluded that the difficulty of small units of government to act in concert or to pursue regional objectives is a serious obstacle in the way of an orderly, equitable allocation of land resources. This was the explicit conclusion of the Douglas Commission, whose focus was primarily on the impediments to meeting the demand for housing, and it underlay the conclusions of the National Estuarine Pollution Study, which was concerned with the conservation of coastal wetlands. The fragmented localism that characterizes land use regulation has frustrated both housing goals and conservation objectives.

First, small units of government are inherently limited by the confines of their jurisdiction. Scenic or important natural areas are rarely viewed by a locality in terms of their regional importance. Even when one locality acts wisely to fit development to the capacity of the land, it may not be able to affect the adjoining town's land use control practices. The limits of local jurisdiction are simply not adequate to encompass regional ecological or development systems without some policy guidance from larger units of governments.

The second reason for the inadequacy of local solutions to regional land use management problems derives from the dependency of many local governments upon development-related property tax revenues. Whatever may be in the best interests of the region must confront powerful economic incentives. American cities find it very difficult to act in concert in planning and controlling land use, partly because neighboring communities compete economically.

A third reason for the inadequacy of our current approach to land use regulation has to do with the changing character of the United States. Once it could be said that if one community allowed one wetland to be filled or one woodland to be developed there was always another. This is no longer true. The frontier has long since been closed, but the myth of inexhaustible land resources has survived into an era when it has become clear that our supply of land, especially of lands we refer to in S. 992 as "areas of critical environmental concern," is finite.

As a consequence of problems largely beyond the control of local governments, the current locally oriented land use regulatory system is doing very poorly at dealing with three kinds of issues: protecting lands which serve vital natural or aesthetic purposes for a regional population; accepting and siting development which the larger-area may badly need but which may represent net tax costs or pose social problems; and controlling growth which is induced on such a scale by certain magnetic developments that it altogether changes the ground rules of the conventional planing and zoning game.

The objectives of a national policy for land use must be to reform the institutions of government in such a way that important conservation areas are protected, vital developmental needs are accommodated, and major developments and facilities are controlled. With this sense of priorities the Administration has formulated its land use policy proposal.

During the past two years we have moved steadily in this direction. During the last Congress the President proposed a coastal zone management bill which contemplated a program of assistance to States in regulating land use to protect coastal and estuarine resources. Last August the Council on Environmental Quality published its first report on the Nation's environment, in which a substantial chapter dealt with the problems of land use and with the impact of Federal programs and activities on the land.

In his message transmitting the report to the Congress, the President said: "We have treated our land as if it were a limitless resource. Traditionally, Americans have felt that what they do with their own land is their own business. This attitude has been a natural outgrowth of the pioneer spirit. Today, we are coming to realize that our land is finite, while our population is growing. The uses to which our generation puts the land can either expand or severely limit the choices our children will have. The time has come when we must accept the idea that none of us has a right to abuse the land, and that on the contrary society as a whole has a legitimate interest in proper land use. There is a national interest in effective land use planning all across the nation.

"I believe that the problems of urbanization which I have described, of resource management, and of land and water use generally can only be met by comprehensive approaches which take into account the widest range of social, economic, and ecological concerns. I believe we must work toward development of a National Land Use Policy to be carried out by an effective partnership of Federal, State and local governments together, and, where appropriate, with new regional institutional arrangements."

When the President ordered the Council to direct the preparation of his 1971 environmental program, we assigned a high priority to developing proposals to reform the processes of land use regulation.

In devising its program, the Administration is nevertheless sensitive to the strengths of our existing approach to land use management. The vast majority of zoning decisions are indisputably local in nature and they should probably remain subject to local direction. There is no substitute for local control over local problems, and the President has clearly shown that he is sensitive to the deeply felt wish of people everywhere to have closer to home the governmental machinery that controls their lives. Quite precisely, the Administration's proposal seeks to avoid disturbing present arrangements over regulating land use decisions which are essentially local in character by defining and attending to those problems which are inherently regional and Statewide in impact. Locating the local filling station is by no means a matter on which we would encourage State involvement.

An effort to broaden State authority is timely, for during the past several years a number of States have undertaken promising initiatives in land use regulation. State laws designed to protect coastal wetlands from draining and filling began in Massachusetts in 1963 and now exist in a number of coastal States. State controls on large-scale development have been established during the past two years in Maine and Vermont. Laws to control the development of shorelands are in effect in Wisconsin, Minnesota and a part of California, and similar laws are being considered by the Washington legislature. Laws to establish special "areas of critical State or regional concern" have been passed in New Jersey and Colorado and are being considered in New York. Ohio recently passed a Statewide building code designed to encourage industrialized housing. New York and Massachusetts have enacted legislation designed to assure that local regulations accommodate development needed by a larger region. During the 1960's the number of States with planning offices increased from 39 to 50, and this quantitative increase has coincided with a marked improvement in the quality of State planning.

The time is ripe to ask more, and reasonably to expect more, of the States. Certainly some observers are reluctant to see certain functions transferred from municipal to State control, given the early record of States' treatment of their cities, blemished by officious intrusions on the one hand, and by neglect on the other. But this era is largely past. This is not to suggest that local governments should relax their concern with land use, but that many land use problems are too big for local governments to handle. These larger problems require the concern of an agency whose responsibilities are Statewide. For this reason S. 992 proposes a selective approach in which the States concentrate on major issues while retaining for local government the responsibility for the great majority of local issues.

S. 992 is designed to focus State attention on selective priorities. States would be encouraged to inventory and control their "areas of critical environmental concern." Such areas would include at a minimum the coastal zones and estuaries, rare or valuable ecosystems, shorelands and flood plains of major rivers and lakes, and scenic and historic areas. The common need in each of these areas is for protection by regulation which takes into account the vulnerability of the lands and waters, or in the case of historic districts of the buildings themselves, to destruction through insensitive siting, irregular scale, and excessive development. The ultimate aim is to subject these areas to a comprehensive system of regulation which transcends local jurisdictions where the problems themselves do.

In addition to defining areas of critical environmental concern to include the coastal zone, S. 992 would accord the land use problems of the coastal and estuarine zone specific consideration in funding. I share the concern felt by members of this and other committees of the Senate and House that the threat of irreversible losses of coastal wetlands make the coastal zone a high priority and therefore a necessary element of national land use policy. It is

important, however, to make it clear in Federal legislation that we expect a consistent approach within a State to its land use problems. Accordingly, I strongly urge the Congress to develop a unified approach on land use, as contemplated in S. 992, which will avoid the confusion to State and local governments that two separate Federal programs would undoubtedly create. Unified Federal legislation would also discourage the establishment of special State land use agencies for the coastal zone with different goals and objectives, duplicating on the State level the local fragmentation which we are seeking to overcome.

A national policy must have a strong conservation element—protecting diminishing natural and scenic areas must be a priority concern of national policy. But there must also be another dimension which is not adequately recognized in S. 632. It is not enough to say where development must be limited without providing some direction as to where growth will be planned for and accommodated. Thus, the Administration bill would encourage States to have a "method for assuring that local regulations do not restrict or exclude development and land use of regional benefit," defined as development for which there is a "demonstrable need affecting the interests of constituents of more than one local government which outweighs the benefits of any applicable restrictive or exclusionary local regulations."

This provision calls for a balancing between regional needs and local capacities. It is left for the States to provide the standards and criteria governing where and to what degree development is to overcome conclusionary regulations. The draft Model Land Development Code of the American Law Institute, which gives thoughtful guidance on such a provision, prescribes a number of considerations for resolving the difficulty of opening public access to an area such as a municipal beach formerly restricted to local residents, or locating a facility everyone needs. Under the Model Code the strain that would be placed upon local finances or transportation systems and the extent to which the locality has already accommodated regional objectives by siting development of regional benefit are among the factors to be considered in determining when a proposal should prevail over a locality's own preferences. Obviously, these are very sensitive issues. And for that reason we must create a systematic process to deal with them, a process which leaves local problems for local resolution and regional or State problems for State resolution.

If States were to protect areas of critical environmental concern, and accommodate development of regional benefit, we would be well on our way to solving our two most urgent land use problems. Nevertheless, much of the urbanizing countryside might look no different. Land around highway interchanges might continue to be subject to intense speculative pressures. Roads leading into our national parks might continue to be characterized by strip commercial development. Areas around major airports might be developed inappropriately resulting in heavy congestion and incompatible uses. Large subdivisions and major industrial developments might overwhelm the capacities of local governments to plan effectively or to provide essential public services.

To deal with these issues S. 992 would call upon the States to designate and control "areas impacted by key facilities" and all proposed "large-scale development of more than local significance in its impact upon the environment." Key facilities are defined as major airports, major highway interchanges of limited access with frontage access roads, and major recreational lands and facilities. There are several ways a State could define large scale development. Amount of land coverage, number of dwelling units, amount of water use or waste water effluent, number of employees, visitors or residents, are all possible measures of large-scale development. Obviously, the definition of "large-scale" in a larger urbanized area will differ considerably from that in a rural area or smaller city. The concept of the bill is to place the responsibility upon the State of ordering development around the main growth-inducing public facilities and controlling large-scale development since the State can more effectively superintend their spillover effects and often overwhelming impact upon immediate local areas.

Finally S. 992 would encourage States to have a policy for influencing the location of new communities, and for controlling the use of land around new communities. By enactment of the Housing and Urban Development Act of 1970 Congress reaffirmed the national policy to encourage the construction of new communities, which are intended to be well-planned, relatively discrete settlements of distinctive characteristics. To assure that comprehensive plans

for new communities are not frustrated by unrelated development of surrounding lands, land use in adjacent areas may often need to be carefully limited and controlled. In this way the objectives of planned, large scale growth can be effectively encouraged.

Obviously, the central issues posed by the legislation are just *how much control* a State must exercise over critical areas, large scale development, etc.—and how much authority can be left with local governments? On this point, S. 992 offers explicit, yet purposely flexible guidance. The bill sets out three broad techniques, any one or a combination of which a State may select as its “method of control.” The first is direct State land use planning and regulation; the second is concurrent State and local regulation with an administrative veto in a State agency, together with last-resort planning and regulatory powers in a State agency; and the third is State establishment of criteria and standards for local implementation and compliance, with judicial review and enforcement. Unconditional delegation to lower level governments by the States, apparently possible under S. 632, is not envisioned in S. 992, because this would take us full circle to the present unsatisfactory system we now are concerned to reform.

The Administration bill, S. 992, would encourage States to implement their land use programs through a single State agency designated by the Governor. The primary function of this agency would be land use regulation. The exercise of eminent domain authority is not normally considered appropriate to a regulatory body. Indeed, an agency which has the authority to acquire lands would have the dilemma of determining which purposes, conservation, housing, etc., warranted acquisition and which warranted regulation. Landowners aggrieved by regulations limiting use would inevitably demand that the State acquire in full or refrain altogether from imposing restrictions on use.

Moreover, the public powers to regulate the uses of privately owned land have been broadened by the courts to the extent that we believe simple regulation can often be effective without acquisition. Of course, other State agencies, supported by other Federal programs, are free to continue to acquire land in the public interest. For these reasons S. 992 does not encourage the establishment of State land use regulatory agencies which possess eminent domain powers.

S. 992 is intended to relate State planning for certain areas very closely to State regulatory powers in those areas. Unlike S. 632, S. 992 does not call for Statewide land classifications, which suggest a more traditional planning orientation. S. 992 would have the States plan only where State interests are involved and then control land uses to assure the plans are implemented. It is conceivable that States under S. 992 would accept locally developed plans as adequate to meet State objectives. But States would nevertheless possess full authority to see to it that such plans fulfill State or regional objectives, and that they are implemented.

Any Federal program designed to lead to the establishment of a national policy for land use affects the interests and responsibilities of several Federal departments. Our objective in dealing with Federal administration was to try to balance the advantages of inter-agency consultations with the need for aggressive, single agency direction. Our solution would involve all affected agencies in advisory consultations leading to approval of State land use programs, but only two agencies, Interior and HUD, in actual program administration. The Council on Environmental Quality would issue guidelines to assist the Federal agencies in carrying out their responsibilities, and Interior alone would make program grants.

The Department of the Interior possesses significant land conservation expertise, enabling it to review the elements of State programs dealing with areas of critical environmental concern. It has experience with land use classification and management. Its various programs have equipped it to deal with scenic rivers, historic districts, the management of land and water resources for fish and wildlife protection, and natural areas conservation. A new entity established in the Office of the Secretary would be charged with authority to administer the land use policy program within the Department.

The Department of Housing and Urban Development is the Federal agency most familiar with the problems of general or comprehensive planning and the problems of guiding urban development. It administers a comprehensive planning program that has been used since 1954 to assist land use planning at the community metropolitan area level and since 1959 to help the States

carry on their own land use and other long range development planning. This program has been the single most important source of Federal support for comprehensive planning by the States. HUD has varied experience with numerous facets of land use controls under its mortgage insurance, open space and public facilities assistance programs. It is, overall, the single Federal agency most concerned with the dynamics of community development—dynamics that must be dealt with as part of any successful effort to ease or redirect the pressures that are so rapidly consuming our priceless land resources.

Accordingly, the Administration bill proposes that HUD be given specific responsibility for reviewing those aspects of State land use programs dealing with key facilities, large-scale development, new communities, and development of regional benefit.

Other Federal agencies would be consulted where State land use programs affected their interests and responsibilities. The Environmental Protection Agency, for example, would be asked to review and comment upon the provisions of State laws and programs designed to comply with the requirement in Section 104(a) (7) that systems of controls and regulations assure that sources of air, water, noise or other pollution are not located where they would result in violation of air, water and other pollution control standards and implementation plans.

We assume that the proposed extensive reorganization of the Water Resources Council and the additional functions contemplated for river basin commissions under S. 632 are designed to equip these agencies to administer a national land use policy. Our differing views on administration of such a policy lead us to recommend against these proposed reorganizations.

Under S. 992, as under S. 632, there is to be full, detailed annual Federal review of the laws and "methods" adopted by the States in response to the proposed national policy. However, substantive review of the kind of development which actually is allowed in a given area is to be limited to instances where a State acts "in substantial disregard for the purposes, policies and requirements of its land use program" in an "area of critical environmental concern to the Nation." (emphasis supplied).

Federal projects and activities are to be consistent with State land use programs which satisfy the requirements of the act. Where a State is without such a program, any major Federal action significantly affecting land use is to be considered at a public hearing at least six months in advance of the proposed action, followed by findings subject to comments by the Secretary of the Interior or of Housing and Urban Development, as appropriate.

Unlike S. 632, S. 992 would not establish a data bank. It is our strong conviction that information systems should not be established unless we are quite clear on the questions we, and more importantly the States, expect to put to them. The Council, in cooperation with other Federal agencies, is currently analyzing the capacity of Federal departments to collect and disseminate land use services and information to State and local governments. A committee of the American Bar Foundation is presently working towards a common system for land parcel identification.

Land use planning and zoning authorities, by and large, have not been aware of the considerable data available to them from the Federal Government in such areas as subsurface waters, soil characteristics, erosion potential, and related subject areas. In fact, only recently have urban planning schools begun to offer courses in the relationships between natural characteristics of land and developmental capacity.

We are not against systematizing data in the field of land use, but we do consider that a statutory prescription for a Federal data bank at this time would be a premature and inflexible way of dealing with problems about which States with new land use problems and agencies may, after a few years, have clearer ideas than they now do.

We would urge the Committee to await the establishment of the State agencies called for by both S. 632 and S. 992, and to solicit their opinion on the desirability of a land use data bank, and on the services it might usefully provide them.

During the past year and a half we at the Council have learned that we need to give much greater attention to land use plans and programs. We have observed that environmental impact statements prepared pursuant to Sec. 102(2) (C) of the National Environmental Policy Act have been unclear as to the impact of proposed actions upon land use and land resources. Thus, S. 992

would require Sec. 102 environmental statements to disclose the relationship of a proposed Federal action to a State land use program.

The enactment of national land use policy would be a historic step. In our view the selective emphases of S. 992 would invite the attention of the States upon the land use issues of truly State or regional concern, while respecting local priorities where purely local issues are involved. S. 992 is a call for institutional reform, just as the Standard Zoning Enabling Act was some 49 years ago.

Senator MOSS. Senator Anderson, do you have any questions?

Senator ANDERSON. Mr. Secretary, there was some reference to the Land Law Review Commission. You are familiar with that?

Secretary MORTON. We have the report. We have created a task force, Senator, for evaluation of the recommendations and study of the report, to see what is required to carry out the recommendations, what legislation would be needed. It is quite a document to digest. But we at last have got ourselves organized to digest it and to respond to it. Hopefully, before the end of this year, we will have some very positive work done on it.

But that is about as far as we have been able to get with it. There are 138 specific recommendations in the report. I think it deserves an awful lot of attention. We are trying to give it just that.

Senator ANDERSON. Some of these decisions were not unanimous by the Land Law Review Commission. That doesn't prove anything very definite on one side or the other, I wouldn't think.

Secretary MORTON. We are studying all of the supportive documents of the report to determine the basis of origin of the recommendation, how strong recommendations, how strongly the Commission felt about various recommendations and conclusions that they reached. You touched on a very important point. Most of them were far from unanimous.

Senator ANDERSON. Senator Jackson referred to industrial activities. Have you thought of doing anything about development of cement factories, for example?

Secretary MORTON. In the Land Law Review Commission report? I don't follow you, Senator.

Senator ANDERSON. There was a reference made to building a cement plant. The area best suited for that plant is in the area of the National Park Service. I would hope there would be reconsideration of it. I don't think it ought to be done. The recommendation is there. If you have any suggestions for the parks, it is your obligation. Knowing your long history, I am sure you object to these things and handle them in the proper fashion.

There ought to be an announcement made by the Public Land Law Review Commission as to the decisions reached by the Department of Interior.

Senator MOSS. Thank you, Senator Anderson.

Senator Hatfield?

Senator HATFIELD. Mr. Train, the other day you were testifying before the Senate Commerce Committee on the coastal zone proposals. I will not ask you today to put a priority on these respective pieces of legislation.

Mr. TRAIN. I would hope I would be consistent in either case before both committees.

Senator HATFIELD. I would like to ask you this question: When you referred to the administration bill as including critical environ-

mental areas, making your comparisons between the two bills, you would so designate the coastal zones as critical environmental areas, would you not?

Mr. TRAIN. Absolutely.

Senator HATFIELD. As you know, I had mentioned before; and I have a copy of the memorandum of agreement between three committee chairmen relating to land management legislation, which would indicate that this Senate Interior Committee as well as the Commerce Committee and the Public Works Committee could all eventually become involved in this legislation because of their interests and their concerns which foresee a possible complication of legislative process. I am not saying we will have it, but the potential is there.

If the Commerce Committee should move on the coastal zone management legislation which is pending before that committee first, and that became enacted into law, would there be great problems then in adapting that legislation to this legislation that we are now discussing this morning, as far as the administration bill is concerned?

Mr. TRAIN. There could be, depending upon the substance of the different drafts. For example, if there were a regulatory scheme in the one case and essentially a planning program in another case, I think that the philosophy of the two would be different and it might be hard to bring them together. There is no essential reason why the two could not be so designed that they would dovetail.

Senator HATFIELD. Would you care to comment as to which bill, 632 and 992, would most easily accommodate a coastal zone bill that might be enacted prior to the enactment of this type of legislation?

Mr. TRAIN. I believe that the coastal zone legislation submitted by the administration in 1969 has a regulatory emphasis and, therefore, in concept more neatly matches the approach taken in S. 992, rather than in S. 632.

Senator HATFIELD. And because of a provision of critical environmental areas in 992 might add to a further accommodation as compared to what you would draw as a difference between 992 and 632 when you said that 632 is so all-inclusive that it becomes a matter of planning every small and every type of detail?

Mr. TRAIN. Yes; I did say that, Senator. In fairness to S. 632, it does contain specific reference to coastal areas and estuarine areas. But it is true that the scope of S. 632 is pretty all-embracing.

Senator HATFIELD. Mr. Secretary, I am naturally very concerned about coastal zone management, because Oregon has major problems along this area.

As I look ahead down the legislative path for these two bills, it does seem like there are a number of obstacles we have to get over. I asked Mr. Train the other day—and I don't intend to pursue this except to get your response—if it became apparent that we could pass coastal zone management legislation easier and earlier than this particular type of legislation, would there be any basic objections from the Department.

Secretary MORTON. I would think it would depend on how much easier and how much sooner. I have confidence that the Congress is going to really address this whole land use proposition. I would

prefer that they would move forward on the legislation proposed so that we can get in established State responsibilities which would include coastal zone management.

I don't feel at this moment we are faced with the alternative of whether we go this route or go a combination route or go the coastal zone management route.

The thing that has happened in the past, Senator Hatfield, is that at the local level the responsibility has become fragmented. And I hope the Congress doesn't commit the sins of the past. But obviously any good land use management bills that are passed and come out of the Congress, whichever comes first, would be highly acceptable as far as I am concerned personally.

I would like to see it go this way. I think this is a much better way. I think you are going to get State institutions that have a capability of doing something, you are going to give them the money to work with, and you are going to achieve what you want to achieve.

We have some other areas. You may say, "Why do you want a powerplant siting bill in addition to this?" That is a different problem. It is a highly specialized problem that deals with regional aspects. And the location of powerplants is of national concern.

But I feel I would rather have this, but if you are going to find you can get a coastal zone bill out, well, that is the way the ball bounces.

Senator HATFIELD. I only bring up the question because I happen to sit on both committees. I know we are moving ahead on the coastal zone management in the Commerce Committee. I really expect that we will be able to act upon that.

But when you face this memorandum of understanding between three Senate committees, which as it says, the purpose of this procedure is to minimize the need for subsequent referral of these measures by insuring that all independent committees have an opportunity to make their views known and to have a substantive input at each stage of the legislative process.

In a sense, we have three committees that will be acting in some way or another upon these two pieces of legislation. If this Interior Committee had exclusive jurisdiction in that sense, I would be a little more hopeful that we could get the total package. As you know, I am a cosponsor of this legislation, both the administration bill and others. I am deeply committed to the whole comprehensive package. But I still have to face the reality that when you can get one committee acting on one piece of legislation as contrasted to three Senate committees acting on the one piece, that you have a greater opportunity to get the single committee type of legislation through.

I would hate to think that we would move along with coastal zone management and get in the position where we would not have the support of the Interior Department without asking you to abandon or back off at all from your position of wanting the whole comprehensive package which I support you on.

I think for the record we ought to have that here today as we discussed in some detail before the Commerce Subcommittee, Mr. Chairman, only last week.

Mr. TRAIN. I think I would certainly urge that the Congress develop one bill, one statute by whatever committee, because I shudder at the prospect of trying to work with two or three statutes in this area with two or three different committees having jurisdiction. It is hard to see how we can get a land use policy by that route by one committee setting a policy, say, the coastal zone, which we know is a very extensive area of the country, and another committee setting land use policy in maybe the rest of the country, but with another committee perhaps also having a good deal to say about it.

Senator HATFIELD. I couldn't agree with you more, Mr. Train. But the reality is that is exactly what we face today, because of the three committees that have an input at each point. It says "substantive input in each stage of the legislative process." That is just the thing we face.

I happen to be on two of these committees. But I can't foretell what is going to happen as far as each committee's individual action is concerned.

There is a housekeeping question I would like to also ask.

Mr. Secretary, under either of these pieces of legislation there is going to be a great deal of housekeeping activity: regulating, reviewing, all sorts of rulemaking. Where do you foresee this fitting into your Department as now constituted or would it necessitate a new agency within the Department of Interior? How would you handle this?

Secretary MORTON. I think in the first place we have got to have the expertise to do this and do it well. In terms of the present Department, I think we would handle this in the secretariat, in the programs area. In the case of the Department of the Natural Resources, when that is developed, we very well would handle it under the total land management area, which would have land, recreation, and all of the land components in it.

Obviously today we would draw on the expertise we have wherever we have it. People like Assistant Secretary Loesch would be heavily involved in working with the State plans and do this on a task force basis until we established the size of the job and how much resources we had to allocate to it.

Senator HATFIELD. Then the present train of personnel and expertise you have in the department, I understand, you would absorb within the existing framework rather than creating a separate agency.

Secretary MORTON. The answer to that is very definitely yes. But I think we have to, across the board in the Department of Interior increase and expand our planning expertise. I think this is where we perhaps over the last several years have fallen a little short.

The other area, of course we would use the HUD field facilities wherever appropriate. There would almost have to be a joint effort in this work because of the heavy involvement of HUD. That would be a committee and task force basis primarily using their facilities in the field. They have considerable expertise in that area.

Senator HATFIELD. Mr. Chairman, Senator Allott of Colorado, who is the ranking Republican member of this committee, has asked me to propound two questions to the Secretary this morning on these two pieces of legislation which we are considering.

I am going to read the question as he presented it to me to ask you.

Senate bills 632 and 992 have a basic objective; that is, to focus attention and encourage state action on the problem of land use, all in order to go about the job of establishing a land use policy. If S. 992 were enacted, the Federal responsibility for that effort would be assigned directly to you, Mr. Secretary. If S. 632 were enacted, you would be a member of the council which would administer the Federal responsibility. Last year Congress enacted the Mining and Minerals Policy Act which declares that the policy of the Federal Government is to foster, encourage the orderly and economic development of domestic mineral resources, reserves and reclamation of minerals to help assure satisfaction of industrial security and environmental needs.

Public Law 91631, from which I have just quoted, charges you, Mr. Secretary, with responsibility of carrying out this policy when exercising your authority under other programs authorized by law. Neither S. 632 nor S. 992 contains specific policy statements or declarations regarding the development of the mineral and energy requirements of the Nation. In fact, either of these bills could provide obstacles in the search for and production of minerals which are vitally needed to meet the Nation's energy industrial requirements.

I am sure that you will agree that there is a peculiar aspect to mineral resources, and that is that they occur where they occur. That is to say, we cannot plan the location of minerals or most other national resources. When we find them, we must simply accept their location as a fact and proceed from there. Therefore, I should like to pose two questions to you.

No. 1, do you believe that it would be a serious oversight not to include in any land use policy legislation an appropriate recognition of the Nation's mineral and energy requirements?

No. 2, would it be advisable in order to make the Nation's mineral and energy requirements clearly a part of land use policy to incorporate by reference Public Law 91-831 into any land use policy legislation?

Secretary MORTON. I think the questions are very, very vital and very involved. I would like, Mr. Chairman, to really address ourselves to these questions and supply them for the record. I think neither question merits a quick answer, off the cuff, because they get to a very critical area and many States will be involved in it. They address themselves to the question of total energy policy for the Nation, which we yet have not developed.

The whole minerals area is complicated. So I think that is the best way to do it.

Senator MOSS. That is very acceptable. If you will furnish a response in writing, we will put it in the record.

(The response by Secretary Morton to Senator Hatfield's questions follow:)

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 28, 1971.

HON. GORDON ALLOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLOTT: I am happy to have this opportunity to respond to the questions you raised, through Senator Hatfield at the hearings on S. 632 and

S. 992. I am forwarding a copy of this letter to Chairman Jackson for inclusion in the record.

The essential concept of the Administration's proposed National Land Use Policy Act of 1971 is to create a mechanism whereby any decision which irrevocably commits resources is made only after evaluating the best information as to all alternatives. The Administration's bill provides that decisions of more than local significance must be made at a higher than local level, to assure that the broader interests of the State will be more fully reflected in the evaluation. The bill does not attempt to catalogue all the considerations which should be brought to bear on any particular decision. I agree completely that one of the considerations should be the mineral and energy needs of the Nation and I am confident that elevating certain land use decisions to a State level will result in a broader consideration of these essential needs.

The provision of S. 992 requiring States to include a method for assuring that local regulations do not restrict or exclude development and land use of regional benefit would facilitate mineral development, to the extent that State and local institutional arrangements for regulating land use presently inhibits such development.

The Administration's bill is aimed primarily at institutional reform, and the protection of those non-economic values to which the present fragmented system of land use regulation is particularly non-responsive. Therefore, while I am keenly aware of the minerals and energy crisis which we face, I do not feel that it would be appropriate to single out mineral development from all the other types of economic development (agricultural, commercial, transportation, etc.) which must be recognized in any system of land use regulation.

With warm personal regards,

Sincerely yours,

ROGERS C. B. MORTON,
Secretary of the Interior.

Senator Moss. The Senator from Oklahoma?

Senator BELLMON. Thank you.

I wasn't able to be here when the hearing began this morning, I have a statement I would like to have printed in the record.

Senator Moss. That will be accepted and printed in the record.

(The statement referred to follows:)

STATEMENT OF HON. HENRY BELLMON, A U.S. SENATOR FROM THE
STATE OF OKLAHOMA

Mr. Chairman, I wish to congratulate you for calling these hearings on national land use legislation and thank you for providing the opportunity for members of the Senate, representatives of governmental agencies and the public at large to present their views.

The enactment of land use legislation, including a national land use policy, is one of the most urgent requirements of this Nation; and the bills we consider today are among the most important legislative matters before Congress this year.

We need not look far to find abundant justification for the enactment of land use planning legislation. The Metropolitan Washington area is a living monument to poor land use planning; and every person who must fight traffic each morning to get from his home in the suburbs to an office in the District, and reverse the procedure to get home each evening, can bear witness to the shortsighted approach we have too often used in utilizing our land resources.

Any plan that clusters all the jobs in a single area, far removed from the areas where workers live, is actually worse than no plan at all. Inevitably, government is called upon to spend billions of dollars to find a way and to provide the means for moving these people from the places where they live to the places where they work. We are doing that very thing by building the metro system in Washington today * * * and it is costing us \$33 million a mile, a total of over \$3 billion for 90 miles.

Mr. Chairman, the amount of money it is costing for a mile of subway is more than the total annual budget for construction and maintenance of

the entire highway system of the State of Oklahoma * * * and it would be an unnecessary expenditure if we had used more foresight and better planning in laying out the Nation's Capital. Yet, even today, with full knowledge of past mistakes, we continue to cluster more office buildings and more jobs in the metropolitan area, aggravating existing problems still further, and committing the same mistakes all over again.

While the inadequacy of land planning and utilization is most apparent in dense urban centers, the problem is by no means restricted to those areas. Land use conflicts and demands are now evident in all parts of the country.

In my own State of Oklahoma, we continue to invade the flood plains of streams and rivers with housing and commercial developments * * * with much of the construction financed by Federal funds and the mortgages guaranteed by the Federal Government. Periodically, these areas are inundated by floods, which might reasonably be anticipated within the flood plain of a stream. The Federal Government is then expected to put up the money to compensate for losses and to build dams, levies, or other flood control structures to protect the property built in a place where it never should have been put in the first place.

The great cries of anguish which go up in many parts of the country when our streams rise above normal levels to flood homes or businesses which have foolishly been built, often with Federal funds in the path of future floods, is another testimonial to the need for this legislation. The U.S. Treasury spends large sums each year to repair the damage from such disasters. These tragic losses need never have occurred and passage of this legislation will help prevent such future mistakes.

Another glaring example of poor land use planning exists in Midwest City, a suburb of Oklahoma City and a city which has built up around Tinker Air Force Base. With the aid of the Federal Government, a contractor not so many years ago developed a large housing addition and the city built a school directly in the runway approach to the Air Force base. Since that time, two planes have crashed in the residential area—one narrowly missing the school—killing several and costing thousands of dollars to settle damage claims. Now city officials are demanding that the Federal government spend millions of dollars to move the houses and the school away from the approach. Land use planning would have prevented this debacle.

These are but isolated examples of the wasteful and abusive misuse we have made of the limited land resources available in this Nation.

Our land is our greatest single resource. Whether it be in forests, mountains, plains, farmland, or desert, it has sustained life and enabled this to become the greatest nation the world has ever known. It helped form much of the tradition and spirit which is America.

Only now, faced with the calamities of poor land utilization and planning, have we begun to realize that the land is a finite resource * * * that it does have definite limitations and that its use determines the shape of our society.

In just a few decades, the population of the Nation will likely double * * * and so will the demands placed upon the land to support that population. If we are to meet our responsibilities in preparing for the future, the time is now to embrace the concept that society as a whole has a legitimate interest in proper utilization of land resources.

Most land use decisions are now based on expediency or economic pressures, with little regard to the effect of those decisions on the lives of the people in the area. Manufacturing and marketing functions continue to be concentrated in central cities creating congestion; the people move out of central cities to find more pleasant living conditions, creating traffic jams which are wasteful of human resources and costly to the Government. Hundreds of thousands of acres of fertile farm lands are being converted into housing developments and shopping centers hastening the time when hunger will stalk our Nation as it already does much of the globe.

More and more highways, interchanges and parking garages are required to move the people daily from the bedroom cities to the downtown offices and factories. The concentration of job opportunities in urban centers attracts more and more people from rural areas and small towns, further intensifying the problems of the urban center and leaving rural areas dying and devoid of population, even though the quality of life could be much better in the rural

areas and according to most polls at least 50 percent of our people prefer rural living.

Mr. Chairman, to halt the abuses of our limited land resources, and to assure that the land will continue to sustain our population and afford a quality of life to which every American is entitled, it is clearly in the national interest for the Federal Government to adopt a national land use policy and to foster adequate planning and sound land utilization through assistance to State and local governments.

Our need for comprehensive, area-wide land use planning, followed by effective implementation of those plans, is critical. It is urgent. Early and favorable consideration by the Congress of a National Land Use Policy Act which will assure adequate planning and utilization of land resources is essential if we are to avoid repeating the disastrous errors of the past and insure reasonable balanced growth patterns for the future.

Senator BELLMON. Mr. Chairman, I notice that both bills propose that we have a national land use policy. I am the coauthor of the administration bill. But I am a little curious in studying these two bills whether or not S. 992 will produce a national policy or rather probably more likely 50 separate State land use policies. I wonder if any thought has been given to this.

Secretary MORTON. I can assure you it would produce a national land use policy which would be made up of compatible State policies and plans. I think we are dealing here with establishing a sense of responsibility at the State level and dealing with a mechanism by which this responsibility can be exercised and can be coordinated in such a way that we end up with a national land use policy which has been developed at the lowest level of Government in which it can be carried out.

So I think that is the principle.

Senator BELLMON. What sort of State agency, Mr. Secretary, do you contemplate would be the lead agency for programs, planning and implementation in the various States?

Secretary MORTON. It could vary from State to State, as it does today. In the State planning organization, some States are at the point where they have land use plans. Some of the States have moved fairly rapidly in this direction. The States of Hawaii and Colorado are two good examples.

You would assume that the State agency would be either a separate agency, perhaps reporting to the executive in charge of national resources in the State, or it could be a part of their total planning agency which in many States today already exists.

Senator BELLMON. Mr. Secretary, let's take some possible examples. Let's assume that my own State, the State of Oklahoma, decided that they wanted to use the present Industrial Development Commission as their planning agency and maybe in Arkansas the Governor might choose the Highway Department, and some other State might choose something like a Fish and Wildlife Commission.

I am curious to know if there would be any consistency in plans developed by these different agencies which have a totally different approach?

Mr. LOESCH. If I can answer that, Senator Bellmon, I might say that we expect there would be a variety of ways for the State to handle this law. The States are going to have different priorities. As long as the State plan covers the areas set out in the bill and provides the methods that the bill requires, we see nothing but good in having a certain variety.

Senator BELLMON. Mr. Loesch, I am sure you are aware that in every State there is tremendous competition for jobs and new industry.

I am of the opinion that if two States were bidding for a new plant and a plant was considering to come into one of the States, there would be tremendous pressure on the State government to modify the land use plan to fit the needs of the new industry.

I know how intense these competitions become. Our State is continually fighting with Arkansas and Texas to try to readjust our tax laws or provide other kinds of incentives to get industry to come in. How are we going to keep them from tearing up land use plans in bidding for these kinds of developments?

Mr. LOESCH. We discussed that a little bit this morning, Senator Bellmon. But certainly I think the administration does not believe that passage of this act is going to quiet the competition that you speak of. But if the States do in fact, as contemplated by the bill, and as I think they will, coordinate their plans—that is to say, neighboring States will have compatible plans—then I think that so far as the Federal involvement under the bill is concerned, it is only interested in having the methods for the proper institutions needed to handle the environmental and other concerns in the bill.

We don't want to get into the act of determining whether this State or that State should have a particular plan. Of course, the bill itself contemplates that each year the State plans must be upgraded, too, to meet changing conditions. I don't think that the question you pose is a minus for the bill.

Secretary MORTON. Let me add something to that. One of the things we are trying to do in this program is to identify the critical environmental areas, the areas of environmental concern. I think that what we have proposed here will do that. We are trying to develop a method for inventoring areas that are impacted by key facilities, a method for exercising State control over land use in areas of critical environmental concern.

I think if we can develop this, then the States are going to be very conscious of these areas and they are going to work out industrial development plans that take these into consideration. No matter what kind of a law you have, if you have a Federal law that spells out in a blueprint fashion the total land use plan for the whole country, and if there isn't any interest in supporting that concept at the State level, it is just never going to happen, as a matter of fact.

But we think what we are doing here is developing a methodology of the States to exercise the very disciplines and the very controls that you mention are needed in this competition for industrial development. I think we address ourselves very well to this developmental provision here in the bill.

If land use plans were then violated because of this pressure, it would become very obvious. And we would be in a position then to use all of the influence of the Federal Government not to let these things happen, because there are a good many ways that this then could be brought to national attention.

Mr. TRAIN. I want to comment on that earlier question with respect to the State administering agency.

The legislation does intentionally provide a great deal of flexibility as to the particular kinds of arrangements that each state will make, as Secretary Loesch has pointed out. We do expect there will be diversity of approaches. At the same time, I do believe that the selection of a single-interest kind of State agency to administer a broadly directed program such as this would not be acceptable in most cases. I am thinking particularly of where you gave the example of a highway department.

It is hard for me to conceive of that as really being an acceptable approach to what this bill is seeking. All the bill itself calls for on page 9 is that the State be organized to implement its State land use program; and that the Governor have appropriate arrangements for administering the land use program management grant.

But again I would simply say that diversity is fine and free choice is what we want here, and experimentation is what we want and doubtless there will be different solutions amongst many of the States. But I believe that the Secretary would withhold his approval from a designation of an agency that was so single-interest in its focus that its selection would cast doubt upon the ability of the State to carry forth the broad range of interest represented by the program here.

Senator BELLMON. I am very much in favor of the concept of flexibility that allows each State to do its own planning. It is hard for me to understand how we would have one national land use policy to fit conditions in a congested State and fit the needs of my own State, which is still rural and developing.

There is one other question I would like to get to. I wonder why the administration seems to believe that the Secretary of the Interior will have better success in coordinating Federal influence on land use through ad hoc arrangements such as S. 992 contemplates than it would through a formal interagency council such as S. 632 suggests.

In other words, what additional authority do you feel, Mr. Secretary, this legislation would give you?

Secretary MORTON. Are you referring to the responsibilities of the Secretary in the administration bill as opposed to the responsibilities of the Water Resources Council?

Senator BELLMON. Yes.

Secretary MORTON. We went over that subject this morning rather thoroughly.

Senator BELLMON. I am sorry that I wasn't here. I will get it from the record. Thank you.

Thank you, Mr. Chairman.

Senator MOSS. The Senator from Alaska?

Senator STEVENS. Thank you.

Mr. Secretary, on page 13 of S. 992, the President is authorized to designate an agency or agencies to issue guidelines to Federal agencies to assist them in carrying out the legislation.

Why doesn't that just say the Department of Interior?

Mr. LOESCH. The answer, Senator Stevens, is that it isn't going to be the Secretary of the Department of the Interior. It is contemplated that the guidelines will be issued by the Council on Environmental Quality, of which Mr. Train is chairman.

Senator STEVENS. Why doesn't it say that? I don't understand, if we are going to have some guidelines and we are supposed to assist in formulating the policy on this, why we don't specify who is going to do it. It may be the Council on Environmental Quality under this administration, it could be another department under another administration. It seems if we are going to have guidelines we ought to know where they are going to come from and who is going to issue them.

Mr. TRAIN. We did consider putting this into the draft, but apparently it is accepted draft policy not to specify in that respect.

The Secretary, in the message of transmittal, stated that it was the President's intention to designate the Council on Environmental Quality so that Congress and the public are fully informed as to the intention.

I think that it is necessary to designate an agency to do this, in part, because one of the very complex aspects here is the procedures involving the review of State plans and the coordination between the Department of Housing and Urban Development and the Department of the Interior.

It was felt, as I recall, that it was not appropriate to have either one of those issuing the guidelines for that particular coordination. I think that is a very important aspect of the guidelines that the Council would be developing. Obviously, very close consultation with both secretaries would take place.

Secretary MORTON. I addressed myself, Senator Stevens, to this, too, in the letter of transmittal of the bill, which may be helpful.

Senator STEVENS. Thank you, Mr. Secretary.

I just have a feeling that the burden is going to be placed on the Department of Interior and yet the Department of Interior is not going to be the one that has the say-so as to the Federal activity, if I understand that section correctly. It is making fractional the Secretary's authority, in my opinion.

On page 8 of the bill, it says, "For the purpose of complying with paragraphs 1-7, subsection (a), any one or a combination of the following techniques is acceptable." The first one is the State establishment of the criteria and standards subject to judicial review and judicial enforcement of local implementation and compliance.

What does that really envision, when you read that in comparison to the others, one of which is direct State land use planning, or State administrative review of local planning? I don't quite understand that judicial review and judicial enforcement of local implementation and compliance would lead to an overall State plan.

Secretary MORTON. The first part of it is the establishment of the criteria and standards. As to the judicial review and enforcement, it seems to me this has to be worked out by the States in connection with their own constitution and their own general pattern of enforcement and judicial review procedures.

That is the reason we provide these alternatives. There is really sort of a combination of one and two, to give enough flexibility so that massive change in State law and traditional procedures would not be required and yet we would end up with a land use plan within the State where it had to set-aside, it had the methodology in it that we are striving for, and yet a plan that would fit their own traditional procedures.

It seems to me that this is what this does.

Senator STEVENS. I am getting a little allergic to involvement of the judiciary in planning. If you look at 1-7, we are talking about, for instance, the method of State exercising control over the use of lands of critical environmental concern, a system of controls and regulations pertaining to area and developmental activities. 1-7 involves a creation of a plan in a State. Yet this section says that it would be acceptable if the State has criteria and standards subject to judicial review and judicial enforcement of local implementation.

That would seem to be forcing the local governments into just repetitious judicial enforcement. Take the State of California. Certainly it would not seem in compliance to me if the State of California said "Any of the local plans were subject to judicial review on the following criteria." That is not a statewide plan. It leaves it to hundreds of State court judges to determine what the plan would be.

Mr. TRAIN. If I might comment on this at this point, the bill does not require the State to go this route. This is one of the three options which the bill provides.

The major purpose is to see to it that States do not leave the complete authority over land use decisions to local government where the land use decision has a regional impact, for example, but to not spell out just how the State will in all cases exercise its authority.

There are three ways we specify here and any mix of those three could be used. One is outright State regulation and control. This, I think, would be very radical in many areas of the country. So we provide two other alternatives. One is essentially State criteria with local implementation with two alternative kinds of review to insure that the State does have a handle on the process. One is judicial and one is administrative. Obviously the choice would be left up to the State and the State legislature to decide just which route it would go.

Senator STEVENS. I just question whether the judicial route is one that would lead to uniformity within the State, which is what I believe the section envisions.

I have one last question. I too serve on the Commerce Committee. We were informed last week that 53 percent of the population in the United States lives within 50 miles of the coastline and that the problems involved in securing the support of those members of the Congress who represent the States which are the inland States for the nationwide bill, S. 992, are so acute that we have been urged to move the coastal zone bill out of committee.

Assuming that our information is correct, and assuming also the information we have received—that is, most of the coastal States already do have some sort of a plan developed—what would be the harm to the national land use policy concept of S. 992 if we did in fact set up a trial balloon coastal zone management plan as envisioned by the bill that is before the Commerce Committee?

Mr. TRAIN. I think we are still firmly committed to the objective of a single national land use policy covering the entire United States. That is the President's recommendation and the administration remains committed to that objective.

As to what harm there might be in having a land use program for the coastal zone first, there might not necessarily be any sub-

stantial harm. If a coastal zone bill was well designed and had the kind of authority: regulatory procedures, administrative procedures that, for example, have been included in the national land use bill, at the same time we would be predestining so to speak, the national land use policies to being the subject of successive incremental statutes probably coming from different committees with all of the likely problems of lack of conformity.

I don't mean to be anticipating problems. But these, it seems to us, are the possibilities which the Congress and the administration have to be very sensitive to.

So, as I said earlier to Senator Hatfield, we strongly urge the Congress to develop one statute covering the entire United States.

Senator STEVENS. Thank you very much.

Senator MOSS. Thank you.

I have one question that I want to ask. In the administration bill there is nothing to deal with the problem of land use information and data gathering.

Secretary MORTON, do you feel that a central data bank would be of assistance to the States? Do you see a need to standardize and develop the uniform and consistent criteria for gathering land use data and statistics? And should the Federal Government assume the dominant role in developing such information? In S. 632 there is a section on this.

Secretary MORTON. We feel that the Federal agencies have to furnish some expertise and, of course, under the heading of expertise, Mr. Chairman, I believe the data gathering certainly is part of that package.

I would hope that this would develop. I don't think that we ought to try to preempt the field before the land use planning activity really gets started in the States.

My opinion is that we should develop in the Department of Interior all of the expertise that would be required that could be helpful that would be a useful tool to the States.

We are dealing here with classification methods, with methods of storing and retrieving this information, and all of the other data that could be used in the determination of not only the inventoried areas that we are dealing with here, but also the methods that we are encouraging to be developed. So the answer to the question is in the affirmative. I think we should develop it. I don't think we should develop it too fast and I don't think we should develop it before we know a lot more about it than we do now.

Senator MOSS. The State of Utah has gathered a good bit of this information and has it in the computer now. It seems to me that might be a good thing to have this bill in some kind of a data bank where this information could readily be retrieved.

I have one other question as to whether you think, Mr. Secretary, that much confidence could be given to the Department of the Interior's ability to supervise land use planning in view of its failure since 1968 to submit to the nationwide outdoor recreation plan as required by law.

Secretary MORTON. As you know, this is a national plan. The Department didn't have the competence to do it as fast as it should have been done when 1968 rolled around. I think we are developing that competence and we are also upgrading our ability to complete the

west-wide water plan and other areas that are involved in this field. I will be very candid with you. Unless we move the Department more in the direction of planning and developing a planning expertise across the board in the Department bureaus and in the central staff, which we intend to do, we would have a great deal of trouble with this.

Senator Moss. Senator Gravel had some questions. I will read them into the record and ask you, Mr. Secretary, if you could submit answers to them in writing.

One of them is very similar to the question you already are going to answer in writing. First, what safeguards do we have to see that we are not going overboard in the direction of environmental preservation at the undue expense of economic and commercial considerations, for example, the mining industry?

Secondly, S. 632, which I am a cosponsor of—this is Senator Gravel—joins the proposed land use authority with the existing Water Resources Council. What is to be said about the relation of all of this to other regional entities, Appalachian Regional Commission, Title V Regional Planning Commission, Interstate Compact and the like?

Third, my impression is that the quality of plans submitted to unlock the treasury of this or that agency program is pretty spotty and is frequently of questionable seriousness. How does the administration bill solve this problem and provide some discipline to the system?

Fourth, at the last Alaska Native Claims hearing I inquired about your views on my bill S. 1329 to establish a joint Federal-State land use planning commission in Alaska, taking the best features of the structures of the Federal field committee and the title V regional commissions of the Public Works and Economic Development Act and the Aspinall recommendation coming out of the Public Land Law Review Commission. How do you see this bill on its own merits and how well would it fit as an integral part of the Native Claims settlement?

If you would supply answers for Senator Gravel, I would appreciate it, and put them in the record.

(The answers referred to follow:)

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 23, 1971.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: At the hearing held by your Committee on May 18, 1971, on S. 632 and S. 992, bills to establish a National Land Use Policy, the Department was asked to respond in writing to some questions from Senator Gravel. The answers follow:

1. Question. "What safeguards do we have to see that we are not going overboard in the direction of environmental preservation at the undue expense of economic and commercial considerations, for example, the mining industry?"

Answer. Essentially the safeguards are those contained in public discussion of the issues. S. 992 attempts to create a mechanism whereby all interests can be reflected in land use decisions of more than local significance. This point is discussed with specific reference to the mining industry in Secretary Morton's

letter to Senator Allott inserted earlier in the record. Environmental protection does not mean zero economic growth. The challenge is to develop the technology necessary to extract the precious minerals and fuels we need so desperately without impairing the long-range production of our land. It is a matter of developing the methods and the mental attitudes of conservation.

2. Question. *"Second, S. 632, which I (Senator Gravel) am a co-sponsor of, joins the proposed land use authority with the existing Water Resources Council. What is to be said about the relation of all of this to other regional entities, Appalachian Regional Commission, Title V Regional Planning Commission, Interstate Compact and the like?"*

Answer. The Administration's bill vests administrative responsibility in the Departments of the Interior and Housing and Urban Development instead of the Water Resources Council because we feel that an interagency type of organization does not have a sufficient base to provide the leadership for an effective Federal-State cooperative effort. As for the other regional entities, they would continue to function as they have been and the State land use plans would be coordinated, under S. 992, with their activities and vice versa.

3. Question. *"Third, my impression is that the quality of plans submitted to unlock the treasury of this or that agency program is pretty spotty and is frequently of questionable seriousness. How does the Administration bill solve this problem and provide some discipline to the system?"*

Answer. Federal planning grants conditioned upon the submission of an acceptable plan sometimes have resulted, as you suggest, in States submitting plans which they do not always follow through on. S. 992 provides two annual program development grants which are "no strings" grants. Subsequent grants are conditioned upon developing methods for regulating specific land use decisions, procedures to prevent action in disregard of the State's plan and a detailed schedule for implementing all aspects of the State program.

Regular monitoring at the Federal level of the State programs against these very specific conditions will, I feel, provide whatever discipline the system needs, although I am confident that the States themselves, for the most part, are favorably disposed toward the objectives of the bill and will not need to be pushed very hard.

4. Question. *"At the last Alaska Native Claims hearing I inquired about your views on my bill S. 1329 to establish a joint federal-state land use planning commission in Alaska, taking the best features of the structures of the federal field committee and the Title V regional commissions of the Public Works and Economic Development Act and the Aspinall recommendation coming out of the Public Land Law Review Commission. How do you see this bill on its own merits and how well would it fit as an integral part of the Native Claims settlement?"*

Answer. The Administration's bill, S. 992, seeks to provide a national land use policy by creating a uniform framework under which all the States would adopt State plans. A separate Federal land use planning law for Alaska would not be consistent with this objective of uniformity.

Sincerely yours,

HARRISON LOESCH,
Assistant Secretary of the Interior.

Senator Moss. You gentlemen have remained a long time with us. You have been very helpful. I appreciate it greatly.

As you can see, we have some problems that we are going to have to wrestle with in the committee. We are very pleased to have had your viewpoint and presentation here.

Thank you, Mr. Secretary, and Mr. Loesch, and Chairman Train.

Senator Moss. Our next witness is Mr. John Quarles, assistant administrator for enforcement and general counsel, Environmental Protection Agency.

We have asked him to come here to testify on the two bills that are before the committee this morning.

Mr. Quarles, you may go ahead.

**STATEMENT OF JOHN R. QUARLES, JR., GENERAL COUNSEL AND
ASSISTANT ADMINISTRATOR FOR ENVIRONMENTAL PROTECTION
AGENCY**

Mr. QUARLES. Thank you, Mr. Chairman.

Mr. Chairman, I think in view of the extensive testimony which has already been provided by Secretary Morton and Chairman Train on not only the administration bill but also the other bill which is primarily under consideration at this point, it might make sense for me to rather than read my entire prepared statement, to submit it for the record with your permission. And in that case, I will briefly highlight the prepared testimony and address myself to one or two of the major issues that seem to be presented.

Senator Moss. We would appreciate that procedure. The statement in full will go into the record as though read.

Mr. QUARLES. In the prepared testimony I describe some of the participation by the Environmental Protection Agency in general matters affecting land use planning. As you know, our agency has primary responsibility for several of the pollution control activities focusing primarily on air pollution, water pollution, pesticides, solid waste and radiation.

In addition to those specific pollution control activities, we also have participated through the Federal coordinating procedures in review of many of the Federal projects and private activities to be conducted pursuant to Federal permits.

The main point that emerges from our experience with those procedures is that they are very useful in covering some activities that have an impact on environmental protection, but that with regard to the general problems of land use they are not effective because they do not cover those activities of private ownership. This is particularly true when you come east from the Western States where virtually all of the land is held in private ownership.

The basic problem which confronts us is that we have relied as a country almost exclusively on the traditional mechanism of the marketplace and a free private ownership to control the development and general patterns of use of our land.

The problem is that this approach fails to work. It may work well in many respects and for the short run, but for the long run it leads to consequences which are most damaging to the country as a whole and to future generations.

This could be documented by example after example. I will not do so. But I will briefly focus on four classes of situations where this occurs.

First, to look at the coastal and estuarine areas. Here there is tremendous damage occurring. As these areas are developed, very frequently dredging is undertaken, bulkheads are put in and the area is totally transformed. The marine habitat which is essential to the spawning areas and feeding areas, nursery areas for marine life may be totally destroyed. The natural contour of the land is changed. Vegetation is removed and the attractiveness which nature gave to the area, which is the reason for man's wanting to go there, can be thoroughly destroyed.

If you turn to the metropolitan areas, whether you are thinking of the area which runs from Washington up to Boston, or Chicago, Cleveland, Pittsburgh, from San Diego to San Francisco, where in each of these cases there is a developing metropolitan mass of area, or to look only at the metropolitan area around an individual city, the development is squeezing out any natural areas.

Any land which is not developed is placed under tremendous pressure for development. Its value for development rises as the surrounding area develops. Taxes are increased and the hope of a private owner to retain that area in its natural condition is very shaky.

From the viewpoint of society as a whole, it does not work.

In the rural areas, the problems are not quite so clear, but there also the most attractive places are sought out and altered. Structures of civilization change the landscape, destroying its attractive rural character with billboards, commercial establishments, power-lines and the rest, all items which are perhaps good in themselves, by virtue of their location are most damaging.

Fourth, I would point to the areas of wilderness which wherever they exist are increasingly under pressure. People seeking these out are attempting to use them for legitimate private purposes, but purposes which undercut their continued attractiveness for those who go there for the very reason of looking for wilderness.

From the overview of the problem, two factors stand out to my attention. One is that so long as a person who owns land is entitled in his private discretion to use that land however he wishes, he in fact is entitled to use it however he wishes, not only legally, but morally and in every other way. It is only when some real control is established over his entitlement as to how he may use that land that you can in fairness expect him to modify his activities and his development and his use accordingly.

The second factor is that local controls will not work. We have seen this as a country in place after place. As the reasons for developing an area generated by the marketplace mechanisms, as I have described, begin to take hold, whatever local protections have been established melt away in the force of that pressure and the development occurs virtually as though there were no local control.

I think that this general subject of land is one of enormous concern to people, far more so than is actually realized.

If you look at the great arousal of concern over environmental degradation that has occurred in the last few years or, in its broader context, over the last decade. I would suggest that there are basically two elements that are involved.

One is that people have found that in their daily lives they are losing contact with nature. They have no chance to enjoy the natural world as it was. It is just a matter of going from their apartment to a streetcar through a crowded business district, crowded traffic, to work and back again. The opportunities for enjoying recreational areas on the weekends are destroyed.

This, I suggest, is very severely concerning people and is at the root of their concern over environmental degradation, even though they may not express it in that sense.

Second, I think that what concerns people is that they recognize the changes that are occurring are making irreversible changes in

the countryside and, therefore, there is a risk that we may not pass on to future generations a country worth living in.

This comes out most clearly in the very strong feeling on the pesticide issue. It comes out in the concern over air pollution and over water pollution, the concern that we are filling up the Great Lakes with pollutants which will never be flushed out.

These changes of an irreversible nature are posing a threat not so much to present environment, but a threat to the long-range environment of the land by our children and grandchildren and their children.

From the viewpoint of both of these considerations, the land is just a highly vital part of the problem, perhaps the most vital. Because in terms of their daily living, the land is what people really come in contact with far more frequently than they come in contact with water pollution, air pollution, or pesticides.

Moreover, in terms of their concern for the irreversible changes that have occurred, this, too, is a central problem. As we fill up the metropolitan belt from here to Boston and develop every acre, we are making an irreversible change which our children and our grandchildren will have to live with and the opportunities for enjoying nature, for being out and enjoying the environment as a whole, are being eliminated on a permanent basis.

If you pave over a meadow or bulkhead a shoreline, you are making as irreversible a change as you are in building up pollutant load in the immediate area of our life.

In looking at the problem and what can be done about it, to make a difference, to make a change, we must recognize that we are touching upon deeply ingrained traditional American values. The free right of property and local zoning are as American as apple pie, and for us to tamper with them confronts us with very serious problems and, for years, undoubtedly has been the underlying reason for resistance for doing something about the problem.

But we have learned over the last half century that there must be some modifications of totally unfettered freedom of personal property, and we are now learning this. In the last few years we are learning that it must apply to environmental matters as well as many others.

The same types of controls which are being placed on industry and on municipalities to clean up their wastes, to curb their pollution discharges, must be matched by comparable controls placed on all of us as citizens as to what we may do with our private property.

In looking at the general problem and the legislation before us, I would emphasize that the regulatory controls are really the key. The question is whether we stand ready now to face up to the need to impose regulatory controls.

We may not be, but I believe that we are very rapidly approaching the point where we will, because I think people will recognize that there is a problem and there is a need and the need justifies the action.

Chairman Train referred to the legislation adopted by many States. That legislation is itself demonstrable evidence of the fact that people now are ready to have decisions made and to accept controls for the ultimate good of society and for their descendants.

Looking at the problem in this sense and the need as being one to establish regulatory controls, I would suggest to the committee that the administration bill offers some substantial advantages over S. 632. There is a real problem in this area of biting off more than we can chew.

We all must recognize that to deal with problems of land use management, brings us into extremely complex problems. I am concerned, as I read the provisions of S. 632 for this massive effort to gather data and to comprehensive planning without limitation, that we may be walking into a swamp for which there is no other side.

In order to come up with something which really will make a difference, it may be far better to narrow our sights to some degree.

The comprehensive state plans that are anticipated in S. 632 will be so comprehensive and require so much data that there is legitimate ground for concern whether they will ever actually get to the point of being implemented, or whether they will become so bulky as to be difficult to implement and almost impossible to revise and keep up to date in the light of changing circumstances.

The administration bill is perhaps more modest in what it attempts to come to grips with, but it does focus on several of the most serious problems and it proposes a focus on establishing at the State level regulatory controls that will actually make some impact on what is happening. It is quite possible that by being perhaps somewhat less ambitious in our goals or in the way we define the need for action, we will in fact have a far greater impact on what happens.

In summary, I would just say, speaking from the environmental protection agency, that though this problem is not specifically within our direct responsibilities, it clearly is very centrally located within our concerns.

I would suggest that the water pollution problems, of war against water pollution, is one which we can have some hope of winning. Most of these other pollution problems will lend themselves to control. But in dealing with the problems of land use management and control, it is not just a technological or financial problem, it is one of very complex institutional ramifications, and social and value ramifications which create additional barriers.

The problem is, in my judgment, the most underrecognized of the environmental problems. It is one of the most urgent and it is one on which we must begin to make some headway. I have no question that over the course of the next few decades we will come in this country to a full recognition of the action that must be taken and we will establish controls. The only question is whether we will do so on the basis of closing the barn door after virtually all of the finest horses have disappeared.

I urge that this committee move forward in action on these bills. The environmental protection agency strongly supports S. 992.

I thank you.

Senator Moss. Thank you very much, Mr. Quarles. You surprised me a little in the early part of your statement. You talked about the need we were faced with as a society now to begin to have some control and direction over how a person did use his private lands, although you did point out that this ran counter to our

traditions and our morals and our law, indeed. Then you endorsed S. 992 on the basis that it was the less ambitious of the two. You thought we ought to take the smallest bite rather than a bigger one.

Is this just because there will be so much resistance and that we have to chew on this one a while before we can take another bite?

Mr. QUARLES. No. It is not for that reason. I perhaps unfairly described the administration bill, S. 992, in saying it is less ambitious. The real core of the matter is the degree of emphasis on planning on the one hand versus establishing some form of regulatory control on the other.

I think that the administration bill focuses on the areas which are in highest need of protection and calls for the States to establish mechanisms that will provide protection of them.

It is less ambitious only really in the sense of not at the same time requiring involvement in very extensive planning efforts, which I fear would bog down the whole process.

Senator Moss. We do appreciate your statement which has been put in the record in full, and the endorsement of the agency for S. 992.

Obviously, we are in agreement. This is a very pressing and overriding problem on which that we need to be moving. This committee is going to try to do that.

Senator Stevens?

Senator STEVENS. The hour is quite late. I made some notes concerning what Mr. Quarles said. I wouldn't want anyone to leave with the impression from your testimony, Mr. Quarles that there is anything in S. 992 or S. 632 which would change the constitutional concept of private owner having the right to use his property the way he sees fit. I agree with you about the total need for some changes of that in the long run. But there is nothing in this bill that will accomplish that, is there, in either of these two bills, really?

Mr. QUARLES. Neither bill by itself imposes control on the rights of private owners to use their property as they see fit. Most private owners are now subject to some form of zoning in the usage of their property. The weakness is that the zoning that exists so frequently is modified as time goes by to not protect the maintenance of the property in a form which over the long run it will be desired to have that property be in.

Both bills, I would imagine, would lead to establishment of greater protections which would have the effect of maintaining in effect zoning ordinances or other methods of control that would have some impact on the freedom of the owner, not a greater impact on an individual owner than the present restrictions, but an impact that would have more assurance of preservation, more permanence to it, and would thereby give more protection to the needs of society and future generations to have some small bit of nature around them in their daily life.

Senator STEVENS. We could go on for a long time. We from the public land States, at least speaking for myself, have learned to live with the concept of public ownership of a great portion of our land. As you come from east of the Mississippi River, there is not that situation. I don't think we could legislate, short of condemnation, through the Federal Government of what you are seeking.

It seems to me it is going to be incumbent upon the people in the eastern States to bite that bullet and buy some of the property back, if they want public ownership. I don't think we could zone it into public ownership, and I don't think we could zone it into perpetual use for public benefit without paying compensation.

So you have a legitimate objective. But I don't think you have a vehicle to accomplish it.

Senator Moss. Thank you, Senator.

Thank you, Mr. Quarles. We appreciate your testimony. We appreciate your staying here until we could finish this afternoon.

(Mr. Quarles' prepared statement follows:)

STATEMENT OF JOHN QUARLES, ASSISTANT ADMINISTRATOR FOR ENFORCEMENT AND GENERAL COUNSEL, ENVIRONMENTAL PROTECTION AGENCY

Mr. Chairman, I am honored to have the opportunity to appear before this Committee and to present the views of the Environmental Protection Agency on S. 632 and S. 992, to establish a national land use policy.

Chairman Train and Secretary Morton have already testified in some detail on the bills before you today, and I shall not consume the Committee's time by commenting on them in detail at this time. However, I would like briefly to emphasize the importance of effective land-use planning as a means to prevent degradation of the environment, and the concern which EPA has in this area.

One of our most important concerns is to provide for planning in advance of land use. That is, the impact of a given proposed use of land must be considered in detail before the land has been modified, or before construction of facilities has commenced, or before the land resources in question have been otherwise irretrievably committed. As we have indicated with regard to power plant siting, only in this manner can we ensure that the decisions which are ultimately made will have the least possible adverse impact upon the environment.

We and other agencies have pursued several initiatives to attempt to influence land use decisions where substantial environmental questions are involved.

One approach which has been taken involves the coordination of Federal and federally supported activities to minimize adverse impact upon the environment. The National Environmental Policy of 1969 has had an enormous impact in this area. Executive Orders 11507 and 11514 require Federal facilities to conform to air and water quality standards, and require all Federal agencies to carry out their activities so as to protect and enhance the environment. EPA consults on a continuing basis with other agencies so as to assist them in meeting their responsibilities under these Orders.

In some cases, specific statutory provisions require agencies to consider environmental values in their direct activities or in administering assistance programs. One such provision is section 4(f) of the Department of Transportation Act, which requires transportation plans and programs to include measures to enhance the natural beauty of the lands traversed, and calls for special measures for projects in parks, recreation areas, and other significant public lands.

Important as these measures are, they are not enough to provide solutions to the much broader questions of land use. An orderly mechanism of general applicability is needed to assure that land use decisions not involving Federal lands or activities are made on a planned basis, and after consideration of possible adverse impact upon the environment.

To illustrate this point, I would like to mention one issue which was of concern to me. This was the action of the Secretary of the Interior in issuing a public warning to a large German Chemical Manufacturer, BASF, that it would be required to meet stringent standards for environmental protection in building a proposed petrochemical plant on the estuary of the Colleton River in South Carolina, near Hilton Head. This warning resulted in a decision by the company not to build the plant.

In my judgment this case, although it was concluded satisfactorily, from our point of view, graphically illustrates the need to have an orderly means for dealing with such problems, that generally cannot be handled successfully

on an ad hoc basis with sole reliance on persuasion. Instead, a more comprehensive approach is required, one which incorporates all interests, public and private, which are involved in decisions affecting certain types of land use.

The bills before you today, Mr. Chairman, represent efforts to establish the required comprehensive program. Again, I do not wish to repeat testimony which the Committee has heard. However, several aspects of S. 992, the Administration's proposal, deserve special emphasis.

First, the bill designates as "areas of critical environmental concern" all coastal and estuarine areas, and requires State land use programs to include means of exercising State control over the use of lands within such areas, including controls and regulations to ensure that applicable air, water or other environmental quality standards will not be violated. We support this special emphasis on the coastal and estuarine areas of the Nation, and have ourselves attempted to help prevent unplanned and unsound development in those areas.

Section 5(g) of the Federal Water Pollution Control Act required the Secretary of the Interior to make a study of the Nation's estuarine and coastal zones. The Secretary delegated the responsibility for carrying out that study to the Federal Water Pollution Control Administration, which is now part of EPA. The FWPCA report concluded that one of the major sources of pollution in estuarine zones is extensive, unplanned development, including waste discharges from municipalities and industries, and land run-off from construction. Dredging and filling associated with development can have a severe impact upon the estuarine environment as well.

We regard planning for estuarine protection as crucial, and we wish to indicate to the Committee our complete support for those provisions of S. 992 which require plans to include adequate provisions to protect coastal and estuarine areas.

We should not overlook another important benefit which would derive from enactment of S. 992. The bill would require States to include in land use programs "a method for assuring that local regulations do not restrict or exclude development and land use of regional benefit." These provisions would permit the State to evaluate the proposed sites, alternatives to those sites, the needs and requirements of local communities and the State as a whole, and to decide where necessary regional developments should be located.

This is the same principle which the Administration has supported in proposing the "Power Plant Siting Act of 1971." The State should be able to say not only, "You can't build it here," but also, "You can build it there." Rather than blocking development, it is our belief that development can and should proceed, but in such a way that environmental values are preserved and the least possible disruption of ecological systems will occur.

Mr. Chairman, some of EPA's most important missions involve the establishment and enforcement of standards of environmental quality under the Clean Air Act and the Federal Water Pollution Control Act, and the control of pesticides under the Federal insecticide, Fungicide, and Rodenticide Act. In addition to our specific functional responsibilities, however, we try not to lose sight of our basic goal, which is not simply to set and enforce standards, but to do what we can to protect our natural environment from degradation from whatever source, whether or not specific laws or standards are violated.

From this standpoint, we can see clearly why the general public has become alarmed over what appears to be the inevitable destruction of a livable world. Only in recent years have we begun to understand that many of the decisions which have traditionally been made without consideration of natural values can have irreversible effects. Pesticides, for example, can accumulate in the food chain, increasing in concentration as they pass from lower to higher animals, and lodging in human tissues, with unknown results. Nutrients added to lakes can accelerate the natural process of eutrophication, turning a lake into a swamp ten thousand years before its time.

At the same time, we have noted that the destruction often seems to occur in those areas which are most vital to our quality of life. Population is concentrated, and pressures for development are strongest, in our coastal and estuarine areas. Unchecked exploitation for timber or other natural resources can destroy our most valuable recreation and scenic areas.

Unless we find a means whereby the forces at work can be effectively controlled and channeled, we could witness in our time the destruction of a natural environment which is crucial to all aspects of our lives. And it seems to me that the key to controlling these forces lies in an effective program of land

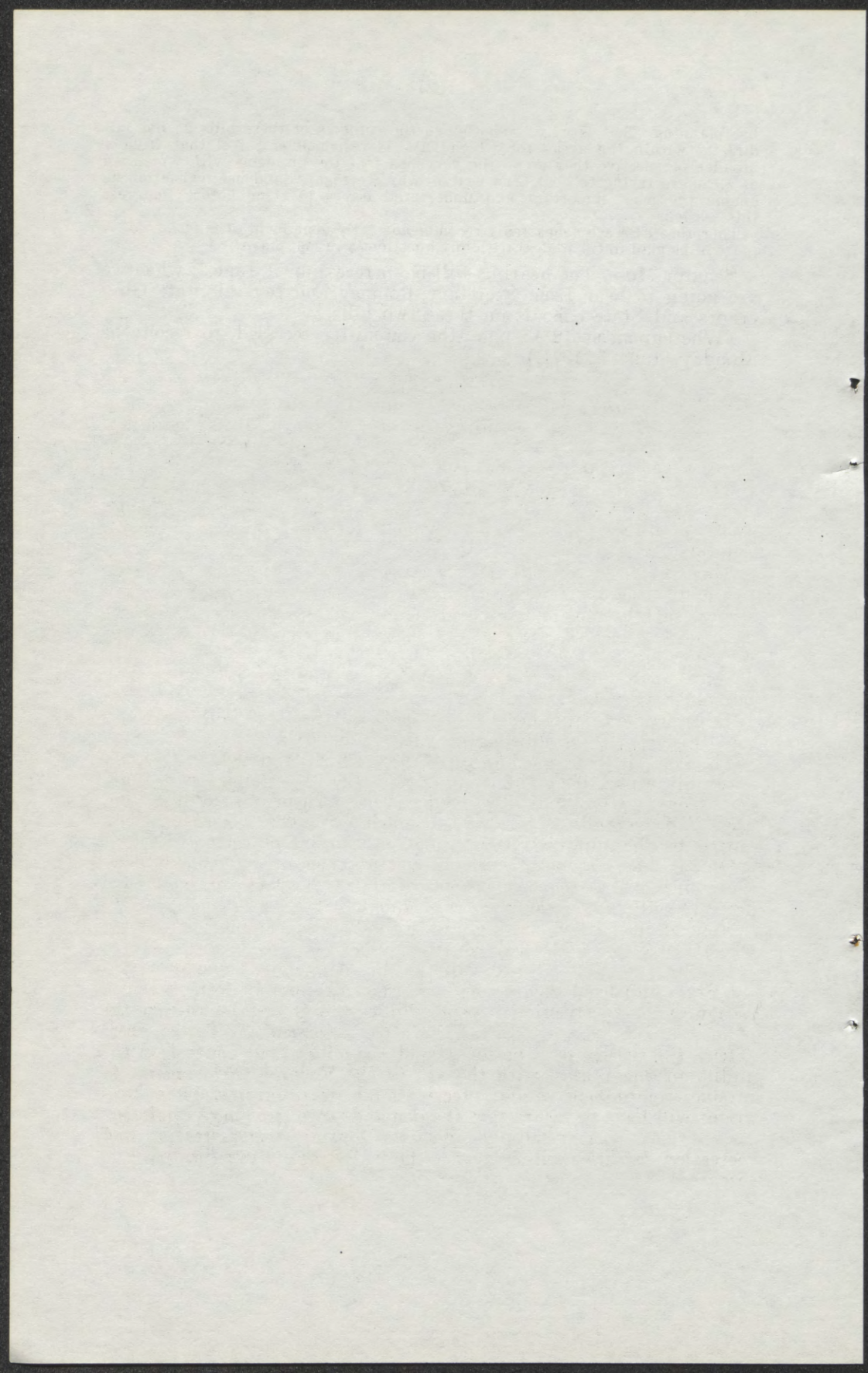
use planning. That is why, even though the subjects of these bills do not fall directly within the areas for which EPA is responsible, I feel that from a broader perspective they go to the very heart of the problems with which we at EPA are trying to deal. And that is why we regard land use legislation as among the most important and underrated issues to come before Congress this session.

Therefore EPA wholeheartedly recommends early enactment of S. 992.

I will be glad to try to deal with any questions you may have.

Senator Moss. The hearing will be in recess until June 7, when we are going to hear from Secretary Romney and several State Governors and State officials on these two bills.

(Whereupon, at 12:45 p.m., the committee recessed, to reconvene Monday, June 7, 1971.)



NATIONAL LAND USE POLICY

MONDAY, JUNE 7, 1971

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The committee met, pursuant to notice, at 10:10 a.m., in room 3110, New Senate Office Building, Senator Frank E. Moss, presiding.

Present: Senators Moss (presiding), Jackson, Anderson, Metcalf, Burdick, Allott, Jordan, and Stevens.

Also present: Jerry T. Verkler, staff director; William J. Van Ness, Chief Counsel; Suzanne Reed, research assistant; Charles Cook, minority counsel; and Thomas Nelson, assistant minority counsel.

Senator Moss (presiding). The committee will come to order.

Senator Jackson, the chairman, has been delayed slightly. He will be here shortly. But he has asked me to open the hearing because we have several very important and interesting witnesses to be heard this morning.

So, we will start at this time. When the chairman arrives, I will relinquish the Chair to him.

The purpose of this hearing is to take further testimony on pending legislation to establish a national land use policy.

The committee is considering S. 632, which is based upon a bill favorably reported by the committee in the 91st Congress. A number of days of hearings were held on that measure in the last Congress. The committee is also considering S. 992, a measure submitted by the administration which has similar objectives.

On May 18, we took testimony on both measures from witnesses representing the executive branch of the Federal Government. Today, we will hear from Secretary Romney, who was unable to be present at the earlier hearing, and we will hear a number of elected officials of State and local governments.

I am particularly pleased to have the comments of spokesmen of the State and local governments on these proposals. Both measures recognize the constitutional responsibilities of the States to take the primary role in land use planning and management. To a very great extent, the success of a national land use policy will depend on the ability of the States, with the aid of the Federal Government, to produce comprehensive and effective land use programs. These programs will have to insure that the demands of a growing population for increased energy supply, adequate housing, transportation and recreation facilities will be met without destroying our limited land resources.

I look forward to hearing the testimony of these eminent representatives of State and local Governments and welcome their contribution to the difficult task that lies before us.

We are very pleased to note that the Honorable George Romney, Secretary of the Department of Housing and Urban Development, is present in the hearing room. We will ask the Secretary to come forward and give us his testimony on these two bills that are before us.

We welcome you, Secretary Romney.

STATEMENT OF HON. GEORGE W. ROMNEY, SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, ACCOMPANIED BY SAMUEL C. JACKSON, ASSISTANT SECRETARY FOR METROPOLITAN PLANNING AND DEVELOPMENT

Secretary ROMNEY. Thank you very much, Senator Moss. I appreciate this opportunity to present the views of our Department on S. 632 and S. 992.

Now, your committee knows how much time and effort has been devoted to the problems of land use planning and management, both within and outside the Federal Government, over the past several years. This intensive study has been prompted by the general agreement that our present systems of land use planning and control are not working well enough. They are just not adequate to the job of matching limited land resources to demands we are bound to honor—for safe and healthful community living environments, and for preservation in fullest possible measure of our natural resources.

There is also wide agreement that an improved system of land use and control will depend very largely upon the States and their capacity to exercise more broadly and more effectively basic legal powers they already possess. Many of these powers have, of course, been delegated to municipalities and take the form of zoning ordinances, subdivision regulations, and various building codes. But the trend of the past few years has been for States to exercise increased land use control powers over specifically designated areas or issues.

It seems to me that the Federal Government should encourage and support this trend toward a more active State role in dealing with land use problems. This is another matter on which there is general agreement. The issues—and they are important ones—relate to just what Federal ground rules should be established.

The Department of Housing and Urban Development has been administering a variety of programs that, we believe, offer experience relevant to these issues.

We have a long history of supporting land use planning at State and local levels of government through our comprehensive planning assistance grant program. We have been dealing with a multitude of day-to-day land use problems in connection with our housing, urban renewal and several public facilities programs.

These programs and activities have been particularly concerned with the part of our land area that is now urbanized or is most immediately open to urbanization in the future. This is a small part—less than 5 percent—of our total land area. But it is where the

overwhelming majority of our people live. It is where the pressures on the natural environment seem most in exorable and where land use conflicts are more common. It is where the insufficiencies of our current systems of land use planning and control have been most in evidence.

Within these urban areas we have been seeking—in the words of the Housing Act of 1949—to assure that every family will have a decent home in a suitable living environment. This goal has always been seen as an ambitious one that would require the skillful application of large resources. But it is only as programs have matured and multiplied that we have come to appreciate just how complex the job of effecting environmental changes for the benefit of all really is.

In the beginning, the task was often seen as a relatively easy to define—if nevertheless very large undertaking—in terms of its physical development. But we then began to see that the planning of these development activities required more sophisticated—and more comprehensive—plans than were available in most communities.

We also began to realize that physical development was neither possible nor desirable without consideration of human problems. We came to see that the goal of a decent living environment for all meant an environment that was socially, just as well as physically, attractive.

In recent years, we have discovered that our natural environment is far more fragile than was once commonly supposed, and we have seen how quickly ill-considered actions can pollute and destroy. We have learned also that even the best comprehensive planning may be completely ignored in implementation. And we have come to appreciate the number of problems which have to be solved through action, as well as planning, that reaches across political boundaries.

I have taken the time to detail these considerations because they apply, I believe, to any new land use program that may be enacted into law. Many issues of land use are simply specialized expressions of issues of community development. As we concentrate more energy on these issues, it is essential that we do so with an awareness of the complexities of development and the relationships it involves—relationships among different kinds of planning and programs, among governments, between physical and social objectives, between planning and action.

A sensitivity to these kinds of relationships was an important feature of the study of land use issues that preceded the drafting of S. 992. It is reflected in a number of ways in the approach taken in S. 992 and in my opinion, contributes heavily to a number of the basic advantages this bill offers.

First, the bill does not ask the States to plan and control all land use but to focus on a limited number of problems and decisions.

This approach is not as traditional, neat or orderly as one which contemplates carving up the entire map of an area or State. But it is much more realistic given the complexity of the problems.

A State agency which does a good job will be amply occupied—and then some—if it deals with only major issues and decisions. It is not going to have time to decide day-by-day questions of

neighborhood or local significance. If it tries, it is apt to get so lost in the details that the real policy issues of land use are ignored. It is also likely to find that problems of coordination and agreement with other governments and governmental agencies are much more extensive and difficult. And it will almost certainly discover that enforcement burdens are not only heavier but also involve higher risks of producing costly and sometimes fatal delays in many sound projects.

Second, S. 992 undertakes to deal not only with the absence of effective land use regulation but with regulations that unduly restrict significant development actions. And it is drafted with a view to encouraging an affirmative State role toward large-scale and new community development activities.

An affirmative approach to necessary, but sometimes locally unwanted, development may be important to environmental protection objectives. For it is often the large or controversial project that is pushed off, in the absence of any more suitable site, to a remote or marginal location where there are marshlands, or forests, or valuable open space that would otherwise be protected.

But failure to remove unnecessary constraints and to improve the efficiency with which land is made available for development has other adverse consequences. For if an adequate supply of suitably prepared land cannot be made available, there are human needs that will be filled only at much higher cost, or filed not at all with consequences that may indeed be incalculable. And, of course, it is particularly true in connection with community development activities, such as housing, et cetera.

Now, third, S. 992 places its emphasis not only planning but on strengthening the management responsibilities of the States.

Over the years, governmental agencies at all levels have invested substantial sums in producing a great many plans, commonly containing elaborate land-use elements. Often they are plans that no one will implement, and very often—particularly when the economic and human costs are added—they are plans that no one should implement. The Department of Housing and Urban Development has a very considerable supply of these plans. Fortunately, we have helped pay for many of them.

I do not mean to say that there is not a good deal of land-use planning to be done. But the shortage is relatively much less in plans than in effective machinery for handling the hard decisions that it is one of the functions of good planning to identify.

This problem of implementation, of course, is not limited to land use. Thus, the President has proposed that the HUD program known generally as comprehensive planning be replaced by a new and twice as large planning and management assistance program, with much greater emphasis than in the past on State and local management activities.

This proposed new program could be used to supplement the assistance that would be provided under S. 992 and to enable States and localities to evaluate their land-use programs. It could also be used to tie State land-use programs to other State and local programs and to help improve performance of governmental systems—such as tax and revenue systems—that bear heavily upon land-use

decisions. In either case, however, the focus would be upon governmental management and implementation procedures, the same focus as under S. 992 and one that represents a good deal of hard learning about the gap between plans and action.

Fourth, S. 992 is sensitive to the complexities of governmental functions, capacities, and relationships.

It is tempting, of course, to conclude that all kinds of problems can be solved by simply introducing a new level of government—the State—which will assume responsibility for land use decisions. But States as well as other governments have problems of coordinating efforts, of implementing plans, of resisting proposals promising immediate benefits but excessive long-term costs. States furthermore do not in practice control planning and implementation of all the systems of public facilities and services that affect what land use decisions are practical and what are not. They cannot match the experience of local governments or many regional or areawide agencies in assessing the full range of needs and problems that are the daily concerns of people in a single neighborhood, community or area.

It is because of these considerations that S. 992 allows governors broad leeway in working out State administrative arrangements but is relatively specific in requiring coordination and consultation with local governments and the areawide agencies through which local officials may undertake to combine their efforts and deal, as best they can, with multijurisdictional problems.

In discussing with you some of the major advantages I see in S. 992, I have not meant to suggest that the legislative issues before the committee are simple.

All things considered, however, S. 992, in my opinion, best evidences a balancing of what is needed and what is possible in a land use policy. I think it is the most practicable bill, measured by experience and the complexities of carrying out any law that contemplates real change in the way land use decisions are made.

Senator Moss. Thank you, Mr. Secretary, for your statement and your discussion of the problem that S. 992 is drafted to meet. I gather from your testimony you think that S. 992 is better designed than 632 to meet the problems as they exist on the State and local level.

If the States or if the local communities do not accept their responsibility, what then, is the mechanism for making sure that something is done in land use planning?

Secretary ROMNEY. Well, we are dependent basically upon the States and local units of government acting because constitutionally land use control is a State responsibility. But I do believe that the provisions of S. 992 provide incentives for the States to move and they are significant incentives in that unless the States do move, they are not going to benefit from Federal programs to the same extent they will if they have developed a land use program.

Senator Moss. Do you think the incentive is strong enough, that they will move on the land use planning even though there may be some temptation to compete with industry or something of the sort that might pull in the other direction?

Secretary ROMNEY. Well, I think the incentives are strong enough to move them in the direction of land use planning and I think the

pressures are increasing—not only the governmental pressures. There are many Federal programs that will relate to the availability of the land use plan on just the provisions of S. 992. And then, in addition, I think the public pressures are growing in this respect. Consequently, I do believe that the provisions are adequate to secure action, and State awareness of the need for action is growing. The States are beginning to act on their own, which is a very encouraging aspect of the situation.

I have with me this morning, Senator Moss, Assistant Secretary Jackson, who has particular responsibility for directing the program of planning and management in our Department. He has also been administering the comprehensive planning program that preceded the planning and management program we just recommended.

Senator Moss. Thank you. We welcome you, Secretary Jackson. We are glad you are here and we will ask you to respond if some questions pertaining to your particular assignment as the chief planning officer at HUD.

Senator Jackson, the Chairman has arrived and I will ask him if he has any questions or comments at this point.

Senator JACKSON. Thank you, Mr. Chairman.

Mr. Secretary, we have had quite a controversy, as you know, on the Four Corners power plants, and the problem there is, of course, multi-State and regional. What role could S. 992 play in dealing with the problems of this nature?

Secretary ROMNEY. Well, it is a critical environment area obviously, and under S. 992, the States involved would be required to come up with a land use plan that would deal with the critical environment aspects of what is happening in that particular region.

Senator JACKSON. Yes, but there is no regional pulling together, you see, under S. 992, whereas in the bill that we introduced earlier in the committee, S. 632, we operate through the River Basins Commission, which provides for regional arrangements. I think this is a real weakness in S. 992 on an issue that is right before us at the present time.

Secretary ROMNEY. S. 992 would operate through existing regional mechanisms and does not preclude the organization of River Basin Commissions.

Senator JACKSON. I know, but could you spell out what regional capability you have under S. 992 specifically?

Secretary ROMNEY. Yes. You have the Four Corners Regional Commission that is already in existence and consequently, could be used for that purpose.

Senator JACKSON. Would you explain what legal authority they would have, now have?

Secretary ROMNEY. Well, they would have the authority that they are a title V commission and they have the authority to develop regional plans for that particular region.

Senator JACKSON. What land use planning authority, Mr. Secretary, do you think they have?

Secretary ROMNEY. The States have the land use control powers. The Federal Government does not have the land use control powers.

Senator JACKSON. I am talking about the Federal now. We know the State system is not working. That is why we have Federal legis-

lation in here. All Governors—all 50 States—have been trying through the years diligently, and you, as a former Governor, know how difficult—

Secretary ROMNEY. I would not say that.

Senator JACKSON. You do not think they have?

Secretary ROMNEY. No, sir. I think the Governors have begun to recognize the importance of this problem only in recent years. As a matter of fact, I never heard it discussed at the National Governors' Conference when I was Governor and I think the awareness of this environmental problem has arisen in the last 3 or 4 years. It began to be recognized just before I left the Governorship, and so there is a sensitivity on the part of the Governors that did not exist before.

Senator JACKSON. I can confirm everything you said. When we passed the National Environmental Policy Act—in fact, when we had a colloquium on the environment 3 years ago—we could not get on the floor and could not even interest the press because no one seemed to think there was any news in it.

Secretary ROMNEY. I think that is right.

Senator JACKSON. So, those of us who have been working on it over the years can completely confirm that. But, what I am trying to say, is the testimony we have had here earlier is to the effect that the Governors had tried to bring about wide land use planning. They found that, when it was submitted to the legislature, it met the opposition to all of the local vested interests, various elements, subdivisions of the State which are governmental entities, making the Governor's task well nigh impossible. The ones who have testified have been quite universal in that regard.

I want to return to the main point here. I will be glad to welcome any statement for the record later, but I believe you will find that there is more authority in the earlier bill, S. 632, that we introduced, in connection with regional land use problems through the River Basins Commission approach than there is in the other bill, S. 992.

Secretary ROMNEY. I do not know of any river basin down through that particular area. It is a pretty arid area. You have got the Colorado River, that is right.

You have got the Colorado, which is a pretty big one but right in that immediate area, there is not much—

Senator JACKSON. You just happened to pick the most controversial river basin of all.

Secretary ROMNEY. Senator, I was thinking of all the deserts I have been through in that area and I did not see any river, but the Colorado is over there a ways.

Senator JACKSON. Look, we are in a real hassle on the Four Corners and we want to try to balance these things and try to come up with the right answers. I wish you would take a look at that aspect of it. I am not trying to—

Secretary ROMNEY. Let me say this. There is not any question but that there needs to be adequate provision for regional action where regional action is called for and we will—

Senator JACKSON. You agree on that principle.

Secretary ROMNEY. Yes, sir; and we will be pleased to submit a supplemental statement on that point.

(The statement referred to follows:)

SUPPLEMENTAL HUD STATEMENT REGARDING ARRANGEMENTS FOR
STATE COORDINATION

Section 104(1)(2) of S. 992 recognizes the need to provide for interstate and regional land use planning by requiring a State to coordinate its land use program "with appropriate neighboring States with respect to land and water in interstate areas." For purposes of implementing such regional planning, a variety of existing mechanisms can be used. For example, section 701(f) of the Housing Act of 1954, authorizes any two or more States to enter into agreements or compacts for cooperative effort and material assistance in comprehensive planning for the growth and development of interstate areas. It further provides for the establishment of such agencies as are desirable to effect these agreements or compacts.

Senator JACKSON. Right. And I only raise it in that context. There is no use involving ourselves in technical arguments.

I wanted to ask a question on minority housing. Should there be a condition in national land use policy that the States require provisions be made for minority group housing in new developments? And, as well, I will ask about low-income housing.

Secretary ROMNEY. Where that is a regional problem I think it should be dealt with as part of a regional plan.

Senator JACKSON. On both?

Secretary ROMNEY. Yes; where there is a regional problem and on the basis of its regional impact.

Senator JACKSON. Minority housing and low-income housing?

Secretary ROMNEY. That is correct. Housing certainly is a problem that could be regional in character and where it is a regional problem it should be approached on that basis, as far as I am concerned.

Senator JACKSON. Now, what will the relationship be between HUD and Interior under S. 992? What do you see as the division of responsibility? Have you had time to consider that?

Secretary ROMNEY. Yes; as a matter of fact, we have discussions of it because, obviously, there is a joint responsibility here. The Interior Department is the lead agency and would have the responsibility of finally approving grants, but in the process of approving the grants, they would secure our approval of those programs involving community development and things in the community development area.

On the other hand, in the environmental area the Interior Department would be the ones primarily responsible.

Senator JACKSON. So, you see—

Secretary ROMNEY. So, it is sort of a joint responsibility depending upon the character of the program.

Senator JACKSON. Right. You see Interior as a lead agency with an important role, of course, with HUD in coordination in the areas over which you have a specific responsibility.

Secretary ROMNEY. That is right, and I think this is a sensible relationship.

Senator JACKSON. Very fine.

Thank you, Mr. Chairman.

Senator MOSS. Thank you.

Senator ALLOTT?

Senator JACKSON. Sorry, Mr. Secretary, I was delayed. I have got my little girl's third-grade class touring the Capitol and they are coming over here soon.

Secretary ROMNEY. That is something not to miss.

Senator JACKSON. Well, I have my orders.

Senator ALLOTT. Thank you very much, Mr. Chairman.

First, perhaps I should address this to Secretary Jackson, but in looking at S. 992, I have been looking at pages 46, 47, 48. Now, that is a combined comparison here. On our bill that would be starting after section—well, it is part of section 104.

SECRETARY ROMNEY. Forty-seven, 48 and—

Senator ALLOTT. Under program management grants. I have been looking at that and I find, first of all, that the grants will be given and then it enumerates nine separate areas in which they can be granted, and then under ninth, there are (a), through (i) and (i) has under it:

Coordinated with metropolitan plans existing on January first of the year in which the State land use program is submitted to the Secretary, which plans have been developed by an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966.

And then in (2):

Coordinated with appropriate neighboring States with respect to lands and waters in interstate areas; (3) Taking into account the plans and programs of other State agencies and of Federal and local Governments.

I think perhaps the point made by the chairman is that commissions of the Four Corners Commission type would not have the authority to deal with this. They could work at these problems but I do not think they have any authority unless Congress gave them such authority and I am a little bit hesitant that we would give them such authority since we already have State and county governments set up there.

But did you envision under these sections and the adjoining sections in 992 the sort of point that Senator Jackson was getting to in the development of land use planning?

Mr. JACKSON. Yes, Senator Allott. You will recall that there really are two Four Corners Planning Commissions. There is the interstate commission under title V and then there is a regional planning commission, which is the section 204 agency.

Now the section 204 agency is also the recipient of 701 comprehensive planning funds and one of the requirements of 701

comprehensive planning is land use planning. They are doing land use planning now and have been doing land use planning to some extent, so it is the purpose of section 104 to assure that any existing land use planning would be considered in which the plan that was developed pursuant to 992. The thrust here is to assure that we are not setting up duplicate machinery, or a duplicate set of plans, and that we use the existing facilities that are now engaged in planning and that it be done within the context and parameters of S. 992.

Senator ALLOTT. Well, there are numerous ticklish small problems. We have discussed this area ever since we started and I am glad that later this morning we will have the pleasure of hearing from one of our outstanding mayors from Boulder, Colo., relative to this. What objection do you get when the State steps in and starts a State planning for a local community? Before the end of the last session of our legislature, Governor Love had proposed a land use policy bill and Governor Love was very kind to come back here and testify last year upon that bill.

I now have before me an act which I have not frankly, had the chance to read. It has just come in the mail to me. Three acts, rather. I am sorry. Three acts passed by the Colorado Legislature, and signed by the Governor of Colorado. They are Senate bill No. 93, Senate bill 92, and Senate bill 91. I am going backwards here. That is the order in which they were given to me. Also a memorandum describing the bills. And Mr. Chairman, I would like to ask unanimous consent that these bills and the memorandum may be part of the record.

Senator Moss. Without objection, they shall be part of the record at this point.

(The three bills and memorandum referred to follow:)



1971

Signed June 2, 1971

SENATE BILL NO. 91. BY SENATORS Schieffelin, Bermingham, Decker, H. Fowler, MacManus, Strickland, Vollack, Anderson, DeBerard, L. Fowler, G. Jackson, Kinnie, Klein, Kogovsek, Noble, Ohlson, Plock, Shoemaker, Stockton, and Williams; also REPRESENTATIVES Arnold, Bain, Black, Dittemore, Fentress, Hinman, R. Jackson, Lamm, Miller, Moore, Newman, Schmidt, Benavidez, Bryant, Byerly, Carroll, Cooper, DeMoulin, Edmonds, Evetts, Farley, Friedman, Fuhr, Gallagher, Gustafson, Horst, Johnson, Kirscht, Kopel, Koster, Lamb, Lindley, McCormick, Mullen, Munson, Pepper, Sack, Safran, Schafer, Sonnenberg, Sooter, Stonebraker, Strahle, and Strang.

CONCERNING LAND USE IN THE STATE OF COLORADO, AND PROVIDING FOR THE POWERS AND DUTIES OF THE COLORADO LAND USE COMMISSION AND THE RESPONSIBILITIES OF LOCAL GOVERNMENTS, AND MAKING AN APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 106-4-1 (2), Colorado Revised Statutes 1963, as enacted by section 1 of chapter 75, Session Laws of Colorado 1970, is hereby REPEALED AND REENACTED, WITH AMENDMENTS, to read:

106-4-1. Legislative declaration - short title. (2) In order to provide the leadership necessary to meet the objectives of this article, the general assembly authorizes the Colorado land use commission to develop and hold hearings upon state land use plans and maps and related implementation techniques. It is the intent of the general assembly that land use, land use planning, and quality of development are matters in which the state has responsibility for the health, welfare, and safety of the people of the state and for the protection of the environment of the state.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SECTION 2. 106-4-2 (1) and (3), Colorado Revised Statutes 1963, as enacted by section 1 of chapter 75, Session Laws of Colorado 1970, are amended to read:

106-4-2. Establishment of commission. (1) (a) There is hereby established, within the office of the governor, the Colorado land use commission, hereinafter called the "commission". The commission shall consist of seven NINE members who shall be appointed in the manner and shall serve for terms as set forth in this section. The commission shall assume its duties June 1, 1970, and all terms of commission members shall commence on that date.

~~(b)--Five--members--shall--be--appointed--by--the--governor, including one from each of the congressional districts and one at large,--at--least one of whom must reside west of the continental divide,~~

(b) FIVE MEMBERS SHALL BE APPOINTED BY THE GOVERNOR, INCLUDING ONE EACH FROM THE PRESENT AREA OF THE FIRST, SECOND, AND THIRD CONGRESSIONAL DISTRICTS AND TWO FROM THE FOURTH CONGRESSIONAL DISTRICT, ONE OF WHICH SHALL RESIDE EAST OF THE CONTINENTAL DIVIDE AND ONE WEST OF THE DIVIDE, but no more than three members shall be from any one major political party. The terms of office of the members appointed under this paragraph (b) shall be five years, except that of the members appointed to take office on June 1, 1970, one shall be appointed for a one-year term, one shall be appointed for a two-year term, one shall be appointed for a three-year term, one shall be appointed for a four-year term, and one shall be appointed for a five-year term. Any vacancies shall be filled by appointment of the governor for the unexpired term.

(c) The governor shall also appoint ~~two~~ FOUR members who shall serve at his pleasure, ONE OF WHOM SHALL RESIDE IN SOUTHWEST COLORADO AND ONE IN NORTHWEST COLORADO.

(3) The commission ~~shall--utilize--the--staff--of--the--state planning--office--to--assist~~ IS AUTHORIZED TO UTILIZE ITS OWN STAFF OR TO CONTRACT FOR SERVICES in the performance of its duties. The departments and agencies of state AND LOCAL government shall make available to the commission such data ~~facilities,--and personnel~~ AND INFORMATION as are necessary for it to perform its duties. The commission may receive and utilize gifts ~~and any~~ funds from federal or other governmental agencies AND GRANTS AND GIFTS FROM ANY OTHER SOURCES. It shall adopt rules for its conduct and maintain a PUBLIC record of its activities, accomplishments, and recommendations. ~~to the governor and to the general assembly.~~

SECTION 3. 106-4-3, Colorado Revised Statutes 1963, as enacted by section 1 of chapter 75, Session Laws of Colorado 1970, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

106-4-3. Duties of the commission - temporary emergency power. (1) (a) In order to carry out the purposes of this article, the commission is authorized and directed to develop, hold hearings upon, and submit to the general assembly a progress report by February 1, 1972, an interim plan by September 1, 1972, and a final land use planning program by December 1, 1973. All such submittals shall relate to a total land use planning program for the state of Colorado and shall include related implementation techniques, which may include but need not be limited to an environmental matrix, management matrix, growth monitoring system, and impact model. In developing the land use planning program, the commission shall utilize and recognize to the fullest extent possible, all existing uses, plans, policies, standards, and procedures affecting land use at the local, state, and federal levels and particularly note where, in its opinion, deficiencies exist. The land use planning program shall also specify development policy and procedures for the future.

(b) In developing its land use planning program, the commission shall recognize that the decision-making authority as to the character and use of land shall be at the lowest level of government possible, consistent with the purposes of this article. In this regard, the commission may establish criteria by which land use management problems will be classified as matters of state concern, matters of regional concern, matters of local concern, or such other classification as the commission may deem necessary and proper. Furthermore, the commission shall specifically include in its land use planning program the roles, responsibilities, and authority of the various levels and agencies of government.

(c) The commission shall appoint, with approval of the governor, and consult with an advisory committee in the preparation of the land use planning program. Such advisory committee shall exist until January 10, 1974, and shall include, but need not be limited to, one representative of each of the following interests: Utilities, communication, transportation, petroleum, municipal government, county government, regional planning commissions, conservation, livestock, construction, Negro community, Mexican American community, mining, industrial, agriculture, land development, recreation, timber, real estate, and water, but at least one member of the advisory committee shall be appointed from each planning region of the state designated by the state planning office.

(d) Four members of the general assembly shall also be appointed to the advisory committee to the commission to serve to January 10, 1974. Two members shall be appointed by the speaker of the house of representatives, one member from each of the two major political parties; and two members shall be appointed by the president of the senate, one member from each of the two major political parties.

(e) In the preparation of the land use planning program, the commission shall hold such public hearings as it deems necessary, but in any event at least one meeting shall be held in each planning region of the state designated by the state planning office.

(f) (i) In order that environmental and ecological factors may be given equal consideration to technical factors in the site selection of athletic events for the winter olympic games of 1976, the commission is empowered to:

(ii) Cooperate with the Denver organizing committee for the 1976 olympics, incorporated, the United States olympic committee, and the international olympic committee in the site selection for the olympic events;

(iii) Cooperate and contract with any other state agency created by law to participate in planning the olympics;

(iv) Accept, on behalf and in the name of the state, gifts, donations, and grants, including grants of federal funds, for any purpose connected with the goals of this section. The commission shall have the power to direct the disposition of any such gift, donation, and grant so accepted for any purpose consistent with the terms and conditions under which given;

(v) The basic duties and responsibilities of the commission regarding the 1976 winter olympics shall be: Evaluation of community impacts and other considerations related thereto; potential land consumption rates; and public investment programming and planning; and the commission shall designate to the governor the general and specific information necessary for the commission to perform its duties, and the governor shall require the Denver organizing committee or any state or other agency to furnish or agree to furnish such information before the governor approves the payment of any state moneys to such committee or agency;

(vi) Specific recommendations and implementation measures developed by the commission shall be transmitted with adequate supporting materials to the governor and the general assembly for their action;

(vii) Cooperate and consult with local officials in communities in which the olympic events are to be located to develop land use controls and insure that they are adequate to protect the environment;

(viii) In the event local municipalities or counties in which the olympic events are to be located fail to provide land use controls with adequate environmental safeguards, the land use commission, upon the recommendation of the governor, is empowered to take steps to establish adequate land use regulations.

(2) (a) Whenever in the normal course of its duties as set forth in this article the land use commission determines that there is in progress or proposed a land development activity which constitutes a danger of irreparable injury, loss, or damage of serious and major proportions to the public health, welfare, or safety, the commission shall immediately give written notice to the board of county commissioners of each county involved of the pertinent facts and dangers with respect to such activity. If the said board of county commissioners does not remedy the situation within a reasonable time, the commission may request the governor to review such facts and dangers with respect to such activity. If the governor grants such request, such review shall be conducted by the governor at a meeting with the commission and the county commissioners of the counties involved. If, after such review, the governor shall determine that such activity does constitute such a danger, the governor may direct the commission to issue its written cease and desist order to the person in control of such activity. Such order shall require that such person immediately discontinue such activity. If such activity, notwithstanding such order, is continued, the commission may apply to any district court of this state in which such activity is located for a temporary restraining order, preliminary injunction, or permanent injunction, as provided for in the Colorado rules of civil procedure. Any such action shall be given precedence over all other matters pending in such district court. The institution of such action shall confer upon said district court exclusive jurisdiction to determine finally the subject matter thereof.

(b) In the event the commission issues such cease and desist order, or a district court issues such a temporary restraining order, preliminary injunction, or permanent injunction, the commission shall then proceed immediately to establish the planning criteria necessary to eliminate or avoid such danger. The appropriate local governmental agency or agencies shall then take immediate action to implement the aforementioned planning criteria.

(c) Where such a land development activity is located wholly within a city, city and county, or town, the city council or board of trustees shall have such jurisdiction and be subject to such requirements of this subsection (2) as are otherwise applicable to the board of county commissioners.

SECTION 4. 106-4-4, Colorado Revised Statutes, 1963, as enacted by section 1 of chapter 75, Session Laws of Colorado 1970, is hereby REPEALED AND REENACTED, WITH AMENDMENTS, to read:

106-4-4. Model resolutions - subdivisions - improvement notices. (1) The Colorado land use commission shall, after consultation with its advisory committee, develop model resolutions to serve as guidelines for county planning commissions in developing the subdivision regulations required by

section 106-2-34. Such resolutions shall be developed prior to January 1, 1972. Such model resolutions shall include provisions for criteria, standards, technical processes, and operational procedures as required by section 106-2-34, or as may be required by any other law setting or authorizing state standards for subdivisions.

(2) The Colorado land use commission shall, after consultation with its advisory committee, develop model resolutions to serve as guidelines for county commissioners in developing improvement notice regulations. Any such improvement notice regulations shall not apply to areas within incorporated areas of a county or to unincorporated areas of a county in which building permits are required. In addition, improvement notice regulations shall exempt from the provisions thereof minor or nominal improvements, additions, remodeling, or dwellings which do not alter the existing land use and are incident thereto.

(3) For the purpose of aiding the land use commission in the gathering of information, every county in the state, through its board of county commissioners, shall develop, adopt, and enforce improvement notice regulations for all the land within the unincorporated areas of the county not later than January 1, 1972. Such regulations shall not apply to any unincorporated area in which building permits are required. In addition, improvement notice regulations shall exempt from the provisions thereof minor or nominal improvements, additions, remodeling, or dwellings which do not alter the existing land use and are incident thereto. Copies of such improvement notices or building permits shall be supplied to the land use commission so that it may perform its duties and responsibilities under article 4 of this chapter. The land use commission may prescribe summary forms which can be submitted to it in lieu of copies of such notices or permits.

(4) (a) The land use commission shall, after consultation with its advisory committee, develop model resolutions to serve as guidelines for county commissioners, city councils, town boards and special districts and authorities in developing land uses and construction controls within designated floodways.

(b) The commission shall, in its progress report, due February 1, 1972, designate critical areas in the state where a one hundred-year (storm return frequency) floodway should be identified and shall aid the state agencies and local governments having jurisdiction over such critical areas in adopting a program for such identification. The purpose of identifying a floodway is to insure that life and property are protected, that the expenditure of public funds to clean up flood damage is kept to a minimum, that a high volume of water runoff can be accommodated, and that impediments to this flow are held to a minimum. The commission shall designate critical conservation

and recreation areas and recommend state involvement in land use in such areas.

(c) The commission shall include a report on land uses and construction within floodways in its interim and final land use planning programs.

SECTION 5. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the state treasury not otherwise appropriated, to the office of the governor for allocation to the Colorado land use commission, for the fiscal year beginning July 1, 1971, the sum of two hundred eighty-two thousand two hundred sixty dollars (\$282,260), or so much thereof as may be necessary, for the administration of article 4 of chapter 106, C.R.S. 1963.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

John D. Vanderhoof
PRESIDENT OF THE
SENATE

John D. Fuhr
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Comfort W. Shaw
SECRETARY OF
THE SENATE

Lorraine F. Lombardi
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John A. Love
GOVERNOR OF THE STATE OF COLORADO



1971

Signed June 2, 1971

SENATE BILL NO. 92. BY SENATORS Schieffelin, Bermingham, Decker, H. Fowler, MacManus, Strickland, Vollack, Anderson, DeBerard, L. Fowler, G. Jackson, Kinnie, Klein, Kogovsek, Ohlson, Plock, Stockton, and Williams; also REPRESENTATIVES Arnold, Bain, Black, Dittimore, Fentress, Hinman, R. Jackson, Lamm, Miller, Newman, Schmidt, Bryant, Byerly, Edmonds, Friedman, Fuhr, Gustafson, Johnson, Moore, Pepper, Showalter, Sooter, and Stonebraker.

CONCERNING THE DIVISION OF LAND INTO SITES, TRACTS, OR LOTS, AND PROVIDING FOR THE REGULATION THEREOF.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 106-2-34 (1), Colorado Revised Statutes 1963 (1967 Supp.), is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

106-2-34. Subdivision regulations. (1) Every county in the state which does not have a county planning commission on July 1, 1971, shall create a county planning commission in accordance with the provisions of section 106-2-2. Every county planning commission in the state shall develop, and the county commissioners shall adopt and enforce subdivision regulations for all land within the unincorporated areas of the county in accordance with this section not later than July 1, 1972. In the event the county commissioners of any county in the state have not adopted subdivision regulations on July 2, 1972, then and in such event, the land use commission may promulgate such subdivision regulations for such areas of the county for which no subdivision regulations exist. Such subdivision regulations shall be in full force and effect, and enforced by the county commissioners. If at any time thereafter the board of county commissioners adopts its own subdivision regulations for land

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

within the unincorporated areas of the county, such regulations shall be no less stringent than the regulations promulgated by the Colorado land use commission under this subsection (1). All subdivision regulations, and all amendments thereto, adopted by a board of county commissioners shall be transmitted to the Colorado land use commission.

SECTION 2. 106-2-34, Colorado Revised Statutes 1963, as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

106-2-34. Subdivision regulations. (3) (a) Subdivision regulations adopted by a county planning commission pursuant to this section shall require subdividers to submit to the board of county commissioners and to the Colorado land use commission data, surveys, analyses, studies, plans, and designs, in the form prescribed by the board of county commissioners, of the following items:

- (b) Property survey and ownership;
- (c) Site characteristics and analyses including streams, lakes, topography, geology, soils, and vegetation;
- (d) (i) A plat showing the layout or plan of development, including, where applicable, the following information:
 - (ii) Total development area.
 - (iii) Total number of proposed dwelling units.
 - (iv) Total number of square feet of proposed nonresidential floor space.
 - (v) Total number of proposed off-street parking spaces, excluding those associated with single family residential development.
 - (vi) Estimated total number of gallons per day of water system requirements where a distribution system is proposed.
 - (vii) Estimated total number of gallons per day of sewage to be treated where a central sewage treatment facility is proposed, or sewage disposal means and suitability where no central sewage treatment facility is proposed.
 - (viii) Estimated construction cost and proposed method of financing of the streets and related facilities, water distribution system, sewage collection system, storm drainage facilities, and such other utilities as may be required of the developer by the county.

(4) (a) Subdivision regulations adopted by a county planning commission pursuant to this section shall include, as a minimum, provisions governing the following matters:

(b) Requirements for suitable areas for recreation, schools, utilities, or other necessary public services.

(c) Standards and technical procedures applicable to storm drainage plans and related designs, in order to insure proper drainage ways.

(d) Standards and technical procedures applicable to sanitary sewer plans and designs, including soil percolation testing and required percolation rates and site design standards for on-lot sewage disposal systems when applicable.

(e) Standards and technical procedures applicable to water systems.

(5) No subdivision shall be approved under section 106-2-9 (3), (4), and (5) until such data, surveys, analyses, studies, plans, and designs as may be required by this section and by the county planning commission have been submitted, reviewed, and found to meet all sound planning and engineering requirements of the county contained in its subdivision regulations.

SECTION 3. Safety clause. The general assembly hereby

finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

John D. Vanderhooft
PRESIDENT OF THE
SENATE

John D. Fuhr
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Comfort W. Shaw
SECRETARY OF
THE SENATE

Lorraine F. Lombardi
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John A. Love
GOVERNOR OF THE STATE OF COLORADO



1971

Signed May 6, 1971

SENATE BILL NO. 93. BY SENATORS Schieffelin, Bermingham, Decker, H. Fowler, MacManus, Strickland, Vollack, Anderson, Noble, and Stockton; also REPRESENTATIVES Arnold, Bain, Black, Dittmore, Fentress, Hinman, R. Jackson, Lamm, Miller, Moore, Newman, Schmidt, Benavidez, Bryant, Byerly, Carroll, DeMoulin, Friedman, Fuhr, Gallagher, Gustafson, Hart, Horst, Johnson, Kirscht, Koster, Lamb, Lindley, McCormick, Mullen, Pepper, Quinlan, Sack, Safran, Shore, Sooter, Stonebraker, and Strang.

CONCERNING THE ESTABLISHMENT OF A PROGRAM OF PLANNING AID TO LOCAL GOVERNMENTS, AND MAKING AN APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Chapter 106, Colorado Revised Statutes 1963, as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 5

PLANNING AID TO LOCAL GOVERNMENTS

106-5-1. Short title. This article shall be known and may be cited as the "Colorado Planning Aid Fund Act".

106-5-2. Legislative declaration. The general assembly finds and declares that the rapid growth and development of the state has resulted in demands for land use planning not only statewide but also in cities, towns, counties, and regions throughout the state; that certain of these units of local government may not be financially able adequately to plan for the demands of such growth; and that in order to provide for necessary planning assistance to such units of local government,

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

it is the intention of the general assembly to establish a state-local government planning aid fund.

106-5-3. Planning fund - qualification. (1) There is hereby created in the office of the state treasurer the state-local government planning aid fund. There shall be credited to said fund such moneys as may, from time to time, be appropriated by the general assembly for purposes of this article.

(2) (a) Moneys in the state-local government planning aid fund shall be available to municipalities, counties, and regional planning agencies which:

(b) Are located in areas designated by the Colorado land use commission as areas of critical planning need;

(c) Have been designated by the Colorado land use commission as in need of planning funds; and

(d) Have submitted and agreed to a specific work program, including an estimated total cost, for the use of planning funds which has been approved by the Colorado land use commission.

(3) In no event shall any municipality, county, or regional planning agency receive from said planning fund, nor shall the Colorado land use commission or the state become liable for, any moneys in an amount in excess of two-thirds of the estimated total costs of any specific work program approved by the Colorado land use commission.

(4) (a) The Colorado land use commission may designate as an area of critical planning need any area in the state which is experiencing the lack of land use plans to provide adequately for its planning needs and in which the Colorado land use commission finds:

(b) Problems related to inadequate land use planning, such as overtaxed utilities, traffic congestion, water pollution, poor accessibility, or natural or man-made hazardous circumstances; or

(c) Land development forces which may have a significant impact on the area, require extensive public investment, or represent an adverse effect upon a natural resource.

106-5-4. Reimbursement. (1) Any municipality, county, or regional planning agency which has received approval from the Colorado land use commission under section 106-5-3 and has also received the approval of the governor, shall receive planning aid funds not to exceed two-thirds of the estimated total actual costs which will be incurred in carrying out an approved work program.

(2) The state-local planning aid fund shall be administered by the Colorado land use commission, which shall authorize payments to municipalities, counties, and regional planning agencies on the basis of vouchers approved by the Colorado land use commission.

(3) The Colorado land use commission shall review the progress of all work programs on a monthly basis according to procedures prescribed by the commission. Payments shall be made on the basis of the work completed as prescribed by the commission, either by full payment for the first two-thirds of the estimated total actual costs that are incurred, or by two-thirds payment of all estimated total actual costs that are incurred. Any right to payments hereunder shall, in any event whatsoever, be subject to the limitations of section 106-5-3 (3).

(4) The state-local government planning aid fund may receive and utilize gifts and grants from private or federal or other governmental sources in addition to moneys appropriated by the general assembly.

SECTION 2. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the state treasury not otherwise appropriated, to the Colorado land use commission, for the fiscal year beginning July 1, 1971, the sum of two hundred thousand dollars (\$200,000), or so much thereof as may be necessary, for planning aid to counties, municipalities, and regional planning agencies as provided in this act. None of the moneys appropriated in this section shall be reduced by any amounts received from federal, local, or private sources.

SECTION 3. Safety clause. The general assembly hereby

finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

John D. Vanderhoof
PRESIDENT OF THE
SENATE

John D. Fuhr
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Comfort W. Shaw
SECRETARY OF
THE SENATE

Lorraine F. Lombardi
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John A. Love
GOVERNOR OF THE STATE OF COLORADO

COLORADO LAND USE COMMISSION,
Denver, Colo., June 4, 1971.

Senator GORDON ALLOTT,
*Member, Senate Committee on Interior and Insular Affairs,
 New Senate Office Building, Washington, D.C.*

DEAR SENATOR ALLOTT: We are most pleased that the subject of land use policy is of such prominent concern to you and your Committee. It is most important that clear policy and positive leadership be expressed on this vital subject at the national level.

The State of Colorado is proud to have been able to adopt significant legislation regarding land use policy and to have started in motion the design of a land use management system involving all levels of state government.

We are enclosing a copy of this legislation and our report to the Governor. These represent the position of the Colorado Land Use Commission on land use policy and we respectfully submit them to the Committee as our testimony.

Respectfully,

JOHN R. CROWLEY, *Chairman.*

COLORADO LAND USE COMMISSION,
May 7, 1971.

Memorandum.

From: Colorado Land Use Commission.

Subject: Senate Bills 91, 92 and 93 as adopted by the General Assembly.

The following is a brief summary of the effects of Senate Bills 91, 92 and 93 on the L.U.C. Also attached are the three bills as they emerged from the General Assembly. This version of 91 includes the unchanged segments of the 1970 Land Use Act. Certain editing will be made in the final editions printed by the state.

SENATE BILL NO. 91—(COLORADO LAND USE ACT)

1. Increase the Land Use Commission (L.U.C.) membership from seven to nine members, insuring a minimum of three from the Western Slope.
2. Specifies that the decision making authority on land use should be made at the lowest level of government possible.
3. Establishes an advisory committee to the L.U.C. made up of representatives from commerce, industry, agriculture, conservation, natural resources, etc. and four members of the General Assembly.
4. Requires the L.U.C. to develop an Interim Plan of state development policy be completed by September 1, 1972, and presented to the General Assembly for their action.
5. Requires the L.U.C. to develop Final Plan and Process to be completed and submitted to the General Assembly for their action by December 1, 1973.
6. Requires a minimum of four basic planning tools to be developed by the L.U.C. for all levels of government: (1) A system for monitoring growth and change in the state, (2) A means of evaluating the impact of proposed development, (3) A system for identifying environmental concerns and relate them to development and (4) A system of documenting our existing land use control policies and planning in all levels of government.
7. Requires the L.U.C. to hold a minimum of twelve hearings, one in each of the twelve state regions.
8. Assigns to the Colorado Land Use Commission the responsibility to evaluate the effects of any selected Olympic sites upon the state and community involved and the environment in general. Also, in certain circumstances and upon recommendation of the Governor, take steps to establish adequate land use and environmental safeguards.
9. Enables the L.U.C. to restrain a land development activity that constitutes a danger or potential danger of irreparable injury, loss, or damage of serious and major proportions to the public health, safety and welfare.
10. Requires the L.U.C. to develop model subdivision regulations for use by all counties in the state.
11. Requires counties to maintain either building permits or improvement notices for their entire area of jurisdiction.
12. Requires the L.U.C. to develop flood plain control standards and criteria, and recommend critical conservation and recreation areas.

SENATE BILL NO. 92.—(COLORADO LAND USE ACT)

1. Requires every county in the state without a county planning commission to create one.

2. Requires every county in the state to have subdivision regulations for all land within its jurisdiction by July 1, 1972.

3. Enables the L.U.C. to promulgate subdivision regulations for any county that has not adopted such regulations by July 1, 1972.

4. Specifies that subdivision regulations promulgated by the L.U.C. in the absence of county regulations shall constitute minimum standards for any future subdivision regulations for that county.

5. Specifies certain data, surveys, studies and plans by all subdividers shall be submitted to the Board of County Commissioners and to the L.U.C.

6. Requires county subdivision regulations include minimum standards and technical procedures applicable to drainage ways, sewer plans and designs for water systems.

SENATE BILL No. 93—(COLORADO LAND USE ACT)

1. Establishes a fund of \$200,000 for fiscal year 1971-72.

2. Enables the Colorado L.U.C. to designate areas of critical planning need.

3. Enables any municipality or county or regional planning agency which is designated as an area of critical planning need to apply for planning aid to carry out a work program agreed to by the municipality, county and the L.U.C.

Senator ALLOTT. And also, I have a copy of a letter here sent to Senator Jackson by Governor Love, who explained he could not be here this morning but said he wanted to prepare a statement which he would forward to me and I ask unanimous consent that it may be inserted in the record at this point to sort of update his testimony of last year on the previous bill.

Senator MOSS. We will be pleased to have that. Without objection, it will be made a part of the record.

(The letter referred to follows:)

GOVERNOR'S OFFICE,
Denver, Colo., June 3, 1971.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
Senate Office Building,
Washington, D.C.

DEAR SENATOR JACKSON: I had been looking forward to testifying before your Committee on Land Use Planning on June 7. A part of my anticipation about a reappearance involved the fact that we have at the recent session of our State Legislature, updated and strengthened our State Land Use Laws.

However, events within Colorado will make it inadvisable for me to be out of the State at that time and I, accordingly, must, with sincere regret, notify you that I cannot be present.

I do intend, however, with your permission, to prepare a statement and submit it to Senator Allott for possible inclusion in your record.

May I wish you the utmost in success in the proposed legislation.

Sincerely,

JOHN A. LOVE.

Senator ALLOTT. Do you, Mr. Secretary, believe that facilities and lands of the Federal Government should comply with the land-use plans of State and other local governments?

Secretary ROMNEY. Yes. There is an exception where there is a national interest involved, but except for that, I think so.

Senator ALLOTT. Well, what is a national interest? Is the Four Corners area a national interest?

Secretary ROMNEY. I would think it would be.

Senator ALLOTT. Someone would have to draw the lines. Well, let me ask you this, then, since your answer was yes. Is it required by S. 992 that the Federal Government should comply with the land use policy?

Secretary ROMNEY. Yes. In section 106 it says:

Federal projects and activities significantly affecting land use shall be consistent with State land use programs funded under Section 104 of this Act except in cases of overriding national interest.

Senator ALLOTT. Except. So the national interest is an exception. Secretary ROMNEY. That is right.

Senator ALLOTT. Thank you very much. I think that is all I have at this time.

Senator Moss. Senator Metcalf?

Senator Jordan?

Senator JORDAN. I have no questions. I would like to ask unanimous consent that the supplemental views of Senator Allott and myself on S. 3354 be inserted in the record at this point.

Senator Moss. Without objection, they will be inserted.

(The information referred to follows:)

SUPPLEMENTAL VIEWS OF SENATORS GORDON ALLOTT AND LEN B. JORDAN
ON S. 3354 (91ST CONG., 2D SESS.)

Events of the past decade have forcibly caused this nation to realize the limits of our land resource. The increasing clamor of various groups urging the "preservation" of various parcels of land for specific purposes, is an outstanding symptom of that realization. The purposes of the various "set asides" are worthy and we have supported most if not all of the proposals.

However, we see long-term dangers in carving up the land mass on a large scale basis and "locking-in" certain lands for use only for specific purposes indefinitely. Such a policy if continued and expanded may very well lead to inefficient use of land areas, unrelated to the present needs of the community and Nation, and may even promote the evils the reservations or "set asides" were expected to prevent.

Now a coordinated land use system is needed to guide us in the use of that land, and land use planning will produce that system. The need for the system is documented in the testimony and other evidence heard and received by the Committee. We see no reason to repeat it here.

The issue then is not whether it should be done, but rather how it should be done. S. 3354 provides Federal funds to encourage and aid states to develop statewide land use plans which will correspond to, and complement the land use plans of other states and other appropriate governmental bodies.

The original bill required the states, on penalty of the loss of Federal funds, including Federal matching funds in joint programs unrelated to land use, to submit land use plans acceptable to the Federal Government and to implement them. We could not support that provision because we believe that, by our Constitution, land use planning for non-Federal lands is within the exclusive police powers of the States, and unintended results could work a severe hardship on individuals having no connection with land use planning and who may even reside in a State which was in full compliance with the Act.

The reported bill limits the penalty to loss of Federal funds with respect to "... new State-administered action which may have a substantial adverse environmental impact or which would or would tend to irreversibly or irretrievably commit substantial land or water resources ...". In other words, the penalty provision of section 315 is limited to programs related to the environment. This version was accepted in lieu of the original provisions but not as a beginning point for later usurpation of the powers of States.

The reported bill contains language designed to encourage the adoption of land use plans on Federal lands by federal agencies but, as the Report says, makes provision for such plans only peripherally, reserving to a later time the matter of specific legislation to provide land use planning for our Federal lands, which constitute one third of our Nation.

The Public Land Law Review Commission Report to Congress and the President this year pursuant to Public Law 88-606 states:

"We are convinced that effective land use planning is essential to rational programs for the use and development of the public lands and their resources.

"Planning is done at the national, regional, and local levels. It is intended to provide a guide for future decisions. Thus, plans developed by the public land agencies at the national level provide guidance for decisions at all levels, and those developed at the regional and local levels provide guidance for decisions at those levels. Our interest focuses on planning land uses at the regional and local levels because the effects of public land programs are felt most strongly there. And it is at those levels that the Commission noted the greatest public concern with the manner in which public land programs are being implemented."

It is our belief that land use planning for both Federal and non-Federal lands should proceed together, since they are mutually interdependent, and the results of decisions with respect to one will generally have an impact upon decisions to be made with respect to the other.

The key words in land use planning must be "balance" and "relevance." The needs of our citizens—material, spiritual, and social—should all be satisfied. This requires a balance of land uses, but that balance may not have any direct relationship to achieving the greatest dollar return in a given period for a given parcel of land. Yet the dollar return cannot be overlooked, and at the same time, future needs for the products of the land cannot be ignored. The classification or use of land must be relevant to the needs of the times. Frequently, in hindsight, we tend to point to the "mistakes of the past" and express our determination to do better and avoid such mistakes. The danger in such an attitude is that we may cloud our vision and believe that decisions can be made now concerning land use that will always be the "right" decisions. Those decisions are then "set in concrete," and are considered sacrosanct, never to be reviewed. Land classifications or uses should be periodically reviewed to determine whether they are still relevant to the needs and circumstances of the present and foreseeable future.

Only by so doing can we insure that "right" decisions are indeed "right," and that the "right" decisions of yesterday are still "right" today.

The purpose of S. 3354, as we understand it, is not to impose land use decisions upon the States at the National level, to cloak such decisions in a mantle of emanating from a superior wisdom, and to entomb those decisions in the bureaucratic graveyard never to be exhumed and examined. Rather, it is, or should be a legislative device designed to establish a mechanism whereby and through which balanced and relevant land use decisions may be made, reviewed, and appropriately modified when the need arises and discretion dictates.

Land use planning legislation should give full recognition to the police powers of the States and in so doing would also accord with President Nixon's call for increased recognition of the role of States, decentralization, and the provision of financial aid to them to help them realize and meet their responsibilities. He said,

"Our ultimate purposes are many: To restore to the States their proper rights and roles in the Federal system with a new emphasis on and help for local responsiveness; to provide both the encouragement and the necessary resources for local and State officials to exercise leadership in solving their own problems; to narrow the distance between people and the government agencies dealing with their problems; to restore strength and vigor to local and State governments; to shift the balance of political power away from Washington and back to the country and the people."

There is not time to obtain Congressional enactment of this legislation this year and, reserving our rights as to the issues involved, we cosponsored and voted to report this bill because it calls attention to a great need and provides direction in approaching it.

In the next Congress, we believe our Committee should, and will, consider legislation which includes land use planning for all our lands, Federal and State. We believe that such legislation, by providing a concerted foundation for land use planning on lands within both the Federal and State authority will lead to the desired end: an intelligent, comprehensive system for the maximum and best use of all the lands of this country for the long-term benefit of all of the people.

In conclusion, we want to emphasize that we recognize the desirability of land use planning and wish to indicate our interest in this vital area.

GORDON ALLOTT,
U.S. Senator.

LEN B. JORDAN,
U.S. Senator.

Senator Moss. Senator Stevens?

Senator STEVENS. Mr. Secretary, it has been suggested in connection with our bill, the Alaskan Native Land Claims Settlement bill, that we incorporate into this bill a special land use planning concept for Alaska. I know that your Department is quite involved in our State. Would you have, with your background as Governor, any comments about that action, as to whether it be so—whether it is the right approach to take to single out a particular State and have a land-use plan concept for one State?

Secretary ROMNEY. Well, I have not given that matter sufficient consideration to respond. You are raising the question of the native land?

Senator STEVENS. The connection with the Native Land Claims, it has been suggested we put into that bill a land use planning bill quite similar to S. 992 for Alaska only.

Secretary ROMNEY. I have not studied the matter sufficiently to make comment at this point. I would be glad to submit my views but I would not want to comment at this point.

Senator STEVENS. My colleague has offered such a bill and I think we like to have the comments of your Department, assuming you have the opportunity to do so.

Secretary ROMNEY. Very good. We will study it and give you the benefit of our comments.

(The data referred to follows:)

HUD COMMENTS ON THE DESIRABILITY OF SEPARATE LAND USE PLANNING LEGISLATION FOR ALASKA

The Department of Housing and Urban Development believes it would be desirable, if at all possible, to avoid singling out particular States for the purpose of enacting individual land use planning programs. We think that the better approach is to develop a uniform national policy which will provide for adherence to common statutory standards while at the same time permitting sufficient flexibility so that individual States can plan in accordance with their specific needs. In our view, S. 992 represents such an approach insofar as land subject to State jurisdiction is concerned. Whether there may, nevertheless, be special considerations that would justify a different approach in the case of Alaska, because of the amount, nature or extent of public land or other reasons, is a matter on which we would defer to the Department of the Interior.

Senator Moss. Senator Metcalf.

Senator METCALF. I yield to Senator Allott.

Senator ALLOTT. I wonder if Secretary Jackson would comment on how HUD's Office of New Communities, which I believe is under your jurisdiction, Secretary Jackson, must take into consideration regional needs and how it fits into land use planning legislation.

Secretary JACKSON. Senator, the existing legislation is title VII of the 1970 Housing Act—you will recall that the act is called the Urban Growth and New Communities Development act of 1970. Built into the consideration of all of the actions of the Community

Development Corporation in approving projects is the factor of the impact of a new community upon the region in which it is located, whether that is a region lying wholly within a State or one that has interstate impact. We must make finding of what that impact is.

In addition we must have appropriate clearances and approvals from State and local and regional planning bodies that are affected by the particular new community project. We must comply with the Circular A-95 procedure that is set up by the Office of Management and Budget to administer section 204 of the 1966 Metropolitan Development and Demonstration Cities Act and in addition with the Environmental Protection Act provision of section 102(c)(2) for securing approvals and we must determine the impact on the environment on a regional basis as well.

So, between those two provisions and the fact that the Act itself is concerned with growth implications on a regional basis, it is evident that the new communities program takes regional impact into account.

Senator ALLOTT. Thank you. I appreciate the Senator from Montana yielding to me and I would just like to comment that in discussion of this type of use in my own State, I have found among many people a wariness of congressional action in this area, and I think, Mr. Chairman, if I may say so, that we might at a subsequent time try to see if we can find another name for this bill or a modification of it because I do think that the national land use policy in this bill causes everybody who picks up this piece of legislation to wonder if we are going to set the guidelines and the local zoning and everything else for every place in Colorado and all the States from Washington, and this does mislead them, I think, to a certain extent.

Secretary ROMNEY. Senator, that is one of the strong points of this bill and I think your point is a good one because this is not really a national land use bill. It is a bill to encourage the States to accept their responsibilities for land use and to do it in conjunction with the local units of government, relying on the local units of the government to discharge their responsibilities for the more detailed planning for which they should be responsible. And it gives the States flexibility in deciding on the particular way in which they are going to undertake to exercise their responsibility.

Senator JACKSON. Mr. Secretary, what we are really doing is trying to force the States to exercise States rights.

Secretary ROMNEY. We are trying to see that the States accept their responsibilities in this area, that is correct.

Senator JACKSON. Right. You know, the truth is that this century, with all the charges about the Federal Government intervening in State matters in instance after instance, and I do not say this in any partisan sense at all, both political parties are involved in this, in instance after instance Federal programs have come along because the States have failed to act. The whole history of grant-in-aid programs is tied to that concept. So, what we are doing here in effect, is trying to push the States to exercise their constitutional police authority. Only the States can zone. The Federal Govern-

ment cannot. And so, we are trying to provide some incentives to get them to exercise States rights.

Secretary ROMNEY. I think if you take a look at it from the standpoint of what has been happening, that certainly there is substance to the points you made with respect to Federal programs coming in as a result of lack of action at the State or local level.

On the other hand, I think it is quite clear now that we have so centralized this responsibility in the Federal Government that it really is not working because we do not have the degree of effort at the State and local level that we need to make it work.

Now, my own observation is that within the last 5 or 6 years, more and more States are recognizing the need to step up their responsibilities, and consequently, I think this is very timely action. I think the States are prepared to move in the main. I do not say all the States but most of the States. And consequently, I think that this is the right approach.

Senator MOSS. The Senator from Montana.

Senator METCALF. I yield to the Senator from Alaska.

Senator STEVENS. Mr. Secretary, I failed to ask one question. I also serve as a member of the Oceanography Subcommittee of the Commerce Committee, and we have been having hearings on a coastal zone management bill. I would point out to our subcommittee that over 50 percent of the people of this country live within 50 miles of the seacoast and I wonder have you had an opportunity to study—S. 582 and S. 635—have you had an opportunity to examine those bills?

Secretary ROMNEY. Yes, we have examined those bills and we did submit testimony on those bills. Secretary Jackson represented us.

Our basic viewpoint is that this bill picks up and comprehends what is in those bills. Certainly, those bills are dealing with a very important aspect of the whole problem but we do not see the necessity of that legislation plus this legislation. We think this legislation does the job. We will be very happy to submit for the record, if you want it, the testimony we gave on those bills.

Senator STEVENS. My question is really, I see an indication here of reluctance on the part of, you might say, the interior States to accept the concept of either of these bills. On the other hand, coastal States are all urging us to pass out the coastal zone management bill.

Has your Department taken a position on the necessity of the total land use policy bills as opposed to the coastal zone management bill?

Secretary ROMNEY. Well, we support the comprehensive land use policy legislation because we think this legislation will certainly require coastal land use management. It is inconceivable that coastal land would not be a part of the critical land area in a State and consequently, the comprehensive legislation embraces the coastal zone legislation as we see it.

Senator STEVENS. You would favor, then, the enactment of a total national land use policy concept as opposed to the preliminary step in the coastal zone management bill?

Secretary ROMNEY. I would. I think Senator Allott has a good point. This is really a Federal—Federal in terms of the responsi-

bility at the different levels being appropriately recognized—land use policy program rather than an effort to substitute Federal action for State and local action.

Senator STEVENS. Thank you, Mr. Chairman.

Senator MOSS. Senator Metcalf.

Senator METCALF. Mr. Chairman, I just wanted to follow up on a question that Senator Jackson asked because I was not clear as to just what the answer was.

Senator Jackson raised the question as to national land use policy relative to minority group housing and low-income housing and you said, I believe, Mr. Secretary, that it was a regional matter.

Secretary ROMNEY. I said this would be dealt with on the basis of it being a matter of regional importance. If a State decided that it was a problem of importance in a region, it could be included as a part of a land use plan, but that would be up to the State.

Senator METCALF. I do not understand how we are going to have a national land use policy for two very important areas which you are in charge of administering—that is, low-income and minority group housing—if, within a State, you have discriminatory and de facto segregation or discriminatory zoning that would prohibit low-income or minority group housing.

How can we have that a part of a national land use policy if within the State we have such discriminatory provisions?

Secretary ROMNEY. Again, I think you are confusing this question of whether we are going to have a national land use policy or whether we are going to have a regional and State and local land use policy.

Now, really, what this policy—

Senator METCALF. I am confused all right.

Secretary ROMNEY. All right. What this proposes is primarily State land use policies except in those instances where there are land use problems of national importance. And it is also premised on a good, effective working relationship with the local units of government in the development of these State land use programs.

Now, where the States, working with the local units of government, decide that there is need for a regional land use policy within a region with respect to the availability of housing, they would be free, as I see it under this legislation, to establish a land use policy for that purpose. But that would be up to them.

Senator METCALF. When a State does not so decide, and most of us believe that there should be a national land use policy with respect to these areas of minority housing, where do we get the kind of policy that I believe you, Mr. Secretary, feel is desirable?

Secretary ROMNEY. Well, you have enacted certain aspects of a national policy with respect to housing. After all, you have enacted a fair housing statute. You have also enacted a civil rights statute. And we are administering those statutes and enforcing them vigorously. They provide for the elimination of racial discrimination in housing, and we are administering those acts on that basis and expect to continue to administer them on that basis.

But those acts do not grant to the Federal Government or to our Department the authority to zone. Zoning is a State and local responsibility and power, not a Federal power. And consequently, as

far as zoning is concerned, we comply with local zoning or with State zoning if the State decides to exercise its powers, as it can do in the zoning area.

But we are not proposing by this act or any other act that the Federal Government take over the power to zone.

Senator METCALF. Well, that is what bothers me.

Secretary ROMNEY. You mean you want the Federal Government to take over the power so to zone?

Senator METCALF. I want the Federal Government to establish a national land use policy relative to minority housing and relative to low-income housing. Within some States the power to zone is, in effect, a de facto segregation or a denial of low-income housing, and I say to you that I do not believe that these various other provisions that you have cited do take care of that national land use policy that some of us would seek to establish.

Secretary ROMNEY. Well, if you are proposing that the Federal Government take over the responsibility for zoning—

Senator METCALF. I am proposing the Federal Government establish a national policy relative to low-income and minority housing and you should be for that, Mr. Secretary.

Secretary ROMNEY. We have a policy. We have some policies.

Senator METCALF. Well, then, how do you enforce that?

Secretary ROMNEY. But you are talking about different things, Senator.

Senator METCALF. Well, I hope so.

Secretary ROMNEY. Well, there is a difference between prohibiting discrimination on a racial basis—having a national policy that relates to housing and racial discrimination, and a policy of nationalizing the responsibility for zoning.

Senator METCALF. Policy of enforcing—

Secretary ROMNEY. Now, I am personally opposed to having the Federal Government step in and zone land throughout the country and all the localities of this Nation. I am opposed to that. I think that is wrong. I think the States have that responsibility and where it involves a national interest, then I think there is ample provision here. But I think we should rely on the States and local communities to deal with this question of zoning.

Senator METCALF. Well, you have already said there should be a national interest and I believe you support a provision that there is a national interest in this particular area.

Secretary ROMNEY. Yes, and there are national policies.

Senator METCALF. Suppose we do not enforce these provisions of the law that you suggest can be enforced at local levels, how do we carry out these national policies without a grant-in-aid or without some enforcement procedure, without a Federal declaration?

You know, Mr. Secretary, that there are many States in this country that are using the zoning laws to avoid civil rights legislation and to avoid—

Secretary ROMNEY. As far as I am concerned, where the zoning law is used as a subterfuge to achieve racial discrimination which is contrary to the law, action should be taken and will be taken.

Senator METCALF. And you are ready to take such action?

Secretary ROMNEY. Yes, sir—

Senator METCALF. Then, perhaps we do not need such a policy.

Secretary ROMNEY (continuing). Whether it is direct or indirect.

Senator METCALF. Then, you are saying we do not need such a policy here.

Secretary ROMNEY. We already have a policy with respect to fair housing.

Senator METCALF. You are telling me and I am only asking for information.

Secretary ROMNEY. Senator, let me say this. There will be further elaboration of that policy sometime this week as a result of deliberations that have been going on as between the President, the Attorney General and myself. Now, the Fair Housing Act only took full effect early last year. We have been implementing it to the full extent of the policy that has been developed up to this point but the policy with respect to this particular area will be more clearly stated in a statement that will be issued some time this week by the President.

Senator METCALF. Thank you, Mr. Secretary. I perhaps have been premature in some of my questions. When that policy is advanced it will be taken into consideration in regard to this legislation.

Secretary ROMNEY. Very good.

Senator Moss. Thank you very much, Secretary Romney and Secretary Jackson. We appreciate your appearance and your testimony before the committee today.

Secretary ROMNEY. It is a pleasure and we appreciate it.

Senator Moss. Our next witness will be Mayor Robert Knecht, mayor of Boulder, Colorado, and chairman of the National Cities Committee on the Environment.

Mayor Knecht.

**STATEMENT OF HON. ROBERT KNECHT, MAYOR, BOULDER, COLO.,
CHAIRMAN, NATIONAL CITIES COMMITTEE ON ENVIRONMENT,
ACCOMPANIED BY LARRY SNOWWHITE, LEGISLATIVE ASSISTANT,
NATIONAL LEAGUE OF CITIES AND U.S. CONFERENCE OF MAYORS**

Mayor KNECHT. Good morning.

Senator Moss. Very glad to have you before the committee, mayor. We look forward to your testimony. We note you represent the National League of Cities also.

Mayor KNECHT. Yes, thank you. It is a great pleasure for us to be here this morning. I have with me Mr. Larry Snowwhite, legislative assistant, National League of Cities and U.S. Conference of Mayors.

Senator Moss. Glad to have you, Mr. Snowwhite.

Mayor KNECHT. I think you have a copy of the statement I would like to deliver first.

Senator Moss. Yes; we do have a copy of the statement. You may proceed by reading it or put it in the record and highlight it.

Mayor KNECHT. I would like to cover most of the points, if I could.

I have the honor to appear here today on behalf of the National League of Cities and the U.S. Conference of Mayors to discuss S. 632, S. 992, and related legislation to establish a Federal role in State and local land use planning decisionmaking. For the record,

I would like to indicate that I am a member of the National Oceanographic and Atmospheric Administration of the Department of Commerce, but my appearance here is solely on behalf of the National League of Cities and the U.S. Conference of Mayors.

I and other city officials have no quarrel with the proposition that a high degree of local responsibility and better coordination of local land use activities affecting matters beyond local boundaries is needed. There are just too many examples of what can be characterized "Rape of the Landscape" to counter any arguments that nothing needs to be done. Examples of harmful land use activity abound. All across the Nation from the Eastern Shore of Maryland, to the green mountains of Vermont, to the Arizona desert and the Sierra Nevada Mountains we are witnessing the rapid spread of the so-called half acre lot syndrome, pushed by land speculators to the point of turning some of our most beautiful recreational areas into second home suburbias. Beyond these unstructured speculative recreational land programs are many other examples of the unfortunate effects of poor coordination in land use planning. There is concern, for example, among many ecologists that the whole water table of southern Florida may have been perhaps on a long-term basis, by the rapid development and flood control planning activities undertaken without regard to their long-range impact.

Individual local governments can do very little about such problems because, regardless of the quality of an individual local government's land use planning activity, they tend to stop at the city line and can have no impact on what happens in the next community. There is a need for some oversight to assure that an environmentally unique area, which might be unrecognized or unappreciated locally and spread over the jurisdictions of several local governments, can be protected from harmful development. However, in facing this issue there is a very real challenge, and that is to establish such a protective mechanism without depriving local governments of control over community development decisionmaking which they must maintain to be responsive and viable entities in the overall Federal system.

We think that is a very important point. Today's local fiscal crisis and the near-total dependence of cities on property taxes to raise revenue—a dependence imposed by forces almost entirely beyond city government control—make land use planning a critical bread and butter issue for cities as well as an environmental issue of the cities. Most cities have rate flexibility only with the property tax. Rates for other taxes that may be allowed are usually set by State law. Thus, potential erosion of local capacity to control decisions affecting property values is a matter of substantial concern to the cities, for the end result of such erosion of control could put localities in an impossible financial bind in today's era of rising prices.

There is no doubt that the financial crisis of local governments has sometimes resulted in land use decisions which are not the best when broader interests are considered. Local officials themselves have recognized these problems but can do nothing to avoid them and still raise the money to maintain adequate levels of municipal services. Solutions to the land use problem ultimately arrived at must recognize and accommodate the close relationship of land use decision-

making to local revenues—the lifeblood of local government. For land use planning to succeed, local dependence on the property taxes needs to be reduced. New financing approaches, such as Federal revenue-sharing, can aid this process by limiting pressures to gain maximum tax dollar return from every scrap of land available within the city. State revenue-sharing structures also must be revised as it is State taxing limitations which prevent localities from adopting a more flexible revenue base.

In this connection, any requirements for a land use plan should place a responsibility upon the Federal Government or the State to compensate localities for revenue losses—present or potential—which may result from decisions to preserve land areas for a broader interest. The broader interest which is to be protected—and that is an interest which we definitely support—should contribute to the economic cost of protecting that interest. Today when the national interest requires that farmers not gain the highest monetary return from fully planting their lands, they receive compensation. Cities should likewise be compensated when national policies dictate that local properties be used in a manner which limits their potential taxability. We think this is an important point.

The National League of Cities and the U.S. Conference of Mayors believe that a Federal program can be structured to provide necessary protections without depriving localities of powers they need to function. I will suggest a series of principals which such legislation might follow later in my testimony. We are concerned, however, that some elements of the legislation before your committee would seriously infringe on local autonomy without achieving desired results.

I will speak now to the two pieces of legislation. First, with regard to S. 632. We are particularly concerned about this measure. Though all recognize that primary responsibility for and experience in land use planning is at the local level, at nowhere in S. 632 is there any provision for local involvement in any of the very important land use planning and decisionmaking activities the legislation would authorize. Primary control over State and local land use plans would be exercised by the entirely Federal Land and Water Resources Council. In addition, there is a likelihood that the river basin commissions which S. 632 grants significant authority over State and local land use and water resource planning decisions could be essentially federally controlled since they would include many Federal representatives and their chairman would be appointed by the President. Further, there appears substantial overlap as to the relative jurisdictions of the river basin planning commissions and the proposed State land use planning activities. For example, in title II of S. 632 specific reference is made to zoning in assigning the areas of responsibility for the river basin planning commissions. The result of such confusion and the power given at the Federal level to the proposed Land and Water Resources Council and the basin commissions could subject all land use planning decisions to review by a group of persons whose primary interest is in the narrow area of water resource development. Land use planning activity cannot be viewed so narrowly; it affects housing, transportation, recreation, economic development, and a vast array of other activities.

A land use planning partnership among the various levels of government can, and should, be developed, one which allows each level—Federal, State and local—to represent its constituency without unnecessarily usurping powers needed at the local level for responsible decisionmaking to continue. To develop such an approach, the following key principles should be embodied in any land use planning legislation. I will enumerate several points.

First, Federal assistance to aid State and local land use planning programs.

Second, Federal encouragement of development of general statewide land use planning goals, and I emphasize goals. These goals would set patterns for land development without dictating land use decisions for individual communities. We differentiate now between goals and plans.

Third, a requirement that local elected officials have a major role in the development of such State plans. As I mentioned earlier, we feel this is a major defect in the earlier Senate bill.

Fourth, opportunities for local governments to develop responsible land use plans by themselves, within the context of the general State goals.

Fifth, State technical assistance to aid localities in developing comprehensive community development and land use plans.

Sixth, assurances that land use planning activity will be coordinated with or perhaps developed as a part of planning activity already mandated under other Federal legislation. We think we have got to keep this altogether and adding additional fragmentation will not be helpful.

Seventh, compensation for localities which will suffer revenue losses because of land use planning decisions, and that is the point I made earlier.

Eighth, encouragement of local officials to utilize regional planning mechanisms which are under their control to make areawide planning decisions which cannot be made by the individual jurisdictions.

Lastly, retention of substantial freedom for local officials to make and change community development plans in those communities with responsible land use plans in operation.

With such a program we feel that many of the difficulties created by unrestricted land development could be anticipated and hopefully avoided, but responsible local governments would retain their vital role in community development planning for their areas.

Now, with regard to S. 992, the National Land Use Policy Act of 1971, we believe this bill is more consistent with these principles we just enumerated than other legislation under consideration. First, it establishes general criteria for State land use programs without in effect establishing Federal control over the State land use plan. It sets criteria but not Federal control.

Second, it recognizes that there are many areas within the State that need not be subject to outside control over land use planning activities, and by limiting applications to areas of critical environmental concern, S. 992 limits its scope to those areas in which there is a legitimate Federal interest, an obvious problem existing at the moment.

Third, it avoids granting power to agencies whose interest may be limited to one facet of the total land use picture, for example, water resource planning.

Fourth, it provides for coordinated use of program oversight Cities and Metropolitan Development Act of 1966 and the Intergovernmental Cooperation Act of 1968.

In effect, it makes the Federal Government a partner rather than a dictator in developing land use goals.

While supporting the general concepts in S. 992, we believe that some improvements can be made to give greater assurances that the interest and experience of local governments is adequately recognized in development of land use planning activity. Like several other proposals relating to land use planning or coastal zone management, S. 992 appears to assume that merely granting substantial responsibility to State governments will solve many of the problems. But really, there is no guarantee that shifting authority to a higher level will result in any better protection than can be provided by local officials. Local officials are elected by and most directly responsive to residents of the area concerned. Federal and State officials must serve a broader constituency, and there is no assurance that these higher levels of government will serve local interests and needs with any higher level of righteousness. Further, because local government activity is more directly in the eye of the public it may provide better protection for the public interest than some State agencies buried in the State bureaucracy and perhaps easily coopted by the land speculators or other special interests. Accordingly, I would suggest the following modifications in S. 992 to upgrade the role of local governments without reducing the essential protections the legislation provides.

1. A requirement should be added that representatives of local government be given substantial representation in State agencies with responsibility for developing the State land use plan, or alternatively that there be a high degree of local involvement in development of the State land use plan.

2. Rather than assigning responsibility for reviewing land use plans to a particular department or departments—in this case Interior or HUD—which may have specific interests in the land use area, it may be more appropriate to assign ultimate responsibility for reviewing State land use plans to an agency such as the Domestic Council which has overall responsibility for domestic policy and can take a comprehensive view of the issues rather than the more narrow views and particular interests which will be represented in reviews by individual Cabinet departments.

3. Both program development grants and program management grants should be available not only to States but also to multijurisdictional agencies established by their participating local governments which have responsibility for planning land use activity on a regional basis. And this point came up in the earlier discussion. There is much which can be done regionally at the local level to improve land use planning activity without involvement of State or Federal Governments. Such activity should be encouraged in

this legislation as it seeks to encourage statewide land use planning activity. There are between 100 and 200 regional councils of government or regional commissions of one type or another which could be used to much better advantage in the encouragement of regional planning activities of this type.

4. The State plan requirement should be changed to allow multi-jurisdictional local planning efforts to become, in effect, the State plan for their area except where they may have components which may be inconsistent with the State land use plans. In such cases the State plan developed with local participation would prevail.

5. With regard to our suggestions on modifying the administration bill, provision should be made to allow the Federal Government, in its activities, to recognize the land use planning programs of such regional entities and abide by them as they are directed to abide by the State plans by section 106. Further, where there is not a State plan as provided under section 107, a provision should be added that local and regional planning activity should be recognized.

The greater emphasis which we suggest be placed on local multi-jurisdictional planning efforts may contribute to better coordination with planning activities of other Federal programs which are now oriented towards local councils of government and other multi-jurisdictional arrangements. Most important of these would be the metropolitan transportation planning processes backed by the Highway Act, the Airport Act and the Mass Transportation Act and general community planning activity supported under the HUD 701 program.

With these modifications we believe that S. 992 could become a helpful device to avoid the most harmful land use activities without destroying the essential freedom of community development planning which localities must have to exist.

Land use planning, we feel, is only one facet of a broader planning program which the Federal Government must involve itself in: That is, the establishment of a comprehensive national and I will add the words, national settlement and development policy. There is overuse of land and there is underuse of land. There are urban development programs, there are rural development programs, and so on. The policy should cover land use, population projections, rural and urban community development, economic growth, and a wide range of other issues.

The case for national planning in these areas is as compelling as the case for land use planning. Congress should undertake consideration of the total policy issue at the time it considers one for a more comprehensive approach on the part of the Congress and more comprehensive attack on the total problem of developing a national settlement and development policy. We think land use is only one element of that policy and we urge you to consider and take the broader view in your deliberations.

Thank you.

Senator Moss. Thank you, Mayor Knecht, for your very fine statement.

You say there ought to be a more comprehensive approach to the problem. One thing that it seems to me you did not discuss and which is of some importance is the management of Federal lands.

Now, I come from a State that is nearly 70 percent owned by the Federal Government, and Colorado has a good bit of land federally owned, too, and many, in fact, just about all of the Western States do. In 632 there is a provision to have this utilization coordinated with the local land use planning, and yet I find no reference to it in 992.

What is your position on that?

Mayor KNECHT. We have not specifically looked at that. We feel that that is one aspect that certainly should be considered a part of a broad total national policy on land use. We agree with you. That is, I think, all I can add at this time. You are certainly correct.

Senator MOSS. As I understand you, the Federal plan ought to be the criteria and the State have the goals and the local communities actually work out the plan.

Mayor KNECHT. Correct.

Senator MOSS. Is that basically what you are trying to say?

Mayor KNECHT. That is right.

Senator MOSS. And, of course, all of this presupposes that the local communities will proceed to exercise this appropriate function. What if they do not?

Mayor KNECHT. Well, if they do not, I think the bills under consideration suggest that certain funds will not be available for the management of the program, I think under the administration's bill, 992. And also that Federal programs in the area would be under more careful scrutiny. Public hearings would have to be held, and so on.

We believe that there should be strong encouragement, strong incentives for local communities to produce in this area. I would hope that the incentives and encouragement in the legislation as drafted will be sufficient. If they are not, then a bigger stick will have to be used.

Senator MOSS. A bigger carrot or a bigger stick.

Mayor KNECHT. Maybe both.

Senator MOSS. Well, thank you very much, Mayor. We do appreciate your observations here in behalf of the Council of National Cities.

Senator ALLOTT?

Senator ALLOTT. Well, thank you very much, Mr. Mayor. That is a very fine statement, I believe, and we are happy to have you here. I am inclined, I believe, to go along in general with your philosophy rather than ones that we have pursued in the past.

I would like to ask you a specific question. You have been Mayor of Boulder for how long now?

Mayor KNECHT. Six years.

Senator ALLOTT. Six years. And in that time, you have seen a great development not only of the city of Boulder but also of the county of Boulder. In that time there have been many developments in the county of Boulder industrially, have there not?

Mayor KNECHT. There certainly have been.

Senator ALLOTT. Now, I will get around to the real thrust of this question in a few minutes, but I want to lay the ground for it. In our State, as I recall, a county has also the power to zone.

Mayor KNECHT. Correct.

Senator ALLOTT. So that the city of Boulder, within the county of Boulder, both entities have the power to zone. And one of the largest developments in the county has occurred roughly midway between the city of Boulder and the city of Longmont, which is also in the county.

Mayor KNECHT. Correct.

Senator ALLOTT. Now, I am not going to try to pin you down to an individual problem but I would like to ask you this, unless you just feel like you want to comment on an individual problem, and I do not have one in mind, but have you during your period serving as Mayor actually run into any situation where the city of Boulder as such and the county of Boulder as such, came to a head-on clash on zoning goals?

Mayor KNECHT. No. We have been able successfully as far as I know, to iron out problems and differences of opinion. As a matter of fact, within the last year we have adopted a comprehensive city and county plan for development of the entire area, a plan developed jointly by our planning staffs and approved by the County Commission and the City Council, so with regard to our own local problems we feel we have them under control. We have the power and tools we need and we feel we are doing a responsible job.

But one only has to get in the automobile on the weekend and travel a half hour in the center part of the State and see beautiful recreational lands which are under the control of county commissions which are not as enlightened as the County Commission we have in Boulder to find lands that are naturally unique and should be a national resource not put to the best use. What happens to those lands in the Colorado Rockies affect the people in Boulder City and County. We have not been able to solve all of our problems. But in terms of our local problems we have been able to cope.

Senator ALLOTT. What I am getting to—of course, you have answered my question very well, but the same reasonable attitude that has been achieved between the city of Boulder and the county of Boulder I am sure you would agree would not necessarily prevail in every other area of the State.

Mayor KNECHT. It definitely does not prevail in every other area of the State.

Senator ALLOTT. Therefore, you bring in the third aspect of what pressure, what part the State itself should bear in this process of the use of land and the way it is used.

Mayor KNECHT. Yes; and I think the legislation you referred to earlier in the opening of the session this morning, the several laws that have passed the State Legislature setting up a State land use commission and setting it on its task of developing a State plan is a beginning, a step. I think our State is showing some leadership here and I think we can all be encouraged by that.

Senator ALLOTT. Thank you very much. Very happy to have you here this morning.

Mayor KNECHT. Thank you.

Senator MOSS. Senator JORDAN?

Senator JORDAN. Mayor Knecht, you make some very good points with respect to the responsibilities which local governments have and the fact that they are restricted pretty much in their tax structure

to property taxes. Do you have in mind what percent of your total revenues for the city of Boulder are derived from ad valorem taxes?

Mayor KNECHT. Well, in this case Boulder is not typical of the national picture, I fear, Senator. We have endeavored to shift—because the schools are relying so heavily in our particular part of the country and I suspect everywhere on the property tax and for other reasons—we have attempted to shift much of the tax burden to the sales tax. Also, being a community with many visitors, people coming in the summer, students, et cetera, we shifted to a sales-type structure and I would say approximately one-third is derived from property tax and two-thirds in our particular community, but this is not nationally representative.

Senator JORDAN. You do have a local sales tax?

Mayor KNECHT. We do and we are fortunate in Colorado to be able to do that.

Senator JORDAN. You make the point that sometimes local governments would be reluctant to see property taken off the tax rolls, even though it were designated and set aside for a broader purpose. You make that point.

Mayor KNECHT. Yes.

Senator JORDAN. And you suggest that in case land is taken from the tax rolls, for a broader purpose, we will say for a national purpose, there should be some semblance of revenue-sharing for payment in lieu of taxes or something of that nature to make the local communities whole.

Mayor KNECHT. Right.

Senator JORDAN. Is that what you are saying?

Mayor KNECHT. Yes. I did not use the word “reluctant.” I said in fact, that the cities favored this taking the kind of broader environmental view. However, we feel the local communities should not subsidize that taking or preservation or protection if it is done for a regional or national interest. Then, the economic support for that taking or protection should be on the same basis, regional or national.

Senator JORDAN. By way of either revenue-sharing or payments in lieu of taxes.

Mayor KNECHT. Yes. We have not discussed the specific mechanism and we are not prepared to propose one, but conceptually yes, as you state.

Senator MOSS. Senator JACKSON.

Mayor KNECHT. Excuse me a second. I am sorry, Senator JACKSON. In another city—you asked me a question about Boulder and I thought Boulder was not representative. Newark, N.J., derives over 65 percent of its revenue on the basis of property taxes and that may be more representative of larger cities in this country.

Senator JORDAN. I have heard the mayor testify and he has a very sorry situation up there.

Mayor KNECHT. Yes. Thank you.

Senator MOSS. Senator JACKSON.

Senator JACKSON. Mayor Knecht, I want to compliment you on a very fine statement. I may not agree with all of the things that you have in mind but I think you have analyzed both bills and introduced new issues and ideas which we should discuss.

I am concerned, of course, in connection with requests which we receive that we protect and institutionalize certain entities within the State. You see, we get hit on the one hand that we should not intervene, and, on the other hand, that we should.

We are in a difficult position. We are trying to leave this to the States and I want to point out to you that in connection with S. 632, we tried very carefully to avoid any interference with the authority of the State. You start at that level. I am sure under the laws and constitution of the State of Colorado all your authority comes from the constitution or the authority pursuant to State law, right?

Mayor KNECHT. Certainly.

Senator JACKSON. And that is true generally throughout the United States.

We very carefully tried to avoid any interference here on our part as to how the land use arrangement should be spelled out. We are dealing, as you know, in this whole zoning problem in the United States with some 80,000 governmental entities that have a hand in zoning. Some of it goes back to colonial times. Some of it is a bit archaic, to put it mildly.

Now, in section 305(e) of S. 632, we said this:

Nothing in this Act shall be deemed to preclude the delegation by the State agency to local government entities of authority to plan for land use and enforce land use restrictions adopted pursuant to the statewide land use plan, including the assignment of funds authorized by this Act to the extent available except that, (1),

and these things do not change the fundamentals:

(1), the State agency shall have ultimate responsibility for approval and coordination of local plans and enforcement procedures.

(2) Only the plan submitted by the State agency will be considered by the Council.

(3) The Statewide land use plan submitted by the State agency must be consistent with the guidelines established by this Act.

(4) The State agency shall be responsible to the Council for the management and control of any Federal funds assigned or delegated to any agency of local government within the State concerned.

The point I wish to make is that we have left the broad authority with the States and the suggestion that the State agency can delegate to local governmental entities the authority to plan for land use and enforce land use proposals.

It seems to me that it is so important that all governmental entities should be involved in this decisionmaking process. I wonder how far we should go under Federal law to intervene and say what these specific steps must be and what governmental entities should be involved.

Mayor KNECHT. Yes, Mr. Chairman. We understand your point. Our concern is that there has been a very severe lack of planning capability, land use decisionmaking capability, at the State levels. So few States have planning agencies. Now, some are beginning to go into that function but until very recently this has not been a function the State has taken very seriously. On the other hand—

Senator JACKSON. I could not agree with you more. That is why this legislation is here.

Mayor KNECHT. Fine. Nevertheless, the existing situation is now that most planning capability exists at the local level. That is where

the competence is. Albeit some mistakes are made, and that is why the legislation is needed. Nevertheless, the responsibility for planning competence now exists at the local level. The local government in principle is the more responsive government to the wishes of the people that are directly concerned and, therefore, in our thinking we start there and go up.

We are concerned that the States have not shown much interest in the past and have not shown much capability.

Senator JACKSON. Yes, I know, but you would not suggest, I take it, that the Federal Government in trying to carry out the stated objectives of this law would have to deal with all of the local governmental entities in the States in order to pass on a State plan.

Mayor KNECHT. Certainly not. We simply went to see local competence, local expertise and local elected officials in the State process of development to be responsive.

Senator JACKSON. We do say, though, "Nothing in this Act shall be deemed to preclude the delegation by the State agency to local governmental entities of authority to plan for land use and enforce land use restrictions," et cetera. We made that very clear.

Now, do you think we ought to require that they do this and then spell out—then we are right up against the old problem, we will have a request from these 80,000 governmental entities saying they all want to be involved.

One of the problems here is that we are trying to cut through that huge local bureaucratic thicket. This is what we are trying to do. And I could not agree with you more. I mean, I think cities and counties basically should be involved in the planning procedures, and we spell out in the act very clearly that this is what we want done. But should we try to spell out by Federal intervention here? You see, then we are right back to the old business of the Federal Government intervening in States rights.

Mayor KNECHT. Yes, I see the problem.

Senator JACKSON. And in effect, Mayor Knecht, they would accuse us of circumventing the States' constitution because the constitutions delegate, in most States, the authority to make these decisions. They can create the subdivisions of the State. I just wonder how we resolve this.

Mayor KNECHT. No. I think it is quite right that the Federal legislation speak more directly to the States and the role of the States and how the States should go about exercising their responsibility here.

Senator JACKSON. And then we spell out that we want local involvement, which we have endeavored to do.

Mayor KNECHT. We just want to be sure that the local involvement is there in an effective way.

Senator JACKSON. Right, you see my point.

Mayor KNECHT. Yes, sir.

Senator JACKSON. That there is a point beyond which we cannot go, the effect of which would be to amend the State constitutions by withholding funds. But that is what we would be doing because most States have the authority to act in this area, either under the constitution or statutes pursuant to it. That is what I was concerned about.

Mayor KNECHT. Yes.

Senator JACKSON. I want to compliment you on, I think, a very able articulation of issues. This is a most complex problem and we are trying to make the system work.

Mayor KNECHT. Right, just one point in closing; we do feel as Secretary Romney pointed out, that there is a positive aspect to this legislation, too. Not only should it prevent inappropriate things from happening but it should encourage correct things happening in the social area, the whole area of housing, et cetera, the prevention of exclusionary approaches in a region where there are housing problems. We think the positive aspect is just as important as the negative. We wish to support his remarks in that area.

Senator Moss. Thank you very much. We appreciate your coming here and testifying before us. You have contributed to the record greatly.

Mayor KNECHT. Thank you.

Senator Moss. Our next witness will be Hon. Patrick J. Lucey, Governor of the State of Wisconsin.

We are pleased to have you, sir.

STATEMENT OF HON. PATRICK J. LUCEY, GOVERNOR OF THE STATE OF WISCONSIN, ACCOMPANIED BY PROF. HAROLD JORDAHL

Governor LUCEY. Thank you. I have with me Prof. Harold Jordahl, University of Wisconsin, who has done considerable research in the matter of land planning.

I have submitted to the committee a rather extensive statement but I will not trouble you with reading the full text.

Senator Moss. The full text will be placed in the record and you may excerpt from it or highlight it as you care to do.

Governor LUCEY. I would like to invite the committee's attention to a document entitled, "Policy Positions Put Out by the National Governors' Conference." I understand I am the first of the Governors to appear before this committee and the Governors' conference has adopted a statement on land use and on recommendations as to the Federal involvement in establishing land use policy, and I would like that also to be incorporated in the record, if I may.

Senator Moss. That will be incorporated in the record, without objection.

Governor LUCEY. Today we face an urgent need for a land use policy and this committee is to be applauded—

Senator Moss. I may have to interrupt you. I think there is a call for a vote. Rather than have you start your statement, Governor, I think it would be desirable—does the chairman think it is desirable to have a brief recess and come back?

Senator JACKSON. Off the record.

(Discussion off the record.)

Senator Moss. We will take a short recess until 12 o'clock.

(A recess was taken.)

Senator Moss. The committee will now resume.

Governor, we interrupted you. You may now proceed. I understand you have a summary or a highlighting of your statement

which has been placed in the record in full. If you would like to go right ahead, sir.

Governor LUCEY. Thank you, Senator.

Today we face an urgent need for a national land use policy. This committee is to be applauded for its efforts in seeking to establish such policy. I warmly endorse the efforts that have been made in drafting the legislation now before you. The need for a national land use policy carries with it a high priority, and I am hopeful that the Congress will move in the months ahead to respond to this need.

State government bears a weighty responsibility as the steward of the State's natural resources—the ultimate protector of the land, water and air resources. And the States, for some resources, have started to act as responsible stewards. This, at least, is a beginning. I would like to point out that Wisconsin has for some time provided leadership in this area of resource stewardship. In 1929 Wisconsin established a State planning office, which was the first in the Nation. In 1959, under the leadership of then Gov. Gaylord Nelson, programs of State, regional and local planning were inaugurated. And Wisconsin stands ready today with the basic information and the planning documents to move rapidly into the area of a more intelligent land use policy.

All States have now taken steps to curb water pollution and more recently embarked on programs to curtail air pollution. But, the exploitative and wasteful consumption of limited land resources and the developmental destruction of unique ecological and recreational lands remains, for the most part, unchecked by any State authority. By and large, States have delegated their land control powers to hundreds of units of local government. A notable exception in Wisconsin was in 1965 with the Water Quality Act of that year in which we did provide for county zoning of flood plains and shorelands in accordance with State standards. And in the absence of county action, the State was empowered to act directly.

For the most part, however, State land use policy or, in most cases nonpolicy is an aggregate of thousands of unrelated decisions made by single purpose agencies and governing units, some of these resting on a tenuous basis of democratic responsiveness.

As Governor, I am mindful of these problems. I am in the process of appointing a State land resources committee to study and propose alternative means of statewide land regulation, to fully satisfy critical statewide environmental and urban developmental concerns in Wisconsin.

The final recommendations, once made by this committee, will then become the basic ingredients for legislation to protect critical interests in the use of Wisconsin's land resources.

Furthermore, I have recently appointed a metropolitan study committee, which will complement the works of the Land Resources Committee. These actions were taken in anticipation of national legislation and underscore the good faith that our State government is prepared to exercise in responding to the critical need for land use control.

We have taken the initiative and I believe we are assuming our share of responsibility. We do so with a view to the urgency of the

problem and the desire to fulfill our obligation to the Federal-State partnership.

It is with these comments as background that I wish to comment today on the two important bills now being considered by this committee, Senate bill 632 and Senate bill 992. There is little question in my mind that the National Government must enunciate a national policy of land use if the States are to respond positively to this environmental problem. For that matter, it is essential if we are to respond to social and economic problems, to the depletion of the central city resources, and restricted access to economic opportunities.

Both bills purport to establish a national land use policy. Each makes generalized land policy statements that suit the national interest. But neither bill further clarifies and details national land policies nor makes the regional national interest more precise nor sets up machinery to articulate more specific national objectives.

Instead, this policy will generally be developed as the aggregate of 50 separate State land use plans.

Thus, I believe a strong set of national guidelines is necessary. These would apply to urban areas that transcend State boundaries, regional and national transportation systems. They should delineate corridors through which oil, gas and electrical energy can move, and other areas of broader than statewide concern.

Both bills recognize that State government is the key to developing and implementing a rational land use policy. States represent a wide variety, however, of social, economic, physical, and political conditions. They also differ in institutional structures, Government philosophies, and intergovernment relationships. Institutional arrangements that are appropriate for one State may be unacceptable for another. The strengths of the Federal assistance, a means of cooperation by all levels of government which provide for innovation and which permit individual States to have an influence on their destinies within a national framework should be provided by the act.

The act should further provide for economic inducements to States and to local units of government to participate in land use planning and administration.

Furthermore, I believe provision should be made in the act to provide States with additional funds through such devices as revenue sharing, to help them deal with property tax inequities. Competition between local units of government for new development and, therefore, new tax base accounts in many, many instances for unwise land use decisions.

The plan should be dynamic and not static. It should be an evolving series of strategies rather than just a document. The Governor and the legislature, as indeed the Congress and the Executive Office of the President, must deal with and be involved in the planning process. This is where value systems are reflected, not in administrative agencies.

The plan obviously must have a major impact on private sector decisions. The act should provide for continuous involvement of citizens in the planning process.

In critical areas such as the vast eastern seacoast urbanized strip and the urban strip that is rapidly developing along the south shore of the Great Lakes, the Federal Government should be set up in such a way that if State and local governments fail to act, the Federal Government can impose a plan.

The Congress is now also considering bills that would set up a national policy and establish a national program to protect and wisely manage the Nation's coastal areas. With a top priority commitment for coastal resources protection, recognizing the close interrelationships and potential overlap of separate national land use planning programs and coastal zone management programs, I urge that these bills be reconciled.

One approach would be to clearly cite coastal zone protection as the first priority in national land use planning, or if it appears that the National Land Use Policy Act will not be promptly enacted, the coastal zone management measure should be carefully tailored to anticipate and lead toward an effective national land use planning program.

By way of summary, both bills make an important contribution to a more rational institutional system than exists today by stimulating the creation of powerful new State authority to plan and regulate land use.

In the final analysis, State government will assume primary responsibility for protecting the broad public interest in land use decisions. It is desirable, then, that State government be afforded the opportunity to participate in the development of a national land use policy.

Senator Moss. Thank you very much, Governor. We are pleased to have you come and testify before us. We have long recognized in this committee that your State is certainly one of the foremost in trying to reach this land use problem on a statewide level by means of planning and protection of areas that are not suitable for urban or suburban uses.

I particularly liked your emphasis on the need for strong Federal guidelines because there are so many things that must be considered on a regional or national basis, such as the question of transmission lines, pipelines, and transportation systems of various sorts.

So the Federal Government does have to have a deep involvement in this, not simply by granting incentives, but it has to have some very serious input into establishing the guidelines, and if it is not a full cooperative effort of the States and the Federal Government, then we cannot expect to get meaningful and effective national land plans. As was brought out in some of the questioning and some of the colloquy earlier in the hearing, this committee is in a precarious position because of the fact that the zoning power to control land really resides in the States and there is always the question of a possible Federal impingement on the rights of the States.

At the same time, and as we become more urban and more interlocked, there are some decisions that simply have to be made at the Federal level because of varying treatments that are given at the State level. The States are all different, and I hope they all remain different in many degrees, but at the same time we certainly have many unified things that must be done.

So I find your testimony very stimulating and we are glad to have it coming from the chief executive of one of our very important States of the Union.

I will ask Senator Jackson if he has any questions.

Senator JACKSON. Thank you very much.

Governor, I want to compliment you on a provocative statement, raising a lot of questions here which I think are proper ones.

We have wrestled with a lot of these issues and, of course, I know you, as Governor have had the same problems.

We are dealing with the art of the possible here. One of the most difficult problems we face is how far should we intervene through the carrot and stick device in dealing with some of the governmental entities involved.

Now, the mayors, as you know, would rather deal directly with Washington on everything. We have 80,000 governmental entities in the United States—in the 50 States—that have a hand in zoning in one form or the other. It is incredible the number that can exercise legal authority.

The question we must decide is should we delegate the responsibility as provided for in a bill that some of us introduced, S. 632, the first bill, and which basically was approved by the Committee on the Senate Calendar last December. Should we leave as much of the means by which they achieve the statewide plan—planned zoning—to the State Legislature or should we involve ourselves here in trying to provide a certain role for the cities and then the counties?

Do you think this would be feasible?

Governor LUCEY. I do not think that probably it behooves the Federal Government to define areas of responsibility, although it seems to me that any State plan that would qualify for participation in the Federal grants ought to meet certain criteria, and we are—

Senator JACKSON. There is a difference. S. 632, of course, as you know, does provide the carrot and stick which the other bill does not.

Do you believe—

Governor LUCEY. I am aware of that.

Senator JACKSON (continuing). That this makes sense?

Governor LUCEY. I think you have to have that. Much as we dislike the idea of the stick, I doubt that we would have the record that the States have now on water pollution and progress that they are beginning to make in air pollution unless the carrot and stick principle had been applied at the Federal level.

Senator JACKSON. As excellent a job as Wisconsin has done—I gather it is one of the more successful States in this regard going way back to 1929 in trying to come up with something resembling a statewide land use plan. I gather that the difficulty is, as you indicate in your statement, that authority has been delegated to so many different municipal subdivisions of one form or the other of the State of Wisconsin that, when you get right down to it, it is pretty difficult to really get anything accomplished because of a lack of authority.

Governor LUCEY. That is true; and while all of these units of Government are in fact creatures of the State government under

our Constitution, it is certainly true that once you delegate to them certain authority as, for instance, zoning, that they become very jealous of their prerogatives. And we, at the State level, I think, are just about at the same point that you appear to be at the Federal level in terms of trying to establish a State plan. And, while I pointed out in my opening statement that it is in anticipation of national legislation that we are going along this route, I am sure that, whatever the fate of this legislation, we will pursue this at the State level.

But I am not at all insensitive to the political problems of imposing a State plan, and saying that there are certain areas of the State, there are certain lands that have recreational potential or other unique qualities that are of such a nature that they are of statewide concern and, therefore, we must superimpose a State plan that maybe runs counter to local zoning policy.

But I think we have reached the point, in fact we are long past the point, where this should be done. I think we have lost about half of our wetlands in Wisconsin in the last 10 years. This would not have happened had there been an enforceable State plan.

Senator JACKSON. Exactly. It seems to me that in order to get a national land use plan, you do need to have some statewide guidelines that should be applicable to the decisionmaking process of the local communities in the zoning decisions.

What we envision here, frankly, is that we not do away with local participation. Far from it. But, query whether we need 80,000 governmental entities in the fifty States involved in this procedure?

I think this is where we are in trouble today. You cannot really get a decision in most of the States as to where a powerplant should be located, where an industrial facility should be located.

Governor LUCEY. Or solid waste should be disposed of.

Senator JACKSON. Right.

We have got a long list. What land should be set aside? You mentioned wetlands. It seems to me that it makes no sense for the Federal Government to pour as we are, billions of dollars into the States, for example, on highways, airports—you can go all down the list, a long list—without saying to the States: "Look, we would like to see your long-range plan as to where your highways will be going, where your airports are going to be located, what lands are going to be set aside for park and recreational use."

In other words, we have this on-going challenge of trying to fulfill our social and economic goals and doing it in such a way as to make possible quality life, the good environment. The land is at the heart of the pollution problem because it sets the pattern as to what is going to happen in the future and it sets the pattern as to what kind of an industrial development you can have which will be balanced with a need for open space and recreation and other environmental needs.

Now, this is the thrust of what we are trying to do. The bill that I introduced initially has been watered down. We are trying to come to some kind of possible legislative solution and I would like to compliment you on raising, what I think are a lot of excellent issues.

I would welcome any amendments that your staff, your legal people, would wish to submit in connection with the pending bills because we want to get the best possible bill. We do not want to make it so weak that it is not going to be effective.

I believe there is a real need here to provide in effect for 50 adjudicatory agencies in the 50 States which really will be called upon to reconcile these on-going conflicts between social and economic goals and objectives, economic goals especially, and trying to provide for a good environment.

Let's face it, this is a major headache, I am sure, for you. It is a major headache for all of us. But we do not have today the adjudicatory process available at the State level, do we?

Would you agree on that?

Governor LUCEY. In terms of land use?

Senator JACKSON. Yes.

Governor LUCEY. That is true.

Senator JACKSON. Just land use. That is all I am talking about. In other words, the utility people all over the Nation find it difficult to determine where they can locate plants. A former citizen of your State, a very great and fine man, Charles Luce, who is the head of one of the largest private utilities, a great conservationist, as you know, former Under Secretary of the Interior, has been wrestling with this problem in New York and he has asked, "Just give me a forum where I can build the next thermal plant. I want it to be clean." And when he has tried to find that forum he has just gone from one entity to another with no decision. This is tragic.

Governor LUCEY. We have new legislation on that in Wisconsin requiring the utilities to develop a 10-year plan and submit it to our Public Service Commission so that they can review it and have an agreed plan anticipating our energy needs over a period of at least the next 10 years.

Senator JACKSON. Well, I only cite this because I think it dramatizes the conflict. This summer we are apt to have brownouts. Air conditioning will be shut off. And then people immediately scream and say, "Why should this have happened?" And yet the people who have a responsibility of trying to work out a solution have but one real complaint, and that is that there is no single forum in which they can get an adjudication of their case.

They want to provide for the energy to meet the needs, and yet in most of the States there is no single forum in which they can get an adjudication.

What happens is they go to one forum and then they say, we do not want you, so they go to another location which is another forum and then they get the runaround again. I only cite this because we have had the brownouts in New York and the situation dramatizes this conflict.

So what we are really trying to do here is to set up in the end the adjudicatory process where we can reconcile, and I think they are reconciled, the requirements that are related to economic growth on the one hand and quality life, clean air, clean water and clean lands, on the other.

We would welcome, therefore, any suggestions you would have. Thank you very much for a fine statement.

Senator Allott?

Senator ALLOTT. Yes. Thank you very much, Mr. Chairman. I think the chairman and I pretty much are of one mind on this.

In your earlier statement, Governor, you spoke of the situation of establishing—the Federal Government should establish guidelines.

If you are speaking of establishing guidelines in a general sense, you say that it is desirable that everyone shall have a certain amount of open space. Recreation facilities shall be available. A certain amount of fishing shall be available, et cetera.

The sort of guidelines, for example, that would be laid down if you were considering an area near Milwaukee, Chicago, Gary, et cetera, through there, or the megalopolis from Boston down south of here, it seems to me are entirely different guidelines than you would utilize if you were speaking of an area such as my own State or Idaho or Utah, New Mexico, Arizona. You are not speaking of guidelines in this sense, are you?

Governor LUCEY. Not really.

I do not think that you are going to allocate so many trout streams per hundred thousand people and apply the same rule to Cook County that you would apply to Colorado or to northern Wisconsin. I think on the other hand that there ought to be guidelines as to what kind of State plan would be acceptable. I would think that a State plan ought to start, for instance, with a complete inventory.

Senator ALLOTT. Fine. I am with you. I think we are on the same track now. But the way you made your statement before, I think you run into, first of all, the disparity of the 50 States in the first instance, if you put that interpretation on which you apparently have not, and secondly, you run into the problem of objections to the Federal Government dictating. I think what we are really talking about here, then, as I gather it—at least the chairman and I are on the same track on this thing—is trying to find the means and the ways by which we can get machinery set up where you do have adequate planning in the first place, and second, we possibly can work out some means for the decisionmaking process upon plans to be enforced in one place in a State. This is—

Governor LUCEY. Single agency.

Senator ALLOTT (continuing). What you are talking about and we are talking about, isn't it?

Governor LUCEY. Yes, that is correct.

Senator ALLOTT. Now, one question: I have read your statement here in full and in two or three places here you speak of the delegation of authority. Do you in your State have the power to delegate the authority to zone?

Governor LUCEY. To zone?

Senator ALLOTT. Yes.

Governor LUCEY. Yes; in fact, we have delegated that authority.

In other words, under our State constitution, every unit of government below the level of the State government itself is a creature of the State government but we do have a strong tradition of home rule and the power of zoning has been delegated to the incorporated places in Wisconsin, both villages and cities.

We have also laid down a hard line to the counties that they must provide zoning for the flood plains and for shorelands, and if they

do not provide such a plan by a certain deadline, then the State moves in and imposes a State plan.

We are proposing in the legislation that we are now preparing for introduction in the State legislature that we go beyond that and that we develop a State plan. And, as I mentioned earlier, we are at about the same stage of development, I think, that your folks are down here in terms of developing a Federal plan. What we are saying in effect to the legislature is that there are certain items in the land inventory that are so critical in terms of State needs, that are so unique in terms of their recreational potential or their historic or scientific value, that we cannot allow them to simply come under the decisionmaking power of local units of government. But, rather, we must superimpose on this patchwork of zoning authority a State plan.

Senator ALLOTT. Well, I think this is going to call for some research on the part of the staff. I just asked Mr. Cook to get the Colorado constitution and I have not been into this area as a lawyer for many, many years. I do not know. But I think we should find out how many States would have, as you suggest Wisconsin has, power to delegate the zoning power which I think is inherent in our constitution. I am not stating that absolutely.

Governor LUCEY. Last week I was in Bern, Switzerland, and was very pleasantly surprised to find that they had a very detailed land use plan that extended not just to the corporate limits but throughout the Canton in which Bern is located.

Senator ALLOTT. You see, I am going beyond this, Governor.

You can plan all you want to, but as the chairman has pointed out, in most instances is the basic zoning, and as Mayor Knecht pointed out this morning, in Colorado, both the city and the county—and Colorado has a fairly strong home rule concept to the State—have the power to zone.

So you can plan until doomsday and there is no question that we can form regional planning agencies, all sorts of planning agencies, by virtue of the legislature, but the final enforcement of this is going to come through zoning.

Now, the question that I think we are going to have to look at in this committee at this point is what is the overall situation in the United States with respect to our various States and whether or not the zoning power can be delegated to agencies other than those which are specified in the Constitution, because we might find again that we are dealing with 50 different situations. Although the way some of these constitutions were patterned after others, I doubt if there would be that many. But we might find out that we are actually dealing with several situations. And this is the problem. We can have land use planning, and our State did adopt three bills this year toward that goal, but then comes the enforcement of it. And whether or not we could do this—whether we could actually under a local and State planning decision force a city or a county to pass zoning ordinances to effectuate that, I am in very serious doubt at this moment, and I certainly would want to know what the situation was with respect to my own State and with respect to the other States also.

We may find quite a difference.

I want to compliment you very much on a very thoughtful statement.

That is all, Mr. Chairman. Thank you.

Senator JACKSON. Thank you, Governor. We want to thank you and Professor Jordal for appearing here this morning. A very fine statement. What we really need is to have as many of these questions raised and try, of course, as best we can to come out with some kind of a broad charter here which will get the States moving. I believe that that can be done.

I want to compliment you on your contribution.

Governor LUCEY. Thank you.

(Governor Lucey's prepared statement follows. The document "Policy Positions of the National Governors' Conference" is in the appendix.)

STATEMENT OF HON. PATRICK J. LUCEY, GOVERNOR OF THE STATE OF WISCONSIN

Today we face an urgent need for a national land use policy. This committee is to be applauded for its efforts in seeking to establish such policy. I warmly endorse the efforts that have been made in drafting the legislation now before you. The need for a national land use policy carries with it a high priority, and I am hopeful that the Congress will move in the months ahead to respond to this need.

It is clear that man's habitat is undergoing an environmental trauma. Yesterday's heedless consumption of land, water and air has brought us to a day of reckoning.

A steady rise in population, a pattern of urbanization and sprawling suburbs, a mushrooming appetite for the outdoors, and dynamic economic activities all spell environmental disaster unless we take unprecedented steps to safeguard the future of our resources. We must not jeopardize our continued survival in this finite natural environment upon which we ultimately depend.

State government bears a weighty responsibility as the steward of the state's natural resources—the ultimate protector of the land, water and air resources. And the states, for some resources, have started to act as responsible stewards. This is a beginning.

The states have taken steps to curb water pollution, and, more recently, embarked on programs to curtail air pollution. But, the exploitive and wasteful consumption of limited land resources and the developmental destruction of unique ecological and recreational lands remains, for the most part, unchecked by any state authority. By and large, states have delegated their land control powers, and can now only stand by while their land resources deteriorate.

Continued pressures for suburban development on the cities' fringes is controlled only by the zoning authorities exercised by dozens of autonomous local governments. Vegetation is stripped. Topsoil is buried. Streams are channelled into culverts. Hills are leveled. Valleys and marshes are filled. And, whole new communities of concrete and blacktop have replaced areas that were formerly forests or farms.

Land deterioration in the countryside is little better. Wetlands are drained. Prime agricultural lands are forever removed from food production. The cost of recreational land, boosted by a speculative fever, far outstrips the public purse.

Why do states suffer this land deterioration crisis?

Along with 48 other states, Wisconsin has delegated the authority to control land uses and development to hundreds of units of local government. Consequently, state land use policy, or non-policy, is an aggregate of thousands of unrelated decisions made by single purpose agencies and governing units—some of these resting on tenuous bases of democratic responsiveness. Generally these decisions are made without regard for other local, regional, or state concerns. Parochial interests have balkanized jurisdictions, preventing government from effectively addressing areawide developmental concerns.

Regional planning commissions, from at least a multi-county regional perspective, could be an important tool for protecting land resources. Each has the responsibility for preparing regional land use plans, but none have the authority to directly implement the plans or to control land uses in that region. Except for the limited influence offered by the A-95 review procedure, they can only advise and persuade, and that is inadequate for the land use crisis of 1971.

I intend to appoint a State Land Resources Committee to study and propose alternative means of statewide land regulations to fully satisfy critical statewide environmental and urban development concerns in Wisconsin.

This Committee will analyze positive methods for state land regulation of statewide areas of concern and will conduct public hearings throughout the state. The final recommendations will then become the basic ingredients for legislation to protect critical interests in the use of Wisconsin's land resources.

But state land use controls can be useful and utilized only when we know what lands to protect. Wisconsin's land planning heritage stretches back to 1929, and we have planned well for the institution of floodplain and shoreline zoning measures and other limited area concerns. But despite this background, today we simply do not have the comprehensive plans needed for the wise use and preservation of our land resources.

Unfortunately, Wisconsin has delegated much of its land use planning responsibilities, along with the delegation of zoning and other land development controls, to hundreds of independent local governments.

Wisconsin urgently needs a comprehensive state land policies planning process and we have taken the necessary action to set such machinery in motion. This action is taken in anticipation of national legislation and underscores the good faith that our state government is prepared to exercise in responding to the critical need for land use control. We have taken the initiative, and I believe we are assuming our share of responsibility. We do so with a view to the urgency of the problem and the desire to fulfill our obligation in the federal-state partnership.

It is with these comments as background, that I wish to comment today on two important bills now being considered by this committee: S. 632 (the Jackson bill) and S. 992 (the administration bill).

THE NEED FOR A NATIONWIDE POLICY

There is little question in my mind that the national government must enunciate a national policy on land use if the states are to respond positively to this environmental problem. For that matter, it is essential if we are to respond to social and economic problems, depletion of central city resources and restricted access to economic opportunities. Having stated the need, we are far distant from accomplishment. We are faced with conflicting values in a world that certainly encourages unilateral approaches. We apply practices to our environment which are beneficial for one purpose and deleterious for another.

What shall be the goals? We seek to eradicate air pollution, water pollution, and land pollution. We wish to prevent soil erosion, develop a program for better management of timber land, preserve wetlands and stop the degradation of outdoor recreation areas. We can add yet another, what a distinguished professor at the University of Wisconsin has termed, "the preservation of the biota for the sake of the biota itself." It is the amorphous preservation of natural beauty, or, as Stewart Udall once described it: "our groping for something we cannot forget—the long waves and beach grass; white wings on morning air, and, in afternoon, the shadows cast by the doorways of history."

If definition is elusive, it is compounded by the complicated machinery of government which bears little relation to the configurations of land and water. We are faced with a living landscape but with no effective governmental mechanism to deal with it.

Both bills purport to establish a national land use policy. Each makes generalized land policy statements that suit the national interest. But neither bill further clarifies and details national land policies, nor makes the regional national interests more precise, nor sets up machinery to articulate more specific national objectives. Instead, this policy will generally be developed as the aggregate of fifty separate state land use plans.

I would recommend that the Congress more fully articulate a national policy within which the states can frame their plans. This policy should be developed with input by state and local leadership, broad enough to satisfy the various geographical interests that comprise the United States but specific enough to guide the states in their planning and development of rational policies of land use.

I would also recommend that the Congress broaden and consolidate national regional planning as a cooperative effort of the several states, the federal regional councils, the existing regional development commissions and the river basin commissions. For example, the interrelated planning of economic development districts, soil and water conservation, transportation, resource conservation, and many others must be drawn together if the nation and the states are to develop and implement comprehensive land use policies.

Without institutionalization of regional coordination and direction among the states and federal agencies, state plans will tend to be developed to satisfy the individual interest of each state. The sum of such disparate efforts will not only be unrealistic, but meaningless in the context of national and regional interests.

INTERGOVERNMENTAL RELATIONS

Both bills recognize that state government is the key for developing and implementing a rational land use policy. States represent a wide variety of social, economic, physical and political conditions. They also differ in institutional structures, government philosophies and intergovernmental relations. Institutional arrangements that are appropriate for one state may be unacceptable in another. The desirability of flexibility should not, however, obscure the need for reasonable constraints for all levels of government. Without them, the requirements for state actions to satisfy national goals would be unreasonable.

Both bills point to state government as the ultimately responsible body for land resources protection. This is proper. While Senate Bill 632 does permit flexibility of administration, Senate Bill 992 more fully recognizes that state and national interests are not always extant. Consequently, it focuses on those areas where there is an overriding state or national interest, and does not otherwise interfere with local prerogatives.

The basic philosophical difference between the two bills is particularly significant for states that have a strong tradition of home rule. Such is the case in Wisconsin.

I would recommend that Congress, in the interest of strengthening the federal system, leave to the states the freedom to delegate authority to local governments as their needs dictate.

Senate Bill 992 represents a more general and broad policy approach to state land use planning than does SB632. Rather than emphasizing planning technique, it establishes performance standards for a process by identifying specific problems which must be solved and leaves open the development of mechanisms for such problem solving. Essentially, this leaves the states free to select from alternatives whatever mechanism best suits their needs.

Clearly, these provisions of Senate Bill 992 are desirable since they allow the states the flexibility to select from among their resources the vehicle that best suits them. Programs can then be tailored to meet the specific need and competency of that state, while performance indicators will establish a base line for achievement of national goals.

LAND USE POLICY

Land use policy, in and of itself, is not an end. Rather it is a means to an end. There are a myriad of other public policies that have a direct bearing on the development of land use policy—health, transportation, education, manpower and taxation, to mention only a few. Environmental quality cannot be considered in isolation of each of these since each has physical components and physical implications. If state land use policy planning is to be effective, it must be conducted within the context of statewide comprehensive planning.

Perhaps it is unrealistic to expect state governments to develop their policies as a rational whole, but surely if they are to be effective in their planning, they must account for the components that too often are considered apart from each other. The development, then, of a rational and sound land use policy becomes a vehicle for drawing together these varied and separate

components. To that end, Senate Bill 632 specifically attempts to improve economic and social conditions through the enunciation of a land use policy.

However, even though it is generally accepted that the major economic social and physical problems are found in the urban areas of our nation, the bill specifically exempts major urban areas, as well as federal lands, from the provisions of any state land use plan. It is clear that these are not self-sufficient and self-contained entities. They are affected by external policies of land use and their very existence carries significant implications.

We cannot realistically exempt these areas from consideration in the development of rational land use policies—and in fact, they must be given high priority.

NATIONAL URGENCY AND FEDERAL FUNDING

The funding provisions of any national land use policy should reflect the urgency and priority of the subject. The level of funding should be at least equal to that of other ongoing planning programs. If it is to reflect urgency, the level should be even higher.

Program support of 50% as proposed by Senate Bill 992 would seem inconsistent with the stated urgency and priority of the program. Existing planning support approximates 66% and adequate land use planning support might be better pegged at this level, or better yet, the 90% level proposal in Senate Bill 632.

INCENTIVES

As the governor of a state with a long and rich history of progressive action, I am instinctively repelled by economic sanctions imposed to induce state action. But, as a realist, I know that without these sanctions many desirable objectives would not come about. A carrot without a stick often is not enough to induce tough political actions.

For example, would Wisconsin and other states have enacted effective relocation measures or billboard controls without the threat of losing federal highway funds. I would like to think so, but—again, as a realist—I am afraid not.

Senate Bill 632 then appropriately combines both the carrot and the stick. It makes sizeable grants for land use planning, but then would withhold environmentally-related federal funds if the states did not act responsibly. Recognizing the strong national interest in land resource protection, I believe that this sanction is necessary.

PRIORITIES

The Congress is now also considering bills that would set national policy and establish a national program to protect and wisely manage the nation's coastal and estuarine zones. Wisconsin, as a Great Lakes state, fully recognizes the imperative need to protect and halt further deterioration of our rich coastal resources. And we would make coastal and estuarine zone protection a first priority in comprehensive land and water resource planning.

With a top priority commitment for coastal resources protection, and recognizing the close interrelationships and potential overlap of separate national land use planning programs and coastal zone management programs, I urge that these bills be reconciled. One approach could be to clearly cite coastal zone protection as the first priority in national land use planning. Or, if it appears that the National Land Use Policy Act will not be promptly enacted, the coastal zone management measure should be carefully tailored to anticipate and lead toward an effective national land use planning program.

CONCLUSION

By way of summary, both bills claim to establish a national land use policy but do not address themselves as to where new population and growth should be accommodated and where it should be limited. A true national policy would require more than a composite of state land use plans and controls. The Urban Growth Report, directed by the Housing and Urban

Development Act of 1970, could be expanded in concept and components to directly relate national land use policy with national urban growth policy.

Despite this inadequacy, the bills make an important contribution to a more rational institutional system than exists today by stimulating the creation of powerful new state authority to plan and regulate land use.

Senate Bill 632 is more comprehensive in its geographic scope and specifies more detailed analysis as a part of the planning process. However, the state regulatory function should probably not be as broad as its planning responsibilities and might best be limited to the types of land uses contained in the administration proposal—critical areas, key facilities, development of regional benefits, large scale development and new communities. By setting forth these areas of primary concern, the national government would be articulating a national policy by the establishment of priorities. Such statement would also provide a framework for state level planning.

Neither bill is entirely satisfactory. Each has its salutary effects. Each has inadequacies and defects.

We stand, once again, on the threshold of action that will find the states and national government in partnership. The nature of that partnership is of continuing concern. It should be one that will foster a dynamic and mutually supportive function at each level of government. But, traditionally, the relationship is incrementally defined in terms of functional proposals, rather than an agreed upon general intergovernmental policy within which specific programs are then developed. We tend to conduct the business of government in piecemeal fashion, putting these pieces together without respect to an overall framework.

As a governor, I have an abiding interest in any legislation which impacts on states. I am concerned primarily with the relationship that will grow from this new partnership and how it will affect these levels of government now and in the future. I am equally concerned with the effect such legislation will have on the future of municipal, town and county government. But most important of all, I am deeply concerned with the effect this will have on people.

In this context, the obligation of each level of government must be the focus for discussion. There is a tendency, when the clamor for action seems compelling to rush forward without examining the complex ramifications of today's actions on our many tomorrows. We tend to regard hard and difficult questions as details. Too often, fadism overtakes rational and deliberate examination.

At this juncture, and in light of national urgency, I would urge that the Congress and Administration seek to reconcile these bills. I recommend that the mechanism for such reconciliation include the National Governors' Conference of the Council of State Governments and other appropriate organizations.

In this manner, we will preserve the best elements of each bill and at the same time, enable state government to have a positive impact on the concepts incorporated in the legislation.

All too often, the federal-state partnership arising from specific legislation proves unsatisfactory to both parties. The way to alleviate this all too frequent dilemma is to expand participation in the drafting of new legislation—to include those parties that have a direct concern in the legislation and who will be ultimately responsible for program planning and execution.

In the final analysis, state government will assume primary responsibility for protecting the broad public interest in land use decisions. It is desirable, then, that State government be afforded the opportunity to participate more fully in the development of national land use policy.

Senator JACKSON. We will reconvene at 2:30.

(Whereupon, at 12:40 p.m., the subcommittee was recessed to reconvene at 2:30 p.m., the same day.)

AFTERNOON SESSION

Senator Moss. The hearing will come to order, and we will resume.

Our next witness will be Mr. James T. Goodwin, Coordinator of Natural Resources for the State of Texas, representing William Clayton, Texas State Legislature; chairman, Intergovernmental Relations Committee. In fact, you represent many groups. You will have to tell me in your opening statement what groups you represent.

We are glad to have you here, Mr. Goodwin, to present the position of Texas on the bills that we have before us now.

STATEMENT OF JAMES T. GOODWIN, COORDINATOR OF NATURAL RESOURCES, STATE OF TEXAS, REPRESENTING HON. WILLIAM CLAYTON, TEXAS STATE LEGISLATURE, CHAIRMAN, INTERGOVERNMENTAL RELATIONS COMMITTEE, NATIONAL LEGISLATIVE CONFERENCE TASK FORCE ON NATURAL RESOURCES

Mr. GOODWIN. Thank you very much, Mr. Chairman.

It is a pleasure to appear before the committee today and offer this testimony on Senate bills 632 and 992.

It is a very timely hearing because last Saturday the Natural Resources Task Force of the National Legislative Conference adopted a strong State resolution on the needs for national land use planning, which will be presented in plenary session at its annual meeting in Minnesota on August 19.

Now, this will be presented to some 7,716 members of the National Legislative Conference.

Of particular importance and relevance I think here is the concern among many of the legislative bodies of the United States concerning coastal zone development and coastal zone management.

One of the tremendous problems that we have in the United States is that much of the waste resources, much of the waste products, that are developed internally eventually find their way to our coastal area and have a tendency to degrade the environment in our coastal areas all around the United States and its periphery.

We feel that the bills that are being heard presently would demand that the coastal zone itself have been considered separate and apart from the remaining portion of the United States in terms of emphasis; that is, that we feel that the coastal zone constitutes a separate entitlement under these bills and requires more emphasis in view of its particular and peculiar problems which in many cases are infinitely more complex than many of the problems we have in the internal portion of the country.

Now, if that might mean a recommendation at the National Legislative Conference of the enactment of a coastal zone bill, separately from a national land use bill, until such time as national land use management can be enacted by Congress, with the intent to integrate this into a national land use management bill at some time in the future, then certainly we would be in support of such legislation.

Now, it is a fact that we are in support of a strong national Land

Use Management Act. This is a necessary prerequisite for the States and the localities within the States and the various political subdivisions in the States, to develop a comprehensive means of understanding their own particular problems relative to the remainder of the United States.

In speaking to this matter, I would like to address myself first as I have to the problems relative to the National Legislative Conference, but at the same time, I am coordinator of national resources in the Office of the Governor in the State of Texas and I would like to discuss with you a little bit of the particular problems that we have at the State level with reference to the actions that might be taken by the national congress and in turn I would like to describe some of the activities that we have underway in the State of Texas as well as in some of our other States, our sister States, which are highly relevant to these hearings.

As Governor Lucey mentioned a few minutes ago, in his testimony before our recess, it is essential that the United States develop national objectives in land-use planning.

Now, to this point I would like to address myself to national needs and national concerns as opposed to parochial needs of the individual States or the various political subdivisions within them.

What are our national objectives in land use planning?

Albert Einstein said that everything must be as simple as possible and not one bit simpler. If we are actually involved with the art of the possible, as Senator Jackson mentioned earlier, it is necessary that we enforce regulations in the United States over all the States that will enable the localities and the States to develop a comprehensive land use management scheme to consider all the various functional aspects of the environment and to bring these into some kind of sharp focus.

But how are we going to do this without a little bit more guidance from the national level concerning national concerns? How can we be expected to plan land use without enunciating our goals and objectives?

Are we planning for 300 or 400 million people, 20 or 30 or 40 years from now?

These goals and objectives should be stated by Congress. Oft times these goals and objectives that we are discussing today are in conflict and where we have conflicts we must have resolutions. I know that a number of members of this committee have discussed problems related to adjudication. We in the States have such problems. We have problems in various functional areas which brings us to the point that land use management, if you carry it on to its logical conclusion, includes much more than mere land use management. We are not talking about zoning especially but we are talking about the development of all of our natural resources and human resources.

The charge that has been given to this committee is a tremendous one and I do not envy you the problems you have in developing a comprehensive bill that will enable the United States to move forward in this area.

Now, since the onus is being placed upon the States, their objectives are assumed to be synonymous with those of the Nation as a whole. This is a fallacious assumption. In other words, for the objectives of all the various States, the 50 States, to be synonymous with those of the Nation as a whole, we must have a comprehensive overview or guideline within which we can develop our individual programs in land use management so that we can move forward toward a common objective. There are many States with ample land resources. My State is one. We have some 245,000 square miles within the boundaries of our State. Many of these acreages or square miles are undeveloped.

We have the possibility right now to attempt to direct our land use management planning in such a way as to serve the needs of the Nation as a whole as well as our particular region and our individual State and its political subdivisions if we can move immediately and quickly.

Future development of the resources available in all of our States is dependent upon many various factors, some of which are unavailable or unattainable within the several States.

I might point out that many of the States have ample water resources. Many other States, those of us in little, more arid portions of the country, do not have these ample water resources, and yet we have a viable land resource base which, when married with these ample water resources, would enable us to produce goods and services for the Nation that might hopefully meet the needs of those 300 or 400 million people in the future.

What is the national objective going to be concerning the transmigration of resources among and between the States? What is the national objective concerning the redistribution of population of the United States? This is a highly critical problem because we recognize the difficulties that we have within our urban areas.

We recognize the problems. Pollution, as a matter of fact, is of course a function of people. We recognize these problems and yet on the other hand, we are constantly working, it seems, towards the development of larger and bigger and more populous urban areas.

The environmental concern that we have has arisen only within the last few years. I might point out to the committee that the environment is a very, very serious matter. It is a tremendous problem. We are all concerned with the pollution of our water and our air and our land.

On the other hand, as someone who has done a great deal of work related to the environment, I have noted that the environmental problem is for the most part a white, middle class type of interest. You do not find very many minority groups at environmental meetings. You find many of our young people who are rightfully concerned with environmental problems. But it is necessary for the Nation as a whole to attempt to redirect its efforts so that our minority groups and those people who are dependent upon the human resource base which we have in many areas and our basic employment in various industrial sectors will understand that we can have both progress and economic gain, national income gain and long term economic growth, and the preservation and conservation of our environment.

It seems that this is the problem that we need to address ourselves to when we are talking about a comprehensive land use management scheme.

The State of Texas does have the authority to delegate the powers of zoning to the individual subdivisions of the State. These powers have been delegated to corporate cities. However, unincorporated rural areas of the State have no jurisdiction, let's say, and no one is responsible for the zoning of these areas, and in fact, they cannot be zoned until further action by our legislative bodies.

One of the problems that this has caused is that regardless of the objective or goals of the various areas within our States, we cannot meet those goals in terms of land use management planning because we are unable to define the prerogatives, the responsibilities, the authorities for this land use planning in the rural areas of the State.

There are additional problems when you start talking about local units of government and their responsibilities for zoning.

One of these is the responsibility for extraterritorial jurisdiction of the cities. What about these annexed but really in limbo unincorporated areas? Who should have control over these?

Since 1936 the Soil and Water Conservation Districts in the State of Texas have had the power of rural zoning, with a nine-tenths vote of the landowners, which in effect means that we do not have this power delegated to any authority at the present time.

The problems related to land use management, though, are much broader than the problems concerning zoning because zoning is only one means of obtaining a land use management plan or implementing such a plan.

We have such things as easements, scenic easements, and so forth.

Just the mere fact of establishing a particular water quality standard in a certain stream in effect zones that land for particular types of industry. Therefore, we have many ways of committing our land resources towards what we might consider their highest and best use, although at the present time we do not have any criteria for determining exactly what the highest and best use might be.

If we are going to attempt to determine this on the basis of a benefit-cost ratio I am afraid we are in for a pretty sad shock because then we are going to have to ignore the esthetics. We are going to have to ignore the social benefits and as well as the social costs of alternative courses of action in land use management.

The State of Texas recognizes the need for such a policy. We are also concerned that the State and the local units of government be able to attack this problem with some degree of coordination, some degree of an overview, if you want to call it that, towards a common direction.

We have begun a coastal resources management program in Texas that attempts to attack many of these problems and attempts to identify some of the particular sources that we feel should be examined before we identify the authority in which we must invest our land use management planning. As you well know, and as I mentioned earlier, land use management planning is so comprehensive as to embrace practically all the functional levels of government. We talk about air, we talk about land, we talk about water, we talk about

vocational, technical education, about human resources, marine resources, and yet these activities, these functional areas, are normally found in many various agencies of not only the Federal, but of the State governments.

So what is our solution? If our solution is toward a comprehensive land use management plan, then we must be very careful because it seems that the investiture of such a tremendous amount of authority in one office or one agency would have a tendency towards really dictating many of our other planning activities.

We might take a look at highway planning, for example. We in Texas are quite proud of the progress that has been made by our State Highway Commission in the development of highways and surface transportation networks so that we can move within our large State with relative freedom and ease and in short periods of time.

Yet, it seems like in understanding comprehensive land use management planning not only is the development that is going to occur in various portions of our State as well as all of the other States going to dictate the linkages or roadways that are going to be constructed in the future, but the roadways that will be planned for construction in the future are going to dictate the environmental corridors, if you want to call them that, the linkages of development within our States.

So we see that we have a very complex situation closely akin to the problem of either looking at what we have now and dreaming an ideal or looking into the future and seeing what it is possible to have and then working in a step-by-step fashion back to the present time.

In Texas we have embarked upon a coastal resources management program at the direction of our legislature. This program is 2 years old. A summary report was presented to the legislature in December of last year and a final report will be presented to our legislature in December of 1972.

The objective of this report is to develop a vehicle by which we can implement a coastal resources management program which in turn means land use management planning.

We have several problems in our coastal areas that are rather unique. In one way, quite different from your State, Senator Moss, we do not have any federally owned lands to speak of. We have several wildlife refuges and several military installations, but for the most part the publicly owned lands along our coastal zone are owned by the State and most are submerged.

We can manage these lands and we can develop a program towards their management and by managing these lands in small blocks of land, as you well know, we will be able to influence the type of development that is going to occur around them and between them.

In developing a comprehensive coastal resources management program for Texas we attempted to identify various tasks or activities or functions, if you want to call them that which, in their whole, might be taken to be a model of the environment.

We have considered such things as land use, land ownership, minerals and mining, transportation, higher education. Many functional areas have been identified and attacked by many of the finest

minds in Texas, at the universities and colleges, at the State level, in our agencies and by private enterprise, private industry.

We have developed a comprehensive planning unit that was developed statutorily called the Inter-Agency Natural Resources Council which is composed of 13 natural resource agencies in the State of Texas with a chairmanship by the Governor, with a view towards developing integrated programs and coordinating programs and planning so that we are not planning for things that are not complementary within the State of Texas.

It is significant that at the present time these agencies are examining the problem relative to developing State environmental impact statements on a form similar to those being developed by the Federal agencies on our State projects. So we are attempting to move forward in these areas but we see all of these problems, and we have—we believe that the first step in comprehensive land use management planning as is stated in several of the bills, in both 632 and 992, is the development of an inventory of our resource base.

We have completed a comprehensive mapping program along the coastal area in Texas and are extending these to all of our SMSA or urban areas over the next 2 years. This is the most comprehensive program of its type in the United States and I have been informed by the experts that no one else has such a series of maps and, as a matter of fact, they are so new that this is the only copy available, I think, in the country.

But they are printing some additional maps for us, and if you do not mind, I would like to point out some of the aspects that we feel are necessary in doing a comprehensive job of land use management planning which will not only develop the ideas or concept of a balance with nature and with an understanding of the needs of man, but with the allowability or permissibility of industrial developments and commercial expansion, urban expansion, in such a way as not to infringe upon our natural resource base and to attempt to confine the problem to one of developing a rather neutral environment, if you will, within all of our very special interests and all of our peoples can operate freely.

It seems that when we talk about a good environment or a bad environment, that this is really what we are trying to accomplish. In order to avoid the conflicts that arise between the environmental groups, the preservation groups, the industrial developer and the home developers, it seems that in order to avoid those conflicts we need to develop an environment that is closely akin to the needs of all of these groups and not merely pointed towards the development of any one.

We have a series of seven maps that represent the entire coastal zone and this is only one map relative to Galveston Bay. This is environmental geology, the Galveston-Houston Sheet, within which we have all of these various geologic and environmental criteria established.

Now, this is on a scale of 1 to 125,000. These maps that I will show you which are in somewhat more detail are on a scale of 1 to 250 and we have all of the information on a scale of 1 to 20,000.

That is just representative rather than the large sheet and it is rather difficult to hold up.

But this is what we would call a comprehensive mapping program that is needed before we can really identify the problems relative to zoning and relative to land use.

Manmade features and water systems are listed on this map. We have, for instance, offshore petroleum production, sewage disposal sites, sanitary land fill sites. Sanitary land fill sites—this is a very interesting one, Senator, because if you go back over to the geologic map and superimpose the geology of the area upon sanitary land fill sites, you will find that possibly as many as 90 percent of our sanitary land fill sites have been placed upon permeable sands which threatens the water supply along the coastal area.

Now, why is this? This is because no one thought to establish criteria by which we would identify a location for a sanitary land fill site which would have a tendency to fill in an area so that we would not have permeable sands into which to solidify our garbage, let's say, into our water supplies.

Now, problems like this are rampant throughout these maps, because we have never had any maps like this before.

Manmade Features and Water Systems. Environments and Biological Assembly, both subaqueous and subaerial. Physical properties of our lands, including the various fault zones and various problems. Subsidence is a tremendous problem in many of our coastal areas, especially in this area. Rainfall Stream Discharge and Surface Salinity which is where our very important functions are for our ecosystems in our basin estuaries.

Active process, geologic processes, accretion, erosion. These create tremendous problems.

I have had a number of people giving me calls where their beach front lots are eroding something like 50 to 70 feet a year and when you pay a substantial amount of money for such a lot, you start worrying about it when your house starts going underwater.

Mineral and energy resources. And a comprehensive current land use map.

Now, these maps are not the sine qua non. These are not the solve-alls. But they do represent an inventory of resources and an inventory of land use which we feel is needed in the country as a whole before we can really attempt to do much about the problem.

We wholeheartedly support the concept, Senator, of both S. 632 and S. 992.

We believe a comprehensive land use management policy for the Nation as a whole with well defined goals and objectives—we do feel that the States need assistance. We need help in developing these plans.

We have tried to do this now. All of this work, and all of the additional work in the coastal resources management program of Texas has been done on State funds. What could we have done had we been able to receive assistance in planning our activities? How much better could we have coordinated these activities with other State agencies and with the federal agencies?

I believe that one of the bills as presented this morning or this afternoon has a clause in it about a 50 percent planning grant.

I would urge the Senate to consider variations from the 50 percent because in some cases it is necessary. I think, to assist people up to a level of possibly 90 percent. In others, maybe only 20 percent is necessary. But we do feel that it is necessary to give the assistance and the guidance to the State so that we can work together as State and Federal governmental entities towards a comprehensive program for the benefit of all our people.

Thank you very much, Senator.

Senator Moss. Thank you, Mr. Goodwin. That last suggestion about there being a variation in the planning grant S. 632 does go as high as 90 percent and it is a variable figure, but the point you make is validly made.

I am very much impressed with those maps and I certainly commend you and the State of Texas for developing these data on which to do some coastal zone planning.

I noticed you recommended that we go ahead with the coastal zone and pick up the interior later because it seemed to be more pressing. If, indeed, by putting them all together we were to hold back developing a good program of coastal zone planning, I would agree with you. It is a question of whether we can move it all in one package or whether we are going to go in two.

I am very much impressed with your report on what is being done in Texas and I can see some of the problems when you point out that your unincorporated areas do not have zoning power.

Now, that, of course, is a great handicap within the State. And we do need more utilization of State power as well as the national guidelines of which you spoke of. But yours is a very interesting and helpful paper and we appreciate it.

My colleague, Senator Metcalf, has joined us. He may like to see those maps, too. They were very interesting. We might even go off the record a minute or two and have Mr. Goodwin show you the maps they have developed on coastal zone planning in Texas.

I am going to have to leave and Senator Metcalfe is going to take over here as chairman and it is up to him, but I would recommend that you look at those maps. They are very interesting.

Senator METCALF. Not only in my concern as you know, Ted, about the coastal zone planning in connection with this series of hearings but in oceanography, we have been concerned with that problem as well, and so I will be delighted to look at the maps. I hope that they will be available for my staff and for me to examine in greater detail.

Thank you.

Mr. GOODWIN. I will be glad to submit them for the record.

Senator Moss. Get the first prints, those are the first ones out.

I appreciate it very much.

Mr. GOODWIN. Thank you.

Senator Moss. Thank you, Lee.

Senator METCALF (presiding). Thank you very much for your testimony.

Mr. GOODWIN. Yes, sir. I will be happy to submit these. I will be able to obtain some additional ones this coming week. I will be happy to submit these into the record.

In view of the fact that a recent statement has been developed by the National Legislative Conference and the State of Texas, as a matter of fact, has just completed a final draft of a policy on land use management, I would appreciate the record being left open so that we can submit those documents at a later time.

Senator METCALF. How long do you need?

Mr. GOODWIN. I imagine about 2 weeks will be fine.

Senator METCALF. Without objection, of course. It will be left open for 2 weeks and you will be allowed to submit those documents. We will be delighted to receive them.

Mr. GOODWIN. Thank you very much, Senator.

Senator METCALF. Thank you.

(The material referred to by Mr. Goodwin was not received in time for inclusion in the record.)

That is it, unless there is someone else to come before this subcommittee, we will be in recess subject to the call of the Chair.

As I understand it, further hearings on this bill will be held in about 2 weeks. If witnesses that did not have an opportunity to appear today desire to appear, they should be in touch with the staff of the committee. If anyone wishes to submit a statement, it will be accepted for the record for this hearing.

(Whereupon, at 3:10 p.m., the committee was adjourned, subject to the call of the Chair.)

APPENDIX

(Under authority previously granted, the following statements and communications were ordered printed:)

POSITION OF THE STATE OF VERMONT

This is to convey my strong interest in the National Land Use Policy legislation now under consideration by the Senate Committee on Interior and Insular Affairs. I support the broad purposes of the two bills, S. 992 and S. 632, and urge a careful consideration of both. This type of legislation is urgently needed as a necessary first step toward preserving and restoring the environment.

Vermont has already taken this first step toward achieving rational land development and environmental management. The 1970 Vermont General Assembly enacted several pioneering environmental measures including an Act to establish a State Environmental Board. This law calls for State land use policy planning and an administrative system to review and authorize development activities on a statewide basis.

After one year of intensive work, our State Planning Office is now completing work on an inventory of Vermont's land, its uses and capability for development. It is called the Interim Land Capability Plan.

During the next two years the State Planning Office will prepare a State Capability and Development Plan and State Land Use Plan.

The Capability and Development Plan will be a basic statement of overall development goals and policies while the Land Use Plan will establish broad categories of proper land use in accordance with Land Capability and Development Policy.

I feel strongly that such plans must provide a focal point for all levels of public and private development activities. In this regard, our plans will (1) provide criteria for statewide development and subdivision regulation, (2) be a guide for State Government capital investments, (3) be a guide to regional and local planning and governmental agencies, and (4) be a means of informing private enterprise of public goals and policies regarding land development.

I am convinced that land use planning is the crucial, central element of our effort to control and maintain the quality of Vermont's environment. The land use planning and environmental programs undertaken by Vermont are unique among the States and can be viewed as a demonstration of the concepts contained in the two bills. Action by the Senate to implement those concepts will underscore the crucial importance of land use planning while providing timely and essential financial support.

DEANE C. DAVIS,
Governor of Vermont.

STATE OF MINNESOTA,
OFFICE OF THE GOVERNOR,
St. Paul, June 4, 1971.

HON. HENRY M. JACKSON,
*Chairman, Committee on Interior and Insular Affairs,
Senate Office Building,
Washington, D.C.*

DEAR SENATOR JACKSON: The State of Minnesota is vitally interested in wise land-use planning. We are encouraged that the Federal government has

recognized land-use planning and management as an important institutional device for preserving the environment. Numerous incidents have pointed out the conflicting issues that can result from single interest land-use programs that are being conducted by Federal agencies, regional commissions, state agencies, and local units of government. We believe that a better system of coordinating planning has the potential to resolve some of these issues, and support the concept of Senate File 632 pending certain changes as outlined below.

It is our position that there are some inherent difficulties in the National Land Use Policy that is being proposed in S 632. Responsibility for a state-wide land-use policy is placed with the states, which is where the responsibility should reside. However, a viable land-use policy cannot result from procedures that exclude Federal agencies from operating under similar requirements to those that are placed on the states. If the states must produce a plan within five years for the non-federal public and private lands within their boundaries, and if the state plans are subject to federal review and approval, then the federal agencies should be required to produce a plan within the same time span for federally-administered lands. Those federal plans should be subject to review and approval by the Land and Water Resources Council which should include participation by the various states.

The proposed Land and Water Resources Council is given responsibility to administer the National Land Use Policy Act. Why is that body, which is composed entirely of Federal agencies, given review and approval authority over state-wide land-use plans? As we understand the legislation, the Land and Water Resources Council will not have any authority over the current programs of Federal agencies, except to try and assure some kind of coordination. That kind of authority is not a guarantee of effectiveness. If the Land and Water Resources Council is to operate similarly to the current Water Resources Council, and if the river basin commissions are to continue to be dominated by Federal agencies, then we find it difficult to support the legislation as it now stands.

There are other issues that need to be resolved before Minnesota can support legislation such as S 632 or S 992. For example, there is no provision to resolve disputes between the states and the federal government that includes full state participation. Basically as related above, most of the issues involve the roles to be played by the various federal agencies and states, and the review authority over the state-wide plans and over various land-use projects.

We recognize the importance of developing wise land-use plans to help establish project priorities that will minimize conflicts between the various levels of government and also between agencies within the same level of government. Land-use plans and subsequent priorities should assist in making sound public investment decisions for programs in all geographic areas of the United States. We hope all land-use programs will be coordinated toward that goal.

In conclusion, the position of the State of Minnesota is as follows:

1. We are very interested in developing well-coordinated federal-state land-use plans.
2. We agree with the philosophy of S 632, but believe it needs some important revisions.
3. We propose the development of an entirely different institutional approach that would make states equal planning partners with the federal government. This approach would include state input at a national scale, not at just the level of each state operating independently over its own geographic area.
4. We are willing to make staff members of Minnesota state government available to this committee for the development of an entirely new approach to national land-use planning.

We hope you will respond favorably to our proposal to assist you. Thank you for this opportunity to appear before your committee.

Sincerely,

WENDELL R. ANDERSON, *Governor*

1970

1971

Policy Positions

of the

NATIONAL GOVERNORS' CONFERENCE



August 1970

(199)

NATIONAL GOVERNORS' CONFERENCE

Executive Committee

1969-1970

GOVERNOR JOHN A. LOVE, Colorado—*Chairman*

GOVERNOR ALBERT P. BREWER, Alabama

GOVERNOR WINTHROP ROCKEFELLER, Arkansas

GOVERNOR DON SAMUELSON, Idaho

GOVERNOR KENNETH M. CURTIS, Maine

GOVERNOR WARREN E. HEARNES, Missouri

GOVERNOR ROBERT E. MCNAIR, South Carolina

GOVERNOR CALVIN L. RAMPTON, Utah

GOVERNOR ARCH A. MOORE, Jr., West Virginia

1970-1971

GOVERNOR WARREN E. HEARNES, Missouri—*Chairman*

GOVERNOR JACK WILLIAMS, Arizona

GOVERNOR ROBERT D. RAY, Iowa

GOVERNOR MARVIN MANDEL, Maryland

GOVERNOR FORREST H. ANDERSON, Montana

GOVERNOR WILLIAM T. CAHILL, New Jersey

GOVERNOR ROBERT W. SCOTT, North Carolina

GOVERNOR FRANK L. FARRAR, South Dakota

GOVERNOR LINWOOD HOLTON, Virginia



GOVERNOR JOHN A. LOVE



GOVERNOR WARREN E. HEARNES

1970

1971

Policy Positions
of the
NATIONAL GOVERNORS' CONFERENCE

August 1970

Office of Federal-State Relations
1735 DeSales Street, N.W.
Washington, D. C. 20036
(202) 393-2662

CHARLES A. BYRLEY
Director

Office of The Secretariat
Iron Works Pike
Lexington, Kentucky 40505
(606) 252-2291

BREVARD CRIHFIELD
Secretary-Treasurer

INTRODUCTION

Policy positions on major issues facing the States and the Nation were adopted by the National Governors' Conference at its 62nd Annual Meeting held August 9-12, 1970, at the Lake of the Ozarks, Missouri.

Because these policy positions represent a significantly important consensus of the thinking and attitudes existing in the States' leadership, they are transmitted herein for your information, consideration and action, as appropriate.

In consonance with a resolution receiving unanimous support at this Conference, whenever reference is made in the policy statements to "the States," such language includes the fifty States and, when relevant, the Territories of American Samoa, Guam, the Virgin Islands, and the Commonwealth of Puerto Rico.

The Conference Executive Committee ruled that the policy positions adopted at the 1969 Annual Meeting would remain in effect unless specifically amended or deleted by subsequent action.

Thus, these policy positions are the combined product of last year's Conference, the subsequent work of six standing committees, the Conference Executive Committee's review, and discussion and action at the 1970 Annual Meeting.

In addition to these policy positions, the Conference's committees and staffs have produced committee reports and analytical materials in the areas covered by the policy statements.

Additional copies of policy positions and other related materials are available from the offices of the National Governors' Conference.

TABLE OF CONTENTS

A. RURAL AND URBAN DEVELOPMENT	PAGE
1. Adoption of a Comprehensive National Community Development Policy	1
2. Adoption of a National Population Growth and Distribution Policy	1
3. Adoption of a New Communities Development Policy	2
4. Adoption of a National Economic Development Policy	2
5. Adoption of National Agricultural Development Policy	2
6. Joint Federal-State Evaluation of Rural Development Programs	3
7. Adoption of a National Land Development Policy	3
8. Adoption of a National Housing Policy	4
9. Expanding the Housing Market	4
10. Consolidation and Coordination of Federal Housing Programs	4
11. Sufficient Funding of the Housing and Urban Development Act	5
12. Adoption of a Policy on the Model Cities Program	5
13. Comprehensive State Planning and Community Development Programs	6
14. State Participation in the Renewal and Neighborhood Development Program	6
15. Uniform Federal Relocation and Land Acquisition Policies	7
16. Policy Formulation Mechanisms	7
17. Grants for Comprehensive Planning and Coordination	8
 B. EXECUTIVE MANAGEMENT AND FISCAL AFFAIRS	
1. Revenue Sharing	9
2. Taxation of State and Local Bonds	10
3. Interstate Taxation of Business	10
4. Taxation of Industrial Development Bonds	11
5. New Approaches to Federal-State Partnership	11
6. Federal Role in State Planning	12
7. Intergovernmental Cooperation Act	13
8. Training	13
9. Clearinghouse for State Consulting Help	14
10. Federal Aid Information System	14
11. Federal Grant-In-Aid Appropriations	15
12. Regulation of Insurance	15
 C. HUMAN RESOURCES	
1. Preamble	16
2. Welfare Reform	16
3. Health	18
4. Education	19
5. Manpower Training and Development	21
6. Narcotics and Dangerous Substances	22
 D. TRANSPORTATION, COMMERCE, AND TECHNOLOGY	
1. The State Role in Balanced Transportation Planning and Development	23
2. Transportation and the Environment	24
3. Highways	25
4. Highway and Motor Vehicle Safety	26
5. Airport Development	27
6. Urban Mass Transportation	28
7. Railroads	29
8. Waterways	30
9. Communications	30
10. Commerce	30

E. LAW ENFORCEMENT, JUSTICE AND PUBLIC SAFETY

PAGE

1. Administration and Implementation of the Omnibus Crime Control and Safe Streets Act	31
2. State-City Cooperation	31
3. Criminal Code Revision	32
4. Criminal Justice Systems Improvements	32
5. The Prevention and Control of Juvenile Delinquency.....	35
6. Organized Crime	36
7. Drug Abuse	37
8. The Crisis of Unrest	38
9. Firearms Control.....	38

F. NATURAL RESOURCES AND ENVIRONMENTAL MANAGEMENT

1. National Goals are Needed	39
2. Strong States in the Federal System are Needed	39
3. More Relevant Educational Efforts in Environment, Conservation, and Population are Needed	39
4. A National Voluntary Population Distribution Policy is Needed.....	40
5. National and State Coastal Zone Policy Planning and Management Are Needed	41
6. A Change in National Attitudes Toward Non-Replaceable Natural Resources is Needed	43
7. State Land Use Planning is Needed	44
8. Full Funding and Implementation of State Comprehensive Outdoor Recreation Plans is Needed	45
9. A Revitalization of Forestry by All Ownerships is Needed.....	46

G. POLICY STATEMENTS AND/OR RESOLUTIONS INTRODUCED BY INDIVIDUAL GOVERNORS AND ADOPTED DURING FINAL BUSINESS SESSION UNDER "SUSPENSION OF THE RULES"

1. National Clearinghouse and Registration of Chemicals	47
2. Vietnam Prisoners	47
3. United States Territories and Commonwealth of Puerto Rico.....	47
4. Presidential Vote for Puerto Rico	48
5. Earth Week	48
6. Mercury Contamination Standards	49
7. Red Cross Disaster Relief Needs	50
8. Resolution of Appreciation	51

A. - 1

ADOPTION OF A COMPREHENSIVE NATIONAL
COMMUNITY DEVELOPMENT POLICY

Congress and the Administration should develop a comprehensive National Community Development Policy with the effectuating funds, agencies and programs. The Policy should provide the means whereby federal, state and local elected officials should participate directly in the formulation of national policies and goals and the establishment of major strategies and programs for implementation of such policies and goals. The formulation and implementation of such national community development policies in coordination and consonance with state development policies is essential to achieve the objectives of balanced growth.

A National Community Development Policy should embrace the major areas and issues of concern for the quality of life within the United States. The most basic components for consideration in the formulation of this policy are policies relating to population growth and distribution and to economic development. Other components are policies relating to allocation of natural resources, agriculture, transportation, housing, human resource development, and financing and administration -- all established in a manner that will support policies concerning these two basic components.

A. - 2

ADOPTION OF A NATIONAL POPULATION
GROWTH AND DISTRIBUTION POLICY

There should be an adoption of a National Population Growth and Distribution Policy, developed in concert with state and local planning policies, to lessen the congestion, and reduce pressure, on the already overburdened resources of our cities, to offer opportunities for the free movement of all of our citizens to realize their maximum personal potential, to match manpower and job training programs with the needs for community development and to lessen the problems of transportation, environmental decay and social service delivery that are not being adequately dealt with for today's population. Such a policy shall be consonant with a rural-urban balance of needs and regional potentials.

A. - 3

ADOPTION OF A NEW COMMUNITIES DEVELOPMENT POLICY

To effectuate a population growth and distribution policy there should be the adoption of a comprehensive New Communities Development Program which would include expanded communities, new-towns-in-towns and new towns as major components of a national policy designed to relieve growth stresses upon existing metropolitan areas and to promote growth in appropriate areas which have growth potential.

A. - 4

ADOPTION OF A NATIONAL ECONOMIC DEVELOPMENT POLICY

A National Economic Development Policy should be adopted to coordinate economic assistance measures with a national population growth and distribution policy, thereby providing the employment concentrations and economic base that will make such a policy workable, offering more efficient operating environments for industry and concentrated employment centers accessible to workers in either rural or urban areas. Such policy should provide additional incentives to private business and look to new ways that public and private interests can be combined to meet public needs.

A. - 5

ADOPTION OF NATIONAL AGRICULTURAL DEVELOPMENT POLICY

There should be a National Agricultural Development Policy as an integral part of a National Community Development Policy to assure the Nation it can feed itself and meet its responsibilities to other people in the world. Such a policy should reflect the importance of and a system for the preservation and maintenance of agricultural land for future supplies and as necessary habitat for wildlife, water resources and hunting and fishing, all of which are a necessary part of providing quality environment in consonance with a population growth and distribution policy. Further, this Policy should focus attention on improving agricultural production capabilities, transportation, foreign market development, processing agricultural products near the source of production and efforts aimed at developing rural America.

In addition, Congress must act on a viable farm program to assure rural America "parity of opportunity" with the rest of the Nation.

A new farm bill by Congress should be shaped to give rural producers an equal opportunity to share in the Nation's prosperity and growth as all other areas. A federal farm program should be continued by the Federal Government until the market can maintain an adequate price for producers.

A strong farm program is recognized as a deterrent to further out-migration from rural areas to crowded metropolitan centers, a necessary element for a growing economy, and vital to providing reasonable food prices for consumers while assuring a fair return for all agriculture producers.

A. - 6

JOINT FEDERAL-STATE EVALUATION OF RURAL DEVELOPMENT PROGRAMS

The new Office of Intergovernmental Relations, in cooperation with the appropriate federal offices and the National Governors' Conference and local government groups, should evaluate the possibilities and mechanisms for better coordination and delivery of federal and State programs in rural areas. The joint evaluation should examine and make recommendations for action on the following issues:

- a. Avenues of cooperation between existing HEW, Agriculture, Commerce and HUD programs and state community development programs.
- b. Restructuring of federal field operations to support and complement emerging State and local efforts for comprehensive rural development. As federal departments decentralize, they should utilize to the fullest extent possible the personnel, administrative and technical services of state and local government rather than building up federal field staff to handle delegated authorities for decision-making accompanying the federal field office reorganization.
- c. Recognition of state designated multi-county planning and development districts, primarily composed of local officials, as the primary delivery system for most state and federal programs in rural areas.
- d. Recognition and support of several States as pilot projects for the purpose of coordinating federal and state programs into a package of rural development services.

A. - 7

ADOPTION OF A NATIONAL LAND DEVELOPMENT POLICY

There should be an adoption of a National Land Development Policy providing guidance as to what lands are appropriate for urban development, agricultural production, conservation and open space and recreation. Such national policies must be related to the allocation and conservation of water, air, minerals and other natural resources and be an integral part of a National Community Development Policy.

A. - 8

ADOPTION OF A NATIONAL HOUSING POLICY

There should be an adoption of a National Housing Policy to coordinate housing investment and construction programs with a National Community Development Policy to carry out social objectives of making a place for all social and economic groups, to take advantage of the environmental and efficiency advantages of such a policy, to provide needed governmental aids for supporting housing construction and marketing, with special support programs to assist those who cannot secure decent housing through normal channels, to make maximum use of new technologies, and to stimulate additional investment by private industry and home property owners, thus adding to the overall housing supply, and to insure the availability of sufficient long-term mortgage financing.

A. - 9

EXPANDING THE HOUSING MARKET

All levels of government, in cooperation with private industry, should take action to expand the market for housing production. Special attention should be given to new methods of production, technological innovation, and marketing institutions in the private sectors and to simplified and flexible state housing codes, increased subsidies for low-income housing, land aggregation and tenant relation programs in the public sector. States should assist in the aggregation of public and private land for housing purposes.

A. - 10

CONSOLIDATION AND COORDINATION OF FEDERAL HOUSING PROGRAMS

The Administration and Congress should undertake the immediate streamlining and coordination of federal housing programs: (1) provide for full cooperation with emerging State housing instruments; (2) phase out, merge, and consolidate the numerous federal low and moderate income housing programs and provide incentives and illustrations for program packaging and mixing; (3) substitute State certification of federal program requirements with only a post audit by HUD; and (4) provide federal operating subsidies, as are now provided to federal housing projects, to State public housing projects.

A. - 11

SUFFICIENT FUNDING OF THE HOUSING AND
URBAN DEVELOPMENT ACT

Congress should provide sufficient funding for the Housing and Urban Development Act, especially for Section 236 Interest Reduction, Section 235 Home Ownership, Rent Supplement, Public Housing Programs, and Urban Renewal.

A. - 12

ADOPTION OF A POLICY ON THE MODEL CITIES PROGRAM

For a National Community Development Policy to be effective, it should include concepts for the coordinated delivery of services and financial assistance by both state and federal governments, as conceived in the Model Cities legislation. The entire effort must be a coordinated one which focuses the attention of agencies at all levels of government on specific problem areas within our municipalities.

Congress should amend the Model Cities legislation to provide for a legitimate and positive role for State Government in the operation of the program. Specifically, Section 105 of the "Model Cities and Metropolitan Development Act of 1966" should be amended to authorize the Secretary of Housing and Urban Development to make matching grants to the States to provide continuing planning, coordination, programming and technical assistance services to Model City Agencies.

In those States where the State contributes a substantial portion of the local non-federal financial share, the program should provide for State concurrence in the approval of the selection, program development and funding of all Model Cities applications.

HUD should immediately provide for State review and comment on Model City work programs and supplemental grants.

To assure balanced urban-rural growth, consideration should be given to a Model Rural Area Development program patterned after the Model Cities concept.

It is noted most of the poverty in America lies in the very urban and very rural areas of our Nation. Unless immediate steps are taken to develop the delivery system of federal, state, local, and private resources through the concept of model development areas, this gap will widen at the expense of all Americans in both the dominate urban and rural areas of the Nation.

A. - 13

COMPREHENSIVE STATE PLANNING AND
COMMUNITY DEVELOPMENT PROGRAMS

Federal agencies should support the efforts of Governors and the appropriate State agencies designated by the Governors to begin coordinated planning of community development programs. The following specific measures should be undertaken by all federal agencies:

a. Federal administrative procedures and new legislation, where necessary, should be developed to provide financial incentives on a continuing basis to the States to "buy-in" to community development programs, specifically model cities and urban renewal. There should be increased federal provision for joint funding to encourage State efforts for the packaging of community development programs.

b. Both federal and state executives should seek sources of flexible funds for use as "glue money" in putting together and implementing coordinated development programs. At the federal level, these funds could come from Section 701 of the Housing Act of 1954, Title VIII of the Housing Act of 1964, Title IX of the Demonstration Cities Act, from existing funds for state planning for federal programs in functional areas, or from new legislation.

c. States demonstrating a readiness to act in implementing a package of community development programs and to commit State funds should receive priority attention from federal agencies. Federal funds should also be available to encourage States to develop their own competence in community development planning and programming.

A. - 14

STATE PARTICIPATION IN THE RENEWAL AND
NEIGHBORHOOD DEVELOPMENT PROGRAM

HUD should immediately issue an addendum to the Urban Renewal and Neighborhood Development Program Regulations that clearly recognizes the role of positive State participation in this program for: (1) local NDP conformity to State renewal policies; (2) State services to NDP's for application preparation, planning, and implementation measures as eligible project costs; and (3) whenever State laws and requirements for renewal exceed federal requirements, that HUD will accept State certification of local compliance without any further review by HUD.

A. - 15

UNIFORM FEDERAL RELOCATION AND
LAND ACQUISITION POLICIES

The Uniform Relocation and Land Acquisition Act of 1969 (S.1) should be enacted as soon as possible, but with the following amendments: (1) deletion of all cut-off dates for the federal funding of the first \$25,000 of relocation expenses; (2) retention of shared funding for all costs above \$25,000; and (3) provision of matching grant funds to all States that create uniform state-wide relocation and land acquisition policies and programs covering all public programs. The July 1, 1970, cut-off date in the Highway Act of 1968 for federal assumption of the first \$25,000 in relocation costs should be deleted.

A. - 16

POLICY FORMULATION MECHANISMS

In order that formulation of a meaningful National Community Development Policy may be undertaken, the procedures of the Domestic Council should provide formal means for bringing the President, the Governors and local elected chief executives together on a regular basis to secure an exchange of views and information on National Domestic Policy and priorities. Further, the Council should give due consideration to the inclusion of the Governors and chief local elected officials in the regular meetings of the Council.

Representation of State and local interests among the staff must be assured.

The President will transmit to Congress his annual report and such supplementary reports as he deems necessary to advise as to progress in formulating a National Community Development Policy and suggested implementing actions.

In addition a joint congressional committee on National Community Development Policy should be instituted. It shall make a continuing study of the annual report on National Community Development and its supplements, and study ways of coordinating programs in order to further the National Policy. The legislation shall require the committee to file a report annually containing the committee's findings and recommendations. The committee may make such other reports from the time as it deems advisable. To maximize citizen participation, the committee is encouraged to hold extensive hearings.

A. - 17

GRANTS FOR COMPREHENSIVE PLANNING AND COORDINATION

Assistance should be provided to plan comprehensively at the interstate, regional, metropolitan and local levels; to encourage local governments to cooperate in solving area-wide problems through comprehensive planning, review, and coordination; to foster intergovernmental attacks on problems of national urban and rural development; and to establish a method for exchange of development information among local, state and federal government.

Any legislation should provide that the grants be administered through the Executive Office of the President for distribution to the States, and through them to regions, metropolitan areas, counties and localities.

B. - 1

REVENUE SHARING

The National Governors' Conference went on record in 1965 in support of the principle that the Federal Government share a portion of its revenue with the States, unfettered as to functions for which it is to be used. The Conference reiterates its stand on this matter, and further recommends, consistent with the criteria approved by the Conference in 1968, that a revenue sharing plan be formulated on the following basis:

(1) Congressional appropriations for revenue sharing should be made on the basis of the federal individual income tax base.

(2) Congressional appropriations for revenue sharing should be made to a trust fund established in the Treasury of the United States.

(3) The sums appropriated should be allocated among the States, based primarily on population adjusted by relative state and local tax effort. The relationship between the taxing ability and the percentage of federally-held and administered land acreage in each State should also be considered.

(4) Congress in its appropriations to the States should specify a pass-through formula to local governments. Eighty percent of the monies which are for distribution to local governments should be passed through automatically according to formula to eligible local governments; twenty percent should be passed through to eligible local governments on application of these units to the States, and should be available for programs at the local level which encourage cooperative or joint efforts of local governmental units to solve a common problem.

(5) The federal pass-through formula should provide for sharing revenue only with general purpose units of government.

(6) The allocation by formula should be made to relatively populous cities and counties based on population and the ratio between the total receipts from all taxes imposed by eligible cities or counties and the total receipts from all taxes imposed by the State and its political subdivisions. The portion of any State's allocation which would be available for local governments within the State would depend upon the portion of total tax revenue raised by the State and that raised by the eligible local units in the State. An alternative state allocation plan of distribution should be accepted if (a) each city and county receive an amount equal to or greater than that allocated by formula, or (b) city and county councils or governing bodies representing fifty percent of those entities entitled to receive at least fifty percent of payments by formula concur in the State's alternative plan.

(7) No functions should be excluded from expenditures made from shared funds.

The Executive Committee is directed to employ every means available toward the immediate and favorable enactment of revenue sharing.

B. - 2

TAXATION OF STATE AND LOCAL BONDS

The National Governors' Conference affirms the basic constitutional principle that neither the federal nor state governments without mutual agreement has the authority to tax the other. The Conference therefore asserts that state and local bonds issued for general governmental purposes must remain tax exempt. The Conference commends the Congress for deleting provisions from the final version of the Tax Reform Act of 1969 which would have subjected their bonds to indirect federal income taxation.

We believe that the municipal bond market will and should continue to be an important source of the capital needs of state and local governments. However, the volume of new bond issues by state and local governments will likely grow substantially in the years ahead in order to finance the increasing demands for new and expanded capital facilities. At the same time, events of the last several years show that these bond issues are particularly vulnerable to anti-inflationary monetary policies and interest rate changes. Based on these facts, the National Governors' Conference recognizes the desirability of developing constructive proposals for broadening the market for state and local bonds. Such proposals should not in any way impair the access of state and local governments to the tax-exempt market or infringe upon these governments' independence in debt financing.

B. - 3

INTERSTATE TAXATION OF BUSINESS

For a number of years the National Governors' Conference has expressed opposition to federal legislation which would restrict the taxing jurisdiction of the State and provide preferential tax immunity to favored, multistate businesses, and has expressed full support for legislation which would give congressional approval to the enactment of the Multistate Tax Compact by the States.

This Conference now goes one step further in supporting an expanded and/or specific version of a congressional consent bill for the Multistate Tax Compact to allay expressions of concern in the Congress that the original consent bill set out only a broad statement of purpose, and to counter claims that the States were seeking a sort of blank check in the area of multistate taxation.

The Conference therefore urges Congress to enact legislation, drafted by the Advisory Commission on Intergovernmental Relations in collaboration with the Council of State Governments, which incorporates the Multistate Tax Compact and expresses congressional consent to enactment by the States of a compact substantially the same thereto, plus the following additional provisions:

INTERSTATE TAXATION OF BUSINESS (cont'd)

- (1) The three-factor formula (Uniform Division of Income for Tax Purposes Act), developed by the National Conference of Commissioners on Uniform State Laws is made mandatory for net income taxes upon States which have not enacted the Compact by July 1, 1971;
- (2) States are given jurisdiction to require collection of sales tax by sellers making interstate deliveries into a State if the seller makes regular household deliveries there; and
- (3) Income taxes may be imposed on congressional salaries only by the district and State represented by the Congressman.

B. - 4

TAXATION OF INDUSTRIAL DEVELOPMENT BONDS

The Conference recognizes that so-called industrial development bonds have been used for non-governmental purposes. Unfortunately, federal legislation adopted in 1968 to remove the tax-exempt status of industrial development bonds erroneously included in its definition some traditional governmental functions and thus made them taxable under this legislation. The Conference reiterates its 1968 resolution urging legislation properly to redefine industrial development bonds.

B. - 5

NEW APPROACHES TO FEDERAL-STATE PARTNERSHIP

Since social and economic problems transcend state boundaries, States have long worked together in efforts to solve them. Most major problems today, however, also require federal cooperation and assistance.

Federal-state partnership in regional problems has taken the form of the interstate compact and the regional commission. The Appalachian Regional Commission has successfully brought thirteen States and the Federal Government together to plan and administer programs in health, education and transportation, assisted by substantial federal bloc grants.

The expiration date in 1971 of current legislative authorization for the Appalachian Regional Commission and five other regional commissions will necessitate a review of the regional concept. As problems of underdeveloped areas and interstate-metropolitan areas become more complex, it is certain there will be an increased demand for an extension of multi-state administration of programs dealing with these and other problems. The National Governors' Conference recognizes the vital need of effective mechanisms for solving such problems. Any new national legislation should include the following basic points:

NEW APPROACHES TO FEDERAL-STATE PARTNERSHIP (cont'd.)

- Allow the establishment of regional commissions as agreed upon by the Federal Government and the States involved;
- Provide for Governors to share decision-making authority equally with federal representatives;
- Make federal participation directly responsible to the President, and State participation to the Governor;
- Provide adequate funds for initial planning and policy development, and adequate authorization for the future appropriations after the priorities of each commission have been determined; and
- Should not be used as a substitute for revenue sharing.

B. - 6

FEDERAL ROLE IN STATE PLANNING

Planning has always been a vital element in the decision-making process, and in recent years much effort has been made at the federal and state levels to improve the methods by which it is done. The Federal Government has shown its concern and interest by many programs of assistance to state and local governments for planning. However, many problems have arisen: a multiplicity of planning grants with different federal requirements; uncertain funding; and no integration of plans, especially at the federal level.

The National Governors' Conference urges that:

The Congress and the Administration should take immediate action to correct the confusing, contradictory, duplicative and overlapping mass of federal requirements and definitions concerning both long-range and annual operational plans. Federal agencies should recognize the Governor as the chief state policymaker and planner responsible for the coordination of all statewide and multi-jurisdictional sub-state planning. The elected heads of local government should be recognized in the same capacity for all state and federal programs operating within their jurisdictions.

An appropriate share of the funds of each functional federal grant program should be made available to the Governor for the purpose of relating functional plans to each other, to statewide goals and policies and to local development policies. This effort should begin with HEW which has thirty-nine programs, each requiring a statewide long-range or annual operating plan.

Major federal planning assistance programs should provide for forward funding on a two or three-year basis; minimum annual funding for each State; interprogram service agreements; evaluation machinery; technical assistance, training and tuition fees as eligible project costs; and minimum standardization and coordination of federal planning definitions and requirements.

B. - 7

INTERGOVERNMENTAL COOPERATION ACT

The National Governors' Conference commends the Congress for passage of the Intergovernmental Cooperation Act of 1968, which among other things, provides for keeping Governors and Legislatures informed of federal grant-in-aid rules and regulations, provides a means to obtain flexibility in administration of the "single state agency" requirement, provides flexibility in state banking of federal funds, authorizes federal agencies to render technical assistance and training services to state and local governments on a reimbursable basis, and provides for federal coordination with local authorities regarding land use.

The Conference is gratified at the action of the U.S. Bureau of the Budget in providing directives for implementation of this Act through Circulars A-95, A-96 and A-97. Governors should especially note Circular A-95, which encourages the establishment of clearinghouses and review procedures through which federally aided local and regional planning and development projects can be coordinated with state activities, and projects of different state agencies can be coordinated with one another. This Circular may potentially be used to enhance the ability of the Governor to coordinate the management of state programs.

The Conference urges Congress now to extend the principles of inter-governmental cooperation by enacting legislation which would establish procedures to allow the simplification of accounting, auditing and reporting of federal assistance funds; authorize the President, subject to congressional veto, to consolidate federal assistance programs within agencies; allow joint funding simplification for the packaging of grants for the same or related programs; and provide for periodic congressional and executive review of grant programs to determine their effectiveness.

B. - 8

TRAINING

The growing complexity of state government programs, and of the many inter-governmental programs in which States are involved, is placing an enormous burden upon state officials and employees responsible for the over-all management and unity of state operations. Training is a necessary part of equipping these officials and these employees to carry their burdens.

The National Governors' Conference commends the Council of State Governments for strengthening its training activities: the Conference notes the successful seminar held in December of 1968 for newly-elected Governors and their aides, the continuing work of the Council and the National Association of State Budget Officers in providing policy-oriented training for budget personnel, the newly established training program for legislators and legislative staff, the recent collaboration with organizations of local officials to provide training on matters of intergovernmental concern, and the scheduled 1970 seminar for Governors' - elect and their aides. The Conference urges further intensification of these efforts.

The Intergovernmental Personnel Act now before Congress should help to strengthen state and local training programs. The Conference endorses the objectives of this Act.

B. - 9

CLEARINGHOUSE FOR STATE CONSULTING HELP

All Governors have on occasion needed the temporary assistance of persons from outside their state governments to bring a different perspective to policy issues as well as to bring to bear technical knowledge and experience in various fields of state government. Although private consulting firms and universities have been used to help provide this assistance, a major reservoir of talent, largely untapped, is the State Governments of the Nation. The use of this talent would be of benefit both to the State receiving help and, through broadening the experience of the personnel involved, to the State supplying the expertise.

The National Governors' Conference requests that its Secretariat establish a clearinghouse to enable States to draw upon the experience and talents in the State Governments by helping States define their problems with precision and clarity, and identifying employees in state governments who are qualified to provide effective assistance.

B. - 10

FEDERAL AID INFORMATION SYSTEM

The National Governors' Conference has followed with interest the development of federal aid information systems in the States. States require such a system so that detailed information on federal aid program availability, plans and performance applicable to the State can be ascertained in response to the inquiries and needs of local governments, state officials and congressmen.

The development of information systems on the availability of federal grants-in-aid points up the fact that aggressive "grantsmanship" is required to obtain all funds to which a jurisdiction is entitled. This should not be necessary. Grants should be made on the basis of need, not on the basis of ability to obtain the grant. The Federal Government should provide each State the detailed information necessary for state and local governments to make and receive approval for grant applications.

The States in turn have an obligation to plan for effective use of funds and to report periodically on financial status and program accomplishments.

B. - 11

FEDERAL GRANT-IN-AID APPROPRIATIONS

The National Governors' Conference acknowledges the importance of federal grants-in-aid in the financing of state and local programs. These aids now amount to nearly one-fifth the total federal domestic budget and one-fifth of total state expenditures. Aid programs have proliferated in the past several years, and now number over 1000 separately funded activities.

The number of programs and the large amounts of dollars involved make imperative the proper administration of these programs so that the national objectives toward which they are aimed can be achieved. Many of the policy statements of this Conference deal with this issue with respect to individual programs. The Federal Government - the President, Congress, and the administering agencies - should work closely with state officials in developing appropriation and administrative procedures to provide maximum flexibility in carrying out program objectives and maximum certainty of federal action. Specifically, the Conference endorses the following concepts:

- bloc grant legislation to bring together all grants relating to broad functional areas;
- grant consolidation, to allow the President to combine grant programs, subject to legislative veto;
- joint funding simplification, to allow federal agencies to cooperate with State requests to combine several grants in the administration of one State program;
- appropriations consonant with authorizations, to provide a greater degree of certainty in the amount of funding to be expected;
- advance funding for at least two years, especially for construction projects, so that the necessary contracts can be let with assurance of fulfillment; and
- annual appropriations prior to start of fiscal year, to provide the States sufficient lead time for planning the program and hiring staff.

B. - 12

REGULATION OF INSURANCE

It is long established national policy to leave to the States the basic task of regulating the insurance industry. The States have demonstrated an ability to do a creditable job of regulation, and in the aggregate the insurance industry is well regulated.

The National Governors' Conference opposes federal legislation which would create a federal bureaucracy for the regulation of insurance, and Congress should be ever-mindful of the States' role in this important area. If corrective national legislation is necessary, the National Governors' Conference stands ready to work with Congress to achieve positive results.

C. - 1

PREAMBLE

At the request of the Executive Committee, the Committee on Human Resources has reviewed the Policy Statements adopted by the Conference in 1969 in the areas of Welfare, Manpower, Health and Education.

Based on this review and on our assessment of the current domestic problems, the Committee on Human Resources reaffirms the 1969 Policy Statements. In the Committee's view those statements continue to express the priorities for domestic action which we, as Governors, believe should guide the Federal Government in the development of domestic programs.

The continuing fiscal crisis faced by the States and their localities grows more urgent and the demand for the basic human services continues to mount. Thus, prompt and effective action remains a most urgent goal of the Committee on Human Resources.

In order to keep the Human Resources policy statements attuned to current developments, the Human Resources Committee submits for adoption by the 1970 Annual Meeting of the National Governors' Conference the following indicated amendments and additions to the policy statements on human resources.

C. - 2

WELFARE REFORM

1. Substitution, on a phased basis, of a federally financed system of welfare payments for the current federal-state program for the aged, blind, disabled and dependent children, and including also the general assistance programs now financed by the States themselves. Eligibility and grants would be determined by the Federal Government; the system would be state administered under federal guidelines. The system should include realistic income exemptions to provide incentives for persons to seek employment. Adequate day care for children of working mothers and an expanded federal job training program should also be assured.

2. Increase in the present levels for all payments under the Old Age Survivors Disability Insurance Program, with a minimum payment of \$100 per month.

3. Transfer of the present Old Age Assistance, Aid to the Permanently and Totally Disabled and Aid to the Blind programs to the Social Security Program, with payments being made from federal general revenues to the Social Security Trust Fund to cover the increased cost.

WELFARE REFORM (cont'd.)

4. Review by the Secretary of Health, Education, and Welfare of Federal regulations as to their adverse effect with respect to the following:

- a. The use of the declaration system for determining welfare eligibility. Any such system, if mandated by the Federal Government, should provide the States with appropriate options and flexibility as to form and content.
- b. The continuation of welfare payments during the pendency of appeal to persons whose grants are reduced or who are determined ineligible.

5. To combat hunger and malnutrition:

- a. Increased federal funds for the Food Stamp Program so that welfare recipients and low-income persons in all States could be covered by the Food Stamp Program. We commend the Administration and the Congress for the action taken to date and continue to urge full funding for the Food Stamp Program.
- b. Removal of existing provisions prohibiting counties and cities from participating in both the Food Stamp Program and the Federal Commodities Distribution Program.
- c. Reduction of the purchase requirements for food stamps and, where necessary, provision of free stamps to Welfare recipients.
- d. Consideration of providing food stamps in lieu of a portion of welfare payments, subject to the approval of the recipient. We commend the Administration for its proposed amendments to the Family Assistance Act in regard to food stamps and urge their adoption.
- e. Transfer of the Food Stamp Program, programs under the School Lunch Act and the Commodity Distribution Program from the Department of Agriculture to the Department of Health, Education, and Welfare. We support the Administration's proposal in regard to Food Stamps and urge its adoption by Congress. We also urge that flexibility be provided for unified state administration where desired.
- f. Expansion of federal, state and local programs to provide nutrition education.

6. The Federal Government, in cooperation with the States, should work toward the development of a rational assistance system which takes into account the full impact of the total range of direct and indirect aid to the poor. Such a system should include a national eligibility policy which takes into account all sources of income and which provides for a workable work incentive.

7. The Federal Government should establish reasonable national standards of assistance with required regional or geographic differentials.

C. - 3

HEALTH

1. Adoption by the Federal Government of a national universal health insurance program coupled with hospital cost controls as the primary method of keeping rising health costs from preventing all people from receiving the medical care they need. Such a program should utilize the existing private enterprise medical system. Publicly paid programs such as Medicaid should be used only as a secondary program for those who have used up their insurance benefits. Medicaid should be 100 percent federally financed.

2. Adequate funding by the Federal Government of (a) the Federal Supplementary Food Program for low-income groups vulnerable to malnutrition to make selected nutritious foods available to infants, pre-school children, pregnant women and nursing mothers, and (b) programs to provide free or reduced-price lunches and breakfasts through schools, summer recreational programs and day care centers to assure all children from low-income families one or two nutritious meals per day. We strongly urge that attempts to curtail the Supplementary Food Program be stopped and that instead it be further expanded to include adolescent children.

3. Expansion of federal and state programs of grants and loan payments to encourage the development and rehabilitation of health facilities particularly in low-income areas where maternal and child health care is inadequate.

4. Review of the formula for the allocation of federal funds for the construction and modernization of health facilities to assure that the funds are being devoted to meeting the Nation's most urgent needs.

5. Assurance that the allocation within a State of federal funds for the construction and modernization of the various types of health facilities be based on priorities developed by the State and be in accordance with plans developed through state comprehensive health planning.

6. Placement of responsibility for comprehensive health planning in the Office of the Assistant Secretary of Health and Scientific Affairs of the U.S. Department of Health, Education, and Welfare. Such a designation by the Secretary of HEW would be complementary to the major responsibility and reliance placed on such efforts by Governors and enhance the possibilities of achieving a federal-state "partnership" for the improvement of health services.

7. We support restoration of proposed cuts in federal funds for the Medicaid Program or assurance that steps will be taken to insure that these cuts are not merely passed back to state and local governments in the form of increased expenditures or result in reduced services for recipients.

8. Removal of ceilings on the amount of federal expenditures for Medicaid in Puerto Rico.

C. - 4

EDUCATION

1. Assumption by the Federal Government of far greater responsibility for the financing of education. Such increased federal financial participation should take the form of general grants to the States for educational purposes. Both the legislation and federal regulations for such a program should leave maximum flexibility to States and localities to develop programs to meet their most urgent needs. The basic purpose of such a program would be to help meet the rapidly rising basic cost of education, not to stimulate new supplementary programs. Such programs should not mandate the creation of any new state or local administrative mechanisms.
2. Adequate advance funding of existing federal programs commensurate with critical educational needs.
3. Consolidation of existing federal grant-in-aid programs for education into broad functional categories, thereby increasing the ability of States and localities to design programs within broad federal policy guidelines to meet critical needs in individual States and localities.
4. Maximum administrative simplification of planning, application, allocation, accounting and reporting procedures for all consolidated grant-in-aid programs to assure that the intended purpose of consolidation of grants is not subverted through detailed administrative requirements.
5. We support the President's proposal to establish an intergovernmental commission on education broadly representative of local, state and federal officials and educational personnel to furnish guidance to the Congress, the executive branch of the Federal Government and the States, for most effective educational programs, and to continually review the goals, quality and cost of our educational system.
6. Provision in federal programs for joint federal-state-local development of standardized statistical data and other information necessary for sound analysis of educational needs and programs. Such standardized and comparable data is essential for educational planning at all levels of government. We commend the Administration for its support of this position and continue to urge adequate funding for the National Center for Educational Statistics and for state efforts to redesign and clarify state and local inputs into the National Center.
7. Immediate funding of student loan program by guarantying interest at the prime rate on student loans.
8. The Federal Government should not cut back the funding of the National Defense Education Loan.

EDUCATION (cont'd.)

9. We support enactment of a comprehensive program of federal support for community colleges, vocational - technical schools, and comprehensive community colleges or their equivalents. Such legislation should assure:

- That any such legislation take into account the diversity of State higher and post-secondary education structures.
- That community colleges be an integral part of the total higher and post-secondary education programs of the States.
- That programs be administered through state agencies designated as responsible for post-secondary and higher educational planning.
- That such legislation not call for the creation of new and additional competing state higher educational agencies.

C. - 5

MANPOWER TRAINING AND DEVELOPMENT

1. Enactment of federal legislation which would consolidate federal manpower programs, provide for flexible funding of these programs, and enable the States to coordinate all manpower training and development activities within a State.

2. Review by Governors of the state administrative structure for manpower programs to assure that each State has (a) an effective mechanism to develop a comprehensive statewide manpower plan, and (b) an agency which has the capability to administer a unified system of manpower services.

3. Establishment of a national computerized job bank which would provide information regarding available jobs and job applicants.

4. Provision for systematic review and assessment of the effectiveness of manpower programs.

5. Establishment of State Manpower Training Staffing Centers with federal financial support to assure an adequate supply of trained personnel to plan and administer manpower programs.

6. Increased efforts by States to work with private business to increase job opportunities for the disadvantaged. Specifically, Governors should work with the National Alliance of Businessmen in the development of a statewide "JOBS" program.

7. The National Governors' Conference has called for the enactment of comprehensive federal manpower legislation which would coordinate federal manpower programs. The Conference also endorses a strong State role in manpower programs so that they can be effectively coordinated. If, however, the State is to be given a major responsibility in the area of manpower, it must also be given adequate authority to meet this responsibility. Federal legislation must assure that States are allowed sufficient flexibility to develop, in close cooperation with local officials, the most effective administrative structures possible.

8. We urge an additional federal program for creating new federally financed job opportunities and related employability development and training.

C. - 6

NARCOTICS AND DANGEROUS SUBSTANCES

1. The National Governors' Conference recognizes the growing epidemic of drug abuse and addiction and the need for consideration of this problem by this Committee as well as the Committee on Law Enforcement, Justice, and Public Safety. It further recognizes that this problem is a national crisis and not limited to any geographic, social or economic group. Therefore, the following steps are recommended:

- Federal and state government should cooperate in the development of a coordinated attack on the narcotics and dangerous substances problem. Such an effort should include law enforcement, prevention and treatment. Toward this end, a joint federal-state coordinating committee should be established.
- Prompt diplomatic action should be taken by the Federal Government to reduce the illegal importation of narcotics and other drugs.
- States, in cooperation with local governments, should undertake a major public preventive education campaign involving a broad range of community resources including local schools to assure that the true nature of drugs and addiction is well-known.
- A full range of treatment resources should be made available to all addicts who can benefit from it. Substantial federal financial resources should be devoted to the funding of a broad range of flexible state and local programs.
- The States should join with the Federal Government in an effort to determine the basic underlying causes of the growing drug abuse problem. Such a study should examine the underlying social issues which may lead to addiction as well as the causal processes which promote initiation, continuance, termination, and relapse in drug usage.

D. - 1.

THE STATE ROLE IN BALANCED TRANSPORTATION PLANNING AND DEVELOPMENT

The Governors of the States pledge their continued action to deal with the expanding and changing transportation needs in the decade of the Seventies.

1. We commend the U. S. Transportation Department for its development of a National Transportation Policy which centers the responsibility and power for priority decision-making in the chief executives of the States.

2. We call upon all States to study the need to develop administrative and legal mechanisms to plan, develop, finance, construct, administer and regulate the comprehensive transportation system which the citizens of our States deserve. Many States have taken such action by creating state departments of transportation.

3. We strongly endorse the continuation of the Highway Trust Fund as an inviolate source of revenues to the States. We strongly urge the early completion of the Interstate System, with funds thereafter being available to the States for the updating and renewal of our primary and secondary highways, as well as urban systems.

4. We endorse the creation of the Airport/Airways Development Trust Fund, supported by a separate fund source and not from the Highway Trust Fund.

5. We urge the creation of an Urban Mass Transportation Trust Fund, supported by a separate fund source and not from the Highway Trust Fund.

6. We urge the continuation of federal financial assistance programs dealing with railroads, waterways, and highway safety.

7. Each State should be guaranteed that its proportionate share of funds under each trust fund will not be reduced. Furthermore, the Federal Government should not be permitted to divert any trust funds.

8. The Governor, as the elected chief executive of his State, is in the best position to determine the transportation needs and priorities of his own State. Therefore, the Governor must be free from federally imposed restrictions in determining transportation priorities. Federal legislation should be amended to allow each state chief executive the flexibility to carry out the state-determined priorities and needs for transportation development. The Governor should be permitted to exercise his executive prerogatives in meeting the needs of his State by having the ability to transfer, upon a limited basis, funds among the various federal transportation trust funds and grant programs to meet his own State's priority transportation needs.

D. - 2

TRANSPORTATION AND THE ENVIRONMENT

The National Governors' Conference pledges a continued fight against the pollution of our environment by the wastes and by-products of our growing transportation system.

The Governors believe the following problems should be the subject of a sustained anti-pollution effort by the States and the Federal Government:

1- air pollution caused by gasoline powered automobiles, diesel trucks, locomotives and ships, and aircraft fueled with kerosene and gasoline;

2- water pollution caused by the spillage from vessels of untreated sewage, oil from machinery and bilges, and crude petroleum spills from tankers;

3- land pollution caused by sewage discharge from railroad trains, by abandoned automobiles, by litter, and the scarring of landscape from removal of coal and other fuel sources;

4- noise pollution and nuisance caused by aircraft, autos, trucks, railroad trains, and ships, any by heavy construction associated with transportation.

Perhaps in no other aspect of transportation is there a greater need for States to be free from restrictive federal pre-emption. The Governors call upon the federal government to provide effective minimum standards to protect the basic health and safety of every citizen, while leaving state governments free to deal with problems that have reached extra-ordinary severity, or to respond to citizen demands for a higher level of environmental quality than that which would be supported nationwide.

The Governors pledge a sustained effort to develop a combination of laws and programs which will punish polluters of the environment, while providing incentives where necessary to those whose efforts can combat environmental decline. The Governors call upon the Federal Government to join with the States in a vast research effort to measure pollution and to apply innovative technology in discovering new sources of energy and new techniques of reducing and disposing of wastes produced by our transportation system.

The Governors pledge increased emphasis in the design of highways and other transportation systems so that these facilities complement rather than conflict with the total environment in both its natural and man-made aspects. Further, programs for the preservation and development of historic and scenic vistas along transportation corridors should be encouraged by the reward of additional federal financial assistance for increased state and local action, rather than by the present threat contained in the Highway Beautification Act, of a ten percent penalty in highway funds.

D. - 3

HIGHWAYS

The National Governors' Conference supports continued development of a national, state and local network of highways, streets and roads which are well planned, coordinated, and safe. Highways will continue to be the principal mode in America's transportation system even as it becomes more flexible and balanced in the future.

The Governors urge the following action as part of the partnership between State and Federal Governments in highway construction:

1- Funds from the Highway Trust Fund should not be suspended or withheld; and we hereby request the Executive Committee to take necessary steps to provide that court action be undertaken to challenge the authority of the Executive Branch of the Federal Government to withhold distribution of Highway Trust Funds.

2- Apportionments from the Highway Trust Fund should be made as soon as possible after the 1st of July for the following fiscal year to enable the States to adequately plan their highway construction program.

3- The revolving fund within the Highway Trust Fund, set aside for the advance purchase of right-of-way, should be made available as soon as possible, and continued as a measure of economy and planning.

4- Federal fuel taxes should not be increased to the detriment of the States' ability to use the fuel tax as a source of revenue for the construction and maintenance of the highway system.

5- Primary authority for coordination, planning and flexible distribution of trust funds within the States should continue to be at the State Government level.

6- After completion of the present Interstate System, the Highway Trust Fund should be continued as part of the flexible fund described above. The basic purpose of the Highway Trust Fund in the post-Interstate period should be to strengthen the primary and secondary system, as well as urban systems. Completion of the Interstate System has linked the Nation together as never before, thereby encouraging additional travel which has placed a heavy burden on those portions of the urban primary and secondary streets and road system that are outdated and inadequate.

7- We endorse the concept of developing a system of scenic highways to allow access to national and state parks and improved recreation areas.

8- We recommend that further study be given for methods by which States can implement the provisions of the Relocation Assistance Program contained in the Federal Highway Act of 1968. Intergovernmental cooperation is needed to overcome the many legal and administrative problems created by this program.

D. - 4

HIGHWAY AND MOTOR VEHICLE SAFETY

The National Governors' Conference views with alarm the tragic number of preventable highway and traffic accidents. We urge the following action to strengthen the intergovernmental effort to make our streets and highways safe:

1- We support the National Highway Safety Administration and commend its creation as recognition of the severity of this problem, and the need for a coordinated attack upon the causes of highway deaths and injuries.

2- The Congress should give its full support to the highway safety program by appropriating the funds necessary to accomplish the mandate of the National Highway Safety Act.

3- The Congress should amend the Act so that funds for highway safety will be allocated in a bloc grant directly to the appropriate state agency designated by the Governor.

4- An incentive program should be developed to reward States with progressive highway safety programs. This would replace the present ten percent penalty clause in the Act.

5- The President should seek the advice and consent of the Governors when selecting representation from individual States for his National Highway Safety Advisory Committee.

6- There should be greater coordination of research conducted by the National Highway Safety Administration, the States and private industry. The Bureau should act as a clearinghouse and information source for such an exchange of information. The Administration should consult with the vehicle equipment safety commissioners of the States when determining minimum standards for vehicle equipment, and should design standards which are sufficiently flexible to permit States to impose additional requirements where conditions warrant.

7- The Bureau should work with the Governors in encouraging the efforts of the private sector in each State to develop public awareness of highway safety.

D. - 5

AIRPORT DEVELOPMENT

The States pioneered in the development of comprehensive airport plans and construction of aviation facilities. Following World War II, cities, counties, and public authorities began the construction of large airport facilities, using excess military airports. In 1946 the Federal Government for the first time began a program of limited financial assistance for airport construction. Forty-eight States have state aviation agencies with varying responsibilities. Twenty-five States own and operate more than 700 airports. Forty-three States have budgeted nearly \$180 million for fiscal year 1970 for airport development.

Despite this considerable effort, the National Governors' Conference expresses its great concern over the growing over-loading of our national airways and airport system to meet the air transportation needs of the United States. We commend the Congress for enacting a major new program of financial assistance for airport development. However, this initial step must be supported by the following additional action:

1- Federal legislation imposing new or increased taxes and user charges, particularly taxes on aircraft fuel and terminal use fees, must not preempt but rather preserve the power of States and localities to collect appropriate taxes and fees to support their share of costs for airport development and improvement.

2- The development of a comprehensive National Airport System Plan should be based upon individual State Airport Systems Plans, developed in cooperation with federal and local governments.

3- Sufficient funds must be made available from the new federal legislation for airport planning activities at the state government level. We urge the Secretary of Transportation to set aside not less than one-third of all planning funds in the new Act for use solely by state aviation and planning agencies.

4- We urge all States to join the twenty-seven States which have adopted the "Uniform State Channeling of Federal Airport Funds Act" as drafted by the Federal Aviation Administration in cooperation with the Council of State Governments.

5- We urge all States to consider provisions for connecting ground transportation when preparing airport plans.

D. - 6

URBAN MASS TRANSPORTATION *

States are employing broad and varied tools to aid public transportation systems. Every State has exercised its authority to form areawide mass transit districts, and to grant them taxing authority and bonding powers. Several States are now providing direct capital grants for the construction of mass transit facilities. States are involved in providing operating subsidies, and States have used their powers of taxation and tax exemption to stimulate the development of transit service.

State action is a must because of the nature of mass transit problems. The State has the responsibility to give each urban region the attention it requires, but also a responsibility to coordinate among the individual units in that region. The State can usually help resolve conflicts between city and suburban political subdivisions.

The development of adequate, modern systems of urban mass transit is essential to the continued life of the urban areas within our States. To accomplish this purpose, the National Governors' Conference urges the following action:

1- The establishment of a National Public Transportation Trust Fund. The program should be adequately funded by the Federal Government to meet the needs of both the large urban areas requiring subway or rail transit systems, and the growing urban areas requiring bus transportation facilities.

2- The federal assistance program should provide for channeling of transportation assistance funds through an appropriate state agency. The applicant for assistance under the Act should first receive state approval certifying his proposed project as part of or consistent with a statewide or regional comprehensive transportation plan.

3- The Governor or his designee should have authority to set priorities for the funding of public transportation projects within the State, and these priorities should be honored by the Federal Department of Transportation.

4- The establishment of a major federal grant program to States for public transportation planning and development should require recipient States to have a program of tax exemption or financial assistance to public and private transit systems, a specific statewide agency responsible for public transportation development, and a statewide transportation program in progress.

5- The Congress should act to exempt public and private transit systems from the federal gasoline tax, thereby providing these systems with a form of badly needed financial relief that has already been provided at the state level in several cases.

**Scheduled for consideration on August 10, this policy position was referred back to the Committee on Transportation, Commerce, and Technology, at the request of the Committee Chairman, to be considered in the context of revisions to policy position D. - 1 which had been previously referred back to the Committee for further study and final action on August 12. Although not brought to the floor as a separate policy proposal in the Conference's final actions on August 12, it was the Committee's intent that this policy position be considered in conjunction with policy position D. - 1 which was approved by the Conference. Technically, this policy position (D. - 6) may be considered as policy of the Committee on Transportation, Commerce, and Technology.*

D. - 7

RAILROADS

The National Governors' Conference is concerned about the decline of the railroads as a major element in the American transportation system. The railroads are essential to the continued economic role to fill in the movement of persons. To strengthen our Nation's rail system, we urge the following:

1- Federal legislation which would provide for the establishment of a national rail passenger system, with financial assistance from the Federal Government and private industry, and a significant role for the States in the determination of necessary services and facilities for a balanced rail transportation system.

2- Federal legislation to create a federal-state partnership in regulating the safety of our railroad system. We urge legislation providing for State regulation of all stationary railroad facilities including roadbeds, grade crossings, and station installation, and for federal financial assistance in this intergovernmental effort.

3- The Congress should conduct a complete investigation of present federal laws, regulations and policies now governing the railroad industry to determine what unnecessary burdens and impediments are placed upon the industry, inhibiting its adequate maintenance and development. This study should include an examination of the role and policies of the Interstate Commerce Commission and the Department of Transportation, and it should study methods for maintaining inter-city service.

4- State and local governments should completely review their laws and regulations affecting taxation of railroad property and imposition of unneeded manpower requirements. A careful study should be made of the cost burden paid by railroads for construction and maintenance of grade separations and crossings to determine an equitable method of sharing the costs between the beneficiaries.

5- We commend the Congress for its far-sighted action in creating the research and development programs for railroads and high-speed ground transportation. We urge continued, adequate funding for these programs.

6- We call upon the railroad industry to recognize its responsibility to the American people to use new initiative and energy in improving passenger service. Better management techniques and creative investment of resources can strengthen this vital component of the Nation's transportation network.

D. - 8

WATERWAYS

The National Governors' Conference supports the establishment of national, uniform standards for safety in the manufacture and maintenance of boats. We support continued State licensing and regulation of boat operators and operations.

We recognize the growing need for ferry boat and water surface transportation systems where these are the least expensive and most practical way of extending transportation connections. We call upon the Federal Department of Transportation to initiate an action program to give aid to those parts of the Nation in need of such water transportation development.

D. - 9

COMMUNICATIONS

The National Governors' Conference recommends to the Congress and to the Federal Communications Commission the full re-examination of the present allocation of the frequency spectrum.

Special attention should be given to the increasing need to allocate radio frequencies for emergency and public services. A special frequency, common throughout the Nation, should be established for emergency medical services to facilitate communications between ambulances and hospitals.

D. - 10

COMMERCE

The National Governors' Conference endorses development of a commercial freight rate structure which is non-discriminatory and does not promote inefficiency, and we urge Congress to undertake a study to this end.

E. - 1

ADMINISTRATION AND IMPLEMENTATION
OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT

a) Commendation of LEAA

The National Governors' Conference commends the administrators and staff of the Law Enforcement Assistance Administration for their extensive and helpful cooperation with the States in implementing the Omnibus Crime Control and Safe Streets Act of 1968. Their actions in fostering the development of qualified staff at the state level, providing wide latitude to the States in developing plans for improving the entire criminal justice system, and generally supporting the general state partnership required in a bloc grant program sets an outstanding example that could well be emulated by other federal departments. Their efforts to insure the success of this first program embodying a true bloc grant approach to an intergovernmental problem are noteworthy.

b) Fiscal Policies

The National Governors' Conference strongly urges the Congress of the United States to provide full funding for the Omnibus Crime Control Act to insure the effective accomplishment of intergovernmental crime control action in dealing with one of the Nation's most serious domestic problems. We urge uniform matching requirements for all of the programs under the Omnibus Crime Control Act, including discretionary money, at a ratio of ninety percent federal and ten percent non-federal matching.

We oppose the mandating by Congress of bloc grant funds for any specific program purpose thus limiting the States' flexibility.

We oppose the administration of bloc grant funds in so restrictive a manner as to, in effect, make them into a categorical program.

We also oppose any action by the Congress which would mandate a specific percentage of State appropriated funds to match local crime control programs.

We support the waiver of the present seventy-five percent pass-through requirement in those States bearing a substantial responsibility for the funding of the criminal justice system.

E. - 2

STATE-CITY COOPERATION

The National Governors' Conference restates and reemphasizes its commitment to vigorous and effective action to control the burdening crime problem in the urban areas of our States. Recognizing that the plague of crime knows no jurisdictional boundaries, the Governors of the States pledge their active support to the comprehensive planning and intergovernmental action called for in the Omnibus Crime Control Act of 1968. The Governors are firmly committed to the need for a working partnership with elected and other policy-making officials in the counties and municipalities of our States to accelerate efforts in developing comprehensive metropolitan crime control programs and facilities. We support and encourage voluntary State assistance to local governments for criminal justice programs.

E. - 3

CRIMINAL CODE REVISION

The National Governors' Conference finds that one of the most critical needs in the improvement of many States' criminal justice systems is the revision, modernization and simplification of the criminal code, including a model sentencing code. The Governors of the States pledge their commitment to request the State legislatures, in cooperation with the appropriate state and local criminal justice officials and members of the bar, to review and, where necessary, revise the State criminal code immediately, and at least once each decade thereafter.

The National Governors' Conference requests that the American Bar Association, together with other national organizations of the criminal justice bar and bench, provide professional leadership by assisting the States in this code revision effort. We urge careful consideration by all States of the American Bar Association Standards for the administration of Criminal Justice.

The Governors urge the United States Department of Justice to establish a clearinghouse for state criminal code revision efforts. This office should serve only as a source of advice and information-sharing among the States.

E. - 4

CRIMINAL JUSTICE SYSTEMS IMPROVEMENTS

The National Governors' Conference expresses its strong commitment to the integration and cooperation of all state and local crime control efforts into a streamlined efficient system of criminal justice administration:

A. To this end, the Governors of the States support, encourage and will pursue the following steps to aid law enforcement officials:

1. Personnel

- a. Development of minimum statewide professional standards for police recruitment, training and performance, and improvement in law enforcement officers' salaries.
- b. Development of incentive or merit systems to insure recognition and advancement of those who excel.
- c. Recruitment and training of staff and auxiliary service personnel to relieve the law enforcement officers from clerical and support duties.
- d. Development of comprehensive law enforcement officer training programs to include operations, public administration, law, technology, available social services and human relations.
- e. Encouragement of educational advancement to work-study programs, in-service training, and scholarships for full and part-time professional study.

CRIMINAL JUSTICE SYSTEMS IMPROVEMENTS (cont'd.)

2. Resources

- a. Development of a statewide, integrated information and communications system to facilitate intergovernmental cooperation in crime control.
- b. Development of statewide or regional crime laboratories.

3. Relationship to the community

- a. Programs of public support and education to improve understanding and cooperation between the citizen and the law enforcement officer, including education programs at the junior and senior high school levels, to develop understanding of the criminal justice system.
- b. Increased recruitment for police service careers from among persons of all races and economic situations.

B. To this end, the Governors of the States support, encourage and will pursue the following steps to improve the judicial process:

1. Personnel

- a. Request legislation establishing statewide professional and educational standards for all judges and court administrative officials, elected or appointed, to state or local courts.
- b. Establish statewide minimum salaries for all judges and court administrative officials.
- c. Establish procedures for the administration of judicial conduct, discipline and retirement.
- d. Institute statewide assigned counsel or defender systems, financed by the jurisdiction which has the responsibility for prosecution.

2. Organization

- a. Create unified systems with specialized branches where appropriate.
- b. Urge the Congress to ratify the Interstate Agreement on Detainers on behalf of the Federal Government.

3. Procedures

- a. Improve jury selection systems by modernizing criteria for exclusion from duty, instituting better record-keeping, and increasing compensation for public service.
- b. Modernize archaic court procedures in areas such as providing expanded pre-trial discovery, extending prosecution's right to appeal from pre-trial rulings suppressing evidence, and providing simple state post-conviction procedure.
- c. Institute statewide procedures for promoting just and uniform sentencing.
- d. Institute procedures to require counsel for a parole violator.

CRIMINAL JUSTICE SYSTEMS IMPROVEMENTS (cont'd.)

C. To this end, the Governors of the States encourage, support and will pursue the following steps to aid and improve the corrections system:

1. Personnel

- a. Commit additional resources to probation and parole sources to reduce the existing imbalance between institutional maintenance and field services.
- b. Improve recruitment, training and retention of correctional personnel by increases in salary, scholarships for professional training and intensive in-service training programs.
- c. Institute probation and parole services which make use of volunteers and some professional aides, including ex-offenders.
- d. Develop improved standards and procedures for parole decision-making.

2. Institutions

- a. Establish and enforce statewide standards for jails and detention institutions.
- b. Provide separate detention facilities for juveniles and women.
- c. House and process persons awaiting trial separately from convicted offenders.
- d. Provide separate treatment for individuals requiring specialized rehabilitation, such as narcotics addicts or alcoholics, on a regional or statewide basis.

3. Programs

- a. Development of more intensive community treatment programs as alternatives to institutionalization.
- b. Upgrade basic education and vocational training for inmates, and institute programs for job development, placement, and follow-up.
- c. Design all rehabilitation programs so that they improve the re-entry of offenders into the community.
- d. The consolidation of the administration of state correctional programs.
- e. Adoption of the Interstate Correctional Compact providing for regional and interstate cooperation for the development of correctional institutions and programs.

D. Total system needs:

Development of mandatory statistical data collection and analysis for all components of the criminal justice system including police administration, court caseload, correctional data, and expenditures by state and local governments for criminal justice institutions.

E. - 5

THE PREVENTION AND CONTROL OF JUVENILE DELINQUENCY

The National Governors' Conference believes that any attempt to comprehensively prevent and control juvenile delinquency calls for bold, broad, basic and new approaches including redeployment of personnel and resources.

Commitment to the task of preventing juvenile delinquency requires:

- a. Commitment to long-term research and development adequate to cope with the complexity of the delinquency problem.
- b. A conscious broadening of the framework within which the problems and analyzed and remedies sought. There must be a willingness to examine and challenge all traditional operations.
- c. The significant involvement of youth in any community's effort to understand and prevent juvenile delinquency.
- d. Coordination of private and public services to youth including character building efforts and those geared to correction and rehabilitation.
- e. Focusing attention and efforts on youth at an earlier age than we have previously.
- f. A careful reevaluation of the unique role of the family in American societies.
- g. Realism about the cost of long-range preventive efforts.
- h. Establishment of vocational schools without severe standards and criteria to give every boy and every girl an equal education in the area of high rate unemployment.

In recognition of the key role which State Governments play in the inter-governmental effort to prevent and control juvenile delinquency, the Governors of the States urge that each State undertake to provide leadership and funding for the coordination of planning and services of all state agencies which contribute to the prevention, control, and treatment of juvenile delinquency. Such coordination should encompass the States' effort under the Omnibus Crime Control and Safe Streets Act. Each State should emphasize and strengthen its commitment to programs designed to prevent delinquency, giving particular emphasis to home and school-centered programs aimed at youth who are in danger of becoming delinquent.

Because of the seriousness of the problem of juvenile delinquency and the need for major governmental action, the National Governors' Conference expresses its concern with the Juvenile Delinquency Prevention and Control Act of 1968. We find that it is poorly drafted as enacted, that it is inadequately funded, and that its administration is not properly coordinated with that of the Omnibus Crime Control Act. We urge that the Congress of the United States amend the Crime Control Act to provide for the transfer of the responsibility for administration of Title I of the Juvenile Delinquency Prevention and Control Act to the Law Enforcement Assistance Administration.

E. - 6

ORGANIZED CRIME

The National Governors' Conference pledges full support and cooperation in the intergovernmental war on organized crime. To this end, the Governors of the States recommend the following actions by federal, state and local authorities:

- a. Enactment of general witness immunity statutes at federal and state levels.
- b. Formation of organized crime intelligence units in the offices of appropriate state agencies designated by the Governor and in local law enforcement agencies.
- c. The continuation of federal technical assistance and training programs designed to assist in the development of competent staff for state and local jurisdictions, and the funding of federal assistance for development of state intelligence systems.
- d. The creation and financing of state level programs to investigate the problems of organized crime, including the infiltration by crime syndicates into legitimate businesses and state and local governments, by focusing public attention upon the problem by means of crime commissions and grand jury investigations.
- e. The drafting and publication by the Suggested State Legislation Committee of the Council of State Governments of a Model State Corrupt Business Practices Act to aid States in preventing the infiltration and takeover of legitimate businesses by organized crime forces. Such a proposed law should include provisions for cancelling the State charters and licenses for any businesses so undermined.
- f. The drafting and publication by the same Committee of a Model State statute to implement appropriate procedures for wiretapping and electronic surveillance and investigation by authorized law enforcement agencies, and to implement the provisions to Title III of the Omnibus Crime Control and Safe Streets Act of 1968.

E. - 7.

DRUG ABUSE

The National Governors' Conference is concerned with the extensive proliferation of the narcotics and drug abuse problem. Because of its multi-faceted nature and complexity, it is both proper and necessary that the problem be addressed by this Committee as well as the Committee on Human Resources. To combat the pervasive problem of narcotics and drug abuse, the Governors of the States recommend the following urgent efforts:

1. Federal and State Government should cooperate in the development of a coordinated attack on the narcotics and dangerous substances problem. Such an effort should include law enforcement, prevention, and treatment. Toward this end, a joint federal-state coordinating committee should be established.
2. Enactment by the States of the Uniform Controlled Dangerous Substances Act, as well as other drug control legislation which:
 - a. Grants courts and correctional authorities sufficient flexibility with user to permit individualized sentencing and treatment, and the imposition of appropriately severe sentences for pushers and sellers.
 - b. Requires prompt disposition of the offender's case.
 - c. Effectively unified all state drug control programs and coordinates all private and public efforts to control drug abuse.
3. Development of state programs for the rehabilitation and treatment of offenders requiring close supervision and control while correcting problems of drug abuse by providing alternative methods for disposition of drug users by the establishment of adequate facilities for both voluntary and involuntary admissions and for out-patient treatment programs.
4. Development of more aggressive efforts in customs and law enforcement by the Federal Government in cooperation with state officials in the border states to halt the illegal importation and smuggling of drugs, narcotics, and other dangerous substances. The Federal Government should simultaneously undertake efforts at the diplomatic level to achieve this purpose.
5. The enactment by the Congress of the proposed Controlled Dangerous Substances Act of 1970, as proposed by the U. S. Department of Justice.
6. The enactment of interstate compacts to further cooperation among the States in the control of drug and narcotics abuses.

E. - 8.

THE CRISIS OF UNREST

The National Governors' Conference recognizes and supports the historic and constitutional right of all citizens to dissent from public policies, and to seek to change such policies through public assembly, and through the peaceful expression and exchange of views.

Violence and disorder are not justified in a democratic society. We condemn lawlessness on all sides, be it by those who dissent from public policies, those who support them, or those who are called upon to keep or restore the peace. We affirm that the first responsibility of the peace-keepers is to protect the safety and lives of all those involved; however, we recognize also the correlative right of the peace-keepers in the discharge of this responsibility to use such force as may be necessary for their own self-protection.

We believe that change in a democratic society must be achieved through the calm and reasonable exchange of views. And to that end we urge greater dialogue and understanding among all segments of our society so that we might prevent the polarization of views, and the escalation of differences to the point of violence.

On the campus, we believe that the faculty and administration have the primary responsibility for the prevention of disorder and the preservation of the tranquility of the learning community. But we also affirm the right and responsibility of the State to act to restore peace both on the campus and in the larger community when other means have been tried and have failed.

We also pledge our efforts toward the constant renewal and revitalization of the institutions of our society. . . not only in education but in government and business as well. . . to prevent them from becoming impersonal toward the citizen, neglectful of the society, and brittle or unresponsive to each generation of Americans.

E. - 9

FIREARMS CONTROL

The National Governors' Conference, recognizing the varying requirements for firearms legislation in each State, recommends and will pursue legislative enactment of:

1. Federal and state laws controlling the transportation and possession of military-type firearms and ordnance, other than small arms.
2. State laws prohibiting certain categories of persons, such as habitual alcoholics, drug addicts, mental incompetents, persons with a history of substantial mental disturbance, and persons convicted of felonies, from buying, owning, or possessing firearms.

F. - 1

NATIONAL GOALS ARE NEEDED

There is a need for the President and Congress to set national goals in the fields of ecology, environment, conservation, and population. It would simplify the direction of state and local efforts if they could mesh their goals with national goals. These goals should stand out as signal flags on the halyards of our ship of state so that all could see them and understand them.

F. - 2

STRONG STATES IN THE FEDERAL SYSTEM ARE NEEDED

There must be a constant recognition of the need to place as much responsibility as possible in planning and action at the state and local levels, including such action that might necessitate interstate compacts. The unique abilities of State and local government to recognize priorities at the grass roots level should be respected and understood by the Federal Government. State governments should be permitted to set higher minimum standards than the Federal Government in the fields of environmental management and conservation.

The States need as much flexibility as possible in adjusting state and local programs to those needs unique to the area, economy, etc. Therefore, the bloc grant approach to federal planning and action funds disbursement is preferred over categorical grants.

F. - 3

MORE RELEVANT EDUCATIONAL EFFORTS IN
ENVIRONMENT, CONSERVATION, AND POPULATION ARE NEEDED

We must recognize the urgent need for the teaching of environment, conservation, and population as a major basic educational requirement in primary, secondary, and higher education. Curricula of traditional offerings at all levels of education need to be examined for their relevance to the rapidly changing conditions of environment, natural resources, and population.

The competition for students' attention to a wide range of study matter should not be allowed to prevent a full understanding of the natural forces at play on this planet. Too often in the past, students have not been adequately taught the subjects of environment, conservation, and population, and have not learned the interrelationship of these subjects. Yet failure to understand this relationship could possibly spell mankind's doom if informed action based on knowledge is not taken by the public.

States should require a constant updating of educational curricula in order to strengthen the offerings in environment, conservation, and population.

F. - 4

A NATIONAL VOLUNTARY POPULATION DISTRIBUTION POLICY IS NEEDED

The United States needs to develop a national policy on voluntary population distribution. It is now projected that the population of the United States will rise from 200 million people at present to more than 300 million people by the year 2000.

Our Nation has practiced population distribution incentives in the past through such devices as the Homestead Act. A new and fresh approach to population distribution at the present time is needed.

The social and economic problems of overpopulated areas include ghettos; poverty; mass transit demands; overloaded educational, health, and recreational services; pollution of air and water; increased crime; and a growing level of individual frustration and nervous tensions.

On the other hand, underpopulated areas are suffering high economic and social costs as well. These costs are brought on by an inadequate tax base and too few people to support necessary institutions on a community basis such as schools, churches, hospitals, recreational areas, etc.

Environmental management and conservation become excessively costly because of the severe population imbalance between the overpopulated States and those which are underpopulated.

The Federal Government, through its inadvertent and uncoordinated planning and programs, is one of the major factors in creating population imbalance.

There are remedies that should be attempted to alleviate population imbalance. Subsidized low interest rates could be offered on loans for industrial expansion in underpopulated areas. Manpower training programs to assure an employee supply to industries which would expand outside of congested areas could be implemented. A revamping of the Interstate Commerce Commission freight rates, which now make economic expansion virtually impossible in some underpopulated areas, could be adjusted to permit industrial expansion in underdeveloped areas.

Federal tax incentives might be given to industries that locate away from overpopulated areas. Special federal grant programs to strengthen the desirability of living in underpopulated areas might be made. Grants for educational, health and recreational services necessary in order to attract people to live in areas now considered underpopulated would lessen the cost and burden of trying to provide these same services to the same people if these people are attracted to densely populated areas.

NATIONAL AND STATE COASTAL ZONE POLICY PLANNING AND MANAGEMENT ARE NEEDED

A. National Coastal Zone Management

The coastal zone presents one of the most perplexing environmental management challenges. The thirty-one States which border on the oceans and the Great Lakes contain seventy-five percent of our Nation's population. The pressures of population and economic development threaten to overwhelm the balanced and best use of the invaluable and irreplaceable coastal resources in natural, economic, and aesthetic terms.

To resolve these pressures, two actions are required. First, an administrative and legal framework must be developed to promote balance among coastal activities based on scientific, economic, and social considerations. This would entail mediating the differences between conflicting uses and overlapping political jurisdictions.

Second, efforts must be made to gain additional knowledge of the nature of the coastal zoning and the multiple effects that different uses would have upon our environment.

States must assume primary responsibility for assuring that the public interest is served in the multiple use of the land and water of the coastal zone. Local government cannot be expected to cope with the broad spectrum of interrelated coastal problems, nor can local political subdivisions be expected to make their judgments consistent with those of many interlocking political jurisdictions.

Coastal states, because of unique conditions existing along their shorelines, have advantages in coping with coastal zone planning and management that the Federal Government does not have. The Federal Government, however, should establish incentives and assistance to help the coastal states prepare plans and action.

The ultimate success of a coastal management program will depend on the effective cooperation of federal, state, regional, and local agencies. At the federal level, this would require the development of goals and an administrative framework which would avoid the existing duplication, conflict, and piecemeal approach that is too often typical of federal planning assistance programs. Any federal legislation which attempts to establish a coastal program must allow States the necessary flexibility for creating management instruments most suited to their specific conditions.

Basic to a coastal management program are the funds necessary to plan and take action. The requirements for coastal zoning management are so urgently needed in the Nation's interest that federal monies must be made available to the States at a level which will not only provide incentive, but will allow an adequate program to be developed based on federal, state and local participation.

Any attempt to diminish the federal financial participation or to shift the burden to the States will result in irreparable delay and inadequacy in bringing under control the serious coastal environment and natural resource conservation problems.

NATIONAL AND STATE COASTAL ZONE POLICY PLANNING AND MANAGEMENT ARE NEEDED (cont'd.)

B. Coastal States Organization

In recognition of the need for preserving the invaluable and irreplaceable marine resources of the Nation, and in response to the National Governors' Conference policy statement calling for the formation of a maritime states organization to pursue those ends, the Coastal States Organization was established.

Among its responsibilities, the Organization will:

- (a) contribute to the development of common policy regarding national coastal zone management legislation and programs, and serve as spokesman for the maritime states, territories, and trust territories on marine and coastal affairs;
- (b) provide mutual assistance in solving common State and inter-marine resource problems; and
- (c) serve as a clearinghouse for information relative to marine activities of the member States.

In affirmation of the responsibilities and powers of the States in the management of marine and coastal affairs, and in recognition of the purpose of the Coastal States Organization to further these goals, the Governors urge all eligible States to become members of the Organization, and encourage the full cooperation of all States, inland as well as coastal, in the efforts of the Organization.

F. - 6

A CHANGE IN NATIONAL ATTITUDES TOWARD
NON-REPLACEABLE NATURAL RESOURCES IS NEEDED

There is a growing need to establish a new attitude in America among consumers which differentiates between quality of living and standards of living, as well as quantitative consumption and quality of life.

For example, we should examine the wisdom of our present system of reduced electric power rates as a reward for heavy consumption when that consumption might be beyond the electric consumption needed for a specific business or residence.

A flat rate for an adequate amount of electric energy based on the size of family or industrial need could be established. Sharply rising rates for electric consumption above the adequate standard set would provide a penalty for that waste which does not contribute to our economy or to the quality of living.

The consumption of non-replaceable coal in the thermo-generation of electricity which is wasted does not add to the quality of life and is an example of squandering natural resources without significant benefits to mankind.

Waste of fresh water cannot be tolerated indefinitely. Less than one percent of the water on the face of the earth is potable. In the face of rising populations and per capita water use, we are faced with the need to conserve our precious water resources by eliminating unnecessary waste. Wasted water adds nothing to our quality of living.

The same principle which applies to the wasteful use of electric energy and potable water can be applied to the use of petroleum products in our automobile engines. States should consider a policy of encouraging smaller but adequate engines through sharply graduated license fees which discourage larger than necessary engines that do not contribute to the quality of living. There are far too many vehicles in use today which wastefully consume the non-replaceable crude oil resource and add unnecessary pollutants to the air.

The national attitude which equates some forms of waste with a high quality of life needs to be changed. Waste does not add to the quality of life, but in fact denies a high quality of life to future generations.

STATE LAND USE PLANNING IS NEEDED

There is an interest and need for a more efficient and comprehensive system of national and statewide land use planning and decision-making. The proliferating transportation systems, large-scale industrial and economic growth, conflicts in emerging patterns of land use, the fragmentation of governmental entities exercising land use planning powers, and the increased size, scale and impact of private actions have created a situation in which land use management decisions of national, regional and statewide concern are being made on the basis of expediency, tradition, short-term economic considerations, and other factors which are often unrelated to the real concerns of a sound land use policy.

Across the Nation, a failure to conduct sound land use planning has required public and private enterprise to delay, litigate, and cancel proposed public utility and industrial and commercial developments because of unresolved land use questions, thereby causing an unnecessary waste of human and economic resources and a threat to public services, often resulting in decisions to locate utilities and industrial and commercial activities in the area of least public and political resistance, but without regard to relevant environmental and economic considerations.

The land use decisions of the Federal Government often have a tremendous impact upon the environment and the patterns of development in local communities; that the substance and the nature of a national land use policy ought to be formulated upon an expression of the needs and interests of state, regional, and local government, as well as those of the Federal Government. Federal land use decisions require greater participation by state and local government to insure that they are in accord with the highest and best standards of land use management and the desires and aspirations of state and local government.

The promotion of the general welfare, and to provide for the full and wise application of the resources of the Federal Government in strengthening the environmental, economic and social well-being of the people of the United States, we believe, is a continuing responsibility of the Federal Government, but should be consistent with and recognize the responsibility of state and local government for land use planning and management.

There should be undertaken the development of a national policy, to be known as the National Land-Use Policy, which shall incorporate environmental, economic, social and other appropriate factors. Such policy shall serve as a guide in making specific decisions at the national level which affect the pattern of environmental and industrial growth and development on the federal lands, and shall provide a framework for development of interstate, state and local land use policy.

The National Land Use Policy should:

1. Foster the continued economic growth of all States and regions of the United States;
2. Favor patterns of land use planning, management and development which are in accord with sound environmental principles and which offer a range of alternative locations for specific activities and encourage the wise and balanced use of the Nation's land and water resources;
3. Favorably influence patterns of population distribution in a manner such that a wide range of scenic, environmental and cultural amenities are available to the American people;

STATE LAND USE PLANNING IS NEEDED (cont'd.)

4. Contribute to carrying out the federal responsibility for revitalizing existing rural communities and encourage, where appropriate, new communities which offer diverse opportunities and diversity of living styles;

5. Assist State Government to assume responsibility for major land use planning and management decisions which are of regional, interstate, and national concern;

6. Facilitate increased coordination in the administration of federal programs so as to encourage desirable patterns of environmental, recreational, and industrial land use planning; and

7. Systematize methods for the exchange of land use, environmental and economic information in order to assist all levels of government in the development and implementation of the National Land Use Policy.

Intelligent land use planning and management provides the single most important institutional device for preserving and enhancing the environment and for maintaining conditions capable of supporting a quality life while providing the material means necessary to improve the national standard of living.

F. - 8

FULL FUNDING AND IMPLEMENTATION OF
STATE COMPREHENSIVE OUTDOOR RECREATION PLANS IS NEEDED

Remaining undespoiled natural areas of wetlands, forests, plains, deserts, and mountains are being exploited and despoiled at an alarming rate. The expenditure of outdoor recreational funds should not be diverted from the urgent need to acquire and protect these natural areas.

Crash funding programs that seek to carve urban parks in the midst of urban glut are dramatic examples of inadequate planning. The overcoming of inadequate planning in the past through crash programs should not be allowed, through the monopoly of limited funds, to perpetuate inadequate planning, insufficient preservation, and too little and too late acquisition for future generations.

Meanwhile, however, we must also recognize that these long range plans are being eroded by present and increasing pollution of our water resources.

The National Governors' Conference, therefore, calls upon the Congress and the Administration to support also the appropriation of the full 1.25 billion dollars authorized by the Congress for the construction of waste water treatment plants. Any retreat from this promised federal commitment will further delay the day when American citizens will have access to adequate supplies of unpolluted water for recreational and other uses. Further delay will also increase the construction costs involved in bringing about clean waters, and it will represent a betrayal of those States which have, through prefunding, relied on past federal promises that funds would be forthcoming by now.

Full funding and implementation of state comprehensive outdoor recreation plans and national sewage treatment plant construction programs is the best means of solving both short-run and long-run recreational problems of megalopolis.

F. - 9

A REVITALIZATION OF FORESTRY BY ALL OWNERSHIPS IS NEEDED

There is an urgent need to revitalize forestry efforts nationally on all ownerships. The timber supply situation has pointed up the need for strong direction by the Administration.

The future demands for lumber and forest products will provide increased competition between the many uses of a shrinking forest land base. There are presently substantial acreages of state, private and federal lands potentially capable of producing forest products, but are in need of reforestation.

Proven timber management practices could be instituted by the Forest Service and the Bureau of Land Management and other public and private forest management agencies to promote increased or high yield timber growth on existing timber-producing lands, provided funds were made available for this purpose.

The Federal and State Governments need to establish a policy to encourage reforestation of denuded publicly-owned commercial forest lands.

Existing programs need to be strengthened to offer greater inducements for private landowners to reforest their lands. A great number of public values would thus accrue, beyond those to the landowner individually. Such benefits as establishing and improving watersheds and water quality, arresting soil erosion, improving flood control and stream sedimentation, wildlife habitat and recreational opportunities would result. The increased fiber would contribute to the housing needs of a growing Nation.

G. - 1

NATIONAL CLEARINGHOUSE AND REGISTRATION OF CHEMICALS

WHEREAS, over 6,000 chemicals are released into our air, water and land;
and

WHEREAS, there is a need to study and analyze all chemicals before they
are introduced into our environment; and

WHEREAS, there is a need to continuously monitor all chemicals in the
environment:

NOW, THEREFORE, BE IT RESOLVED that the National Governors' Conference urges that a national clearinghouse be established to 1) register all chemical compounds released into our environment, 2) pre-screen each chemical as to its ecological effects prior to its introduction, and 3) continuously monitor these chemicals in our environment, and that this action by the member Governors be transmitted to the President as evidence of our sincere and genuine concern.

G. - 2

VIETNAM PRISONERS

The National Governors' Conference is united in expressing outraged indignation at the consistently inhumane treatment of United States soldiers held captive in North Vietnam.

Identities of prisoners are kept secret. Mail from relatives is not delivered. Representatives of internationally recognized agencies are not permitted access to prisoners. All these things are in blatant violation of the Geneva and Laos agreements.

We condemn this despicable circumstance which causes unnecessary anguish to the men, their families and friends. And we urge United States authorities and those in other civilized nations to mobilize all agencies at their disposal to correct these abominable conditions.

G. - 3

UNITED STATES TERRITORIES AND COMMONWEALTH OF PUERTO RICO

All policy statements of the National Governors' Conference, wherever reference is made to "The States," or "The Fifty States," etc., shall also include where relevant the additional words "and the Territories and the Commonwealth of Puerto Rico".

G. - 4

PRESIDENTIAL VOTE FOR PUERTO RICO

Section 5 of the Organic Act of 1917, an Act to provide a civil government for Puerto Rico, extended American citizenship to the people of Puerto Rico. However, United States citizens residing in the Commonwealth of Puerto Rico who are eligible to vote cannot do so for President and Vice President of the United States.

Equally, residents of Puerto Rico who move to the States and who otherwise qualify as voters become eligible to vote for President and Vice President of the United States. Residents of the several States who are otherwise qualified to vote become ineligible to vote for President and Vice President of the United States if they move to Puerto Rico. Purely geographical considerations should not control the right of American citizens to vote for their President and Vice President.

Since 1917 the people of Puerto Rico, under the same obligation as citizens of a State, have served in the Armed Forces of the United States with distinction.

Considering that effective participation in the political process of the government is an integral part of American citizenship, the President of the United States and the Governor of Puerto Rico have appointed a Joint Committee to study the Presidential vote for Puerto Rico.

In view of the above, the National Governors' Conference assembled in Lake of the Ozarks, Missouri, in recognition of the contributions made to our Nation by the U.S. citizens of Puerto Rico, recommends that should they request it, the people of Puerto Rico be granted the right to vote for President and Vice President of the United States.

A copy of this statement should be transmitted to the President of the United States, the Speaker of the House of Representatives, the President of the Senate, and the Chairman of the Ad Hoc Committee on the Presidential Vote for Puerto Rico.

G. - 5

EARTH WEEK

WHEREAS, there is an urgent need to promote a broader awareness and understanding of the environmental crisis facing each and every state in the United States; and

WHEREAS, there is a compelling need to encourage a continuing commitment by all interests including education, agriculture, business, labor, and civic and private organizations, to work to solve these fundamental environmental problems:

NOW, THEREFORE, BE IT RESOLVED that we as Governors assist in focusing the Nation's attention on environmental problems and their solutions by declaring the third week in April "Earth Week" in our respective States and seek the broadest participation in its activities.

G. - 6

MERCURY CONTAMINATION STANDARDS

Mercury contamination of the Nation's streams poses danger to the health and well-being of our people and has brought forth expressions of protests and dismay from all parts of our Nation.

Approximately one-third of the States have streams which are involved with mercury contamination, thus indicating a need for corrective activity on the federal level.

The States directly involved with this grave problem have, by their respective separate actions, diligently pursued diverse courses of remedial and corrective measures, all well intentioned but lacking in uniformity so essential in interstate matters. Thus, due to the interstate nature of our streams, any corrective activity involving regulatory measures should emanate on the federal level and should afford a just and equal criteria for all of the States involved.

It is imperative that certain measurable minimum amounts of allowable mercury outflow should be established which would not constitute a health hazard to the people of America. The Federal Water Quality Administration is the appropriate agency to initiate corrective measures which would be effective and binding throughout the several States; therefore, the National Governors' Conference urges the Federal Water Quality Administration to immediately initiate action for the determination of minimum amount of mercury outflow which would not constitute a hazard to public health, and upon such determination promulgate regulations having equal application throughout the Nation sufficient to insure that such minimum mercury outflow is not exceeded and that such regulations contain appropriate enforcement provisions.

G. - 7

RED CROSS DISASTER RELIEF NEEDS

WHEREAS, the American Red Cross is the established agency for the provision of family relief in the event of disaster and catastrophe, providing assistance that is not duplicated by any public or private program; and

WHEREAS, the emergency relief funds of the American Red Cross have been seriously depleted by the provision of disaster relief to the victims of Hurricane Camille in Mississippi one year ago and to those who suffered in the great tornado that struck Lubbock, Texas, in May, 1970; and

WHEREAS, the people of Corpus Christi and of the Central Texas Gulf Coast were devastated by Hurricane Celia on Monday, August 4, 1970; and

WHEREAS, more than 65,000 families in this area suffered loss, 8,950 homes being destroyed, and 55,650 homes being damaged; and

WHEREAS, 30,000 of our fellow citizens have received emergency assistance from the American Red Cross in the form of food, clothing, temporary housing, and medical care; and

WHEREAS the need is very great for additional funds to permit the American Red Cross to carry out its mission of mercy for the victims of Hurricane Celia with a minimum of \$6 million being needed at once:

NOW, THEREFORE, BE IT RESOLVED by the National Governors' Conference that all citizens of the United States are urged to assist the victims of Celia by making generous voluntary contributions through their local Red Cross chapters to sustain the disaster relief program thereby showing their sincere and genuine concern for their fellow men.

G. - 8

RESOLUTION OF APPRECIATION

The National Governors' Conference expresses its sincere gratitude to Governor and Mrs. Warren E. Hearnes, Mr. and Mrs. Gene Sally, and Mr. and Mrs. Frank J. Iuen, III, for their untiring efforts in making its 62nd Annual Meeting, August 9 to August 12, at Lake of the Ozarks, Missouri, an inspiring and memorable experience. To the very special guests, the Conference offers its heartfelt thanks for their excellent contribution and participation. To all those that took part in the thoughtful and beneficial program session, the Conference expresses deep gratitude. And to all others who helped plan and carry out the myriad array of activities, the Conference extends its appreciation and thanks for cooperation and friendly attitude exhibited by everyone involved in presenting the Annual Meeting.

The National Governors' Conference also expresses its appreciation to Governor John A. Love for his tremendous job and great leadership as Chairman.

We are grateful to Governor and Mrs. Hearnes and Governor and Mrs. Love for making this a productive and thoroughly enjoyable Conference.

We express appreciation to Charles Byrley and the staff of the National Governors' Conference and to Brevard Cihfield and his staff for the efficient and orderly manner in which this Conference has been handled.

The "Red Carpet" hospitality that was rolled out for the Governors, their families and staffs beautifully demonstrated that "Missouri does love company"—and we love Missouri hospitality and the Missourians who have made this Conference possible.

We further express our appreciation to the members of the news media for their extensive coverage of our deliberations and the courtesy they have shown to the Governors and their families. We appreciate their professional efforts to inform the public regarding the matters of serious concern which have been the subject of our discussions.

JUNE 18, 1971.

Senator HENRY M. JACKSON,
 Chairman, Senate Interior Committee,
 Senate Office Building,
 Washington, D.C.

DEAR SENATOR JACKSON: We urge your immediate attention to the matter of the projected Hackensack Meadowlands comprehensive Land Use Plan as promulgated by New Jersey's Hackensack Meadowlands Development Commission. Mandated by the legislature of the State of New Jersey, which claims title to approximately half of this critical 20,000 acre estuarine system, this plan would convert large portions of a potentially viable salt marsh into an industrial urban complex supporting an estimated daily population of 400,000 additional persons.

In our opinion such an economically ambitious but environmentally short-sighted plan to exploit this essential tract of urban open space poses a threat to the entire N.Y. Metropolitan area; and in terms of the precedent it might well establish, to similar urban and coastal environments about the country. Such a threat would seem to warrant vigorous action by the Congress of the United States; and for that reason we now list a series of environmental priorities negated by the proposed plan. It is our hope that upon contemplation of these priorities you will join our efforts to structure an environmentally compatible alternative to current plans for development of the Hackensack Meadowlands.

(1) The need for climate moderation and improved air quality in the grossly polluted atmosphere of the New York Metropolitan area. It is admitted by all concerned that the federally funded study now under way will only reveal which variation of the land use plan will result in a minimum of further degradation in air quality, thus *assuming the inevitability of that degradation* and its forced acceptance by the public.

(2) The increasingly pressing though immeasurable demand for recreational and educational open space in this already overpopulated area. The plan would bring some 200,000 to work there daily, as well as 200,000 residents.

(3) The provision of a desperately needed increase in financial resources for the reversal of the decaying quality of life in such Northern New Jersey Urban areas as Newark and Paterson. It has been suggested that an exodus to the outwardly appealing new Meadowlands city would result in further loss of services to these urban disaster areas.

(4) The need for comprehensive review and restructuring of present environmentally inadequate means of generating electric power. The proposed plan would only contribute further stress to an already overtaxed system of power supply in the Northeast.

(5) The need for farsighted planning to meet future demands on Northern New Jersey's water supply. The spectre of supplying the city in the Meadowlands remains ominous in the absence of concrete plans to do so *without major environmental side effects*.

(6) The need for development of a *total transportation system* for the New York Metropolitan area. The Meadowlands city, while obviously an impressive potential model for the foundation of such a system, is for political and jurisdictional reasons apparently incapable of so functioning. Rather, its 400,000 daily inhabitants would vastly complicate an already horrendous situation.

(7) Provision of habitat for an as yet undetermined number of plant and animal species essential to the ecological balance on land and sea. Preliminary studies indicate the potential viability of this region as a salt marsh, which, when considered in the light of New Jersey's drastically declining commercial and sport fishing enterprises, reemphasizes the urgent need for restoration of the entire Hackensack River Basin. Again, this appears a task too large for the present plan to handle, and yet its success hinges upon that restoration.

(8) Directly related to the above; fulfillment of the natural capacity of a restored tidal marsh for flood control. The current plan for a \$300 million Army Corps of Engineers' flood control project, including a tidal gate and diking and draining of much marshland, raises grave environmental questions.

(9) Perhaps most important, the proposed development appears to violate the protective intent of the New Jersey Wetlands Act of 1970, from whose provisions it is excluded.

We submit that a project of this magnitude, with its profound environmental consequences constitutes an issue of the greatest national concern, and places inescapable responsibility on those Federal agencies entrusted with the protection of our national environment, including the Congress, the Federal Environmental Protection Agency, and the Council on Environmental Quality.

We therefore now ask your assistance in insuring *completely adequate Congressional review* of all environmental aspects of this proposed development, particularly those dealing with the Corps of Engineers' flood control project.

We and other similarly oriented citizen groups look forward to a prompt response on your part, and would be eager to discuss any component of the problem at your earliest convenience.

Sincerely,

CHARLES COOPER,

*Chairman, Students for Environmental Action,
Fairleigh Dickinson University.*

Mrs. ALBERT RICHARD LAMB, Jr.

*Chairman, Meadowlands Committee,
Better Air for Bergen.*

ENDORSED BY

William Hoppen, Citizens Committee for the Hudson Valley, P.O. Box 146, Ardsley on Hudson, New York 10503.
Mrs. Edgar Eisler, President, New Jersey Citizens for Clean Air, Suite 405, 144 South Harrison St., East Orange, New Jersey 07018.
Friends of the Earth, 30 East 42nd Street, New York, N.Y. 10017.
Environmental Action, Miss Barbara Reid, Legislative Dr., Room 731, 1346 Connecticut Ave. N.W., Washington D.C. 20036.
Sierra Club, North Jersey Group, Mr. Walter Wells, Chairman, 23 Laurel Avenue, Summit, New Jersey 07901.
North Jersey Conservation Foundation, Mr. David Moore, Exec. Dr., 300 Mendham Road, Morristown, New Jersey 07960.
Hudson County Citizens for Clean Air, Mrs. Warren Zapp, Pres., 242 Stevens Avenue, Jersey City, New Jersey 07305.
Environment, New Jersey, Mrs. Phyllis Rubin, Mrs. Selma Cohan, 460 Clubway, Hackensack, New Jersey 07601.
Dr. D. Vincent Manson, Environmental Geologist, American Museum of Natural History, Central Park West at 79th Street, New York, N.Y. 10024.
National Audubon Society, Mr. Allan J. Miller, 1130 Fifth Ave., New York, N.Y. 10028.

STATEMENT OF NATIONAL ASSOCIATION OF MANUFACTURERS

This statement is submitted on behalf of the National Association of Manufacturers, a voluntary association of business enterprises, large and small, located in every State, and providing some three-fourths of the Nation's manufacturing employment and production.

The purpose of this statement is to comment on certain aspects of S. 632, introduced by Senator Henry M. Jackson, and S. 992, introduced on behalf of the Administration. Both bills deal with the subject of national land use policy, but employ divergent approaches.

INTRODUCTION

It is obvious that land use planning can affect every aspect of human life. Land use planning can dictate where people live and in what kind of homes, where people work and how they travel between home and work. Land use planning can dictate the location and amount of land available to grow food for people, and the location and type of recreational opportunities available to people. Land use planning also can dictate restrictions on production and distribution of goods and energy which can result in tremendous costs to the consuming public.

The Association's Natural Resources Management and Conservation Committee has intensively studied the subject of national land use policy. Representatives of the White House, the Congress, federal agencies engaged in land use planning (such as the Soil Conservation Service and Forest Service of the

Department of Agriculture and the Bureau of Land Management of the Department of the Interior), and of state and regional land use planning agencies have appeared before the Committee and discussed this topic. As a result of these studies, the Committee recommended to the Association's Board of Directors the following policy statement on "National Land Use Policy," which the Board unanimously approved:

"Recognizing the impact of growth in the national economy on the environment and the conflicting demands of urban and rural development, commerce, industry, agriculture and recreation on our use of land resources, the National Association of Manufacturers supports the establishment of a national land use policy to which local planning and civic groups can refer for guidance and assistance in dealing with land use problems. Such a policy should acknowledge the need for natural resources development in balance with national requirements and aspirations. Land use planning can best be carried out by local and regional agencies and by state governments."

It should be carefully pointed out that this statement expresses support for a national land use *policy* to which local planning and civic groups can refer for *guidance* and *assistance*, and asserts that such a policy should acknowledge the need for natural resources development. It further states that land use planning can best be carried out by local and regional agencies and by state governments.

We believe it would be unfortunate if the United States were ever subjected to a *national* land use *plan*. The experience in Great Britain under the Town and Country Planning Act and related legislation indicates that such national planning could have undesirable results if undertaken here. The legislation in England has caused the price of land classified for industrial use to skyrocket, and has just about led to government dictation of industrial plant location decisions. It appears that some industrial plants are being located without regard to relevant economic factors such as accessibility to raw materials, proximity to markets, and suitability of transportation facilities. This necessarily would introduce inefficiencies and higher costs in a nation's production and distribution systems. We earnestly hope that land use policy and planning in the United States do not lead to inflated costs for industrial land and other diseconomies, an example of which might be the denial of accessibility of industrial plants to the inland waterways which provide low cost transportation for bulk materials and constitute a great economic asset of this nation. In return for flexibility in plant location decisions, the Association has expressed support for efforts to ensure the highest degree of compatibility between industrial activities and the environment, and new manufacturing plants built in recent years reflect this viewpoint. New manufacturing plants compete for awards as being among the "ten best factories of the year," reflecting both engineering and aesthetic considerations.

With these thoughts in mind, we turn now to a discussion of the two bills before the committee.

PROVISIONS OF S. 632

S. 632 calls for the establishment within each state of a statewide land use plan to be developed and administered by a single State agency, designated by the Governor or established by law. A further requirement is that the "agency must have authority to implement the approved plan and enforce its provisions." It is provided that the agency's authority must include "the power to prohibit under state police powers, the use of any lands in a manner which is inconsistent with the provisions of the plan."

This would appear to supersede and displace multi-county, metropolitan and local planning and zoning. There are only two stated exceptions: lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents; and, at the discretion of the Federal agency, lands located within the boundaries of any incorporated cities having a population in excess of two hundred and fifty thousand or in excess of 20 per cent of the State's total population, which has land use planning and regulation authority. The statewide land use plan, among other things, would be required to identify areas of the State where ecological, environmental, geological and physical conditions dictate that certain types of land use are undesirable; areas where the highest and best use is recreational-oriented use; areas which are best suited for agricultural, mineral, industrial and commercial development; areas where transportation and utility facilities are or it appears should, in the future, be located; and areas which furnish the amenities and the basic essentials to the development of new towns and a revitalization of existing communities.

Thus, the State agency would have a very broad and sweeping zoning power. By contrast, there has been a long history of delegation of zoning power by the States to their political subdivisions. The intergovernmental relations aspects of this proposal should be carefully considered since some delicate problems would undoubtedly be involved.

Some serious planning "collisions" could result if the Federal Government pushes the States into superseding multi-county, regional and local planning and zoning. Instances of friction between regional planning agencies and local government planning agencies have already arisen. It would be unfortunate if national land use policy legislation generated additional friction between state planning agencies and regional and local planning agencies. My people believe that planning on a regional basis is ideal because it is close to local problems, opportunities and desires, but functions on a broad enough basis to achieve coordinated planning of all aspects of land use within an interrelated region. One regional plan, while declaring that "zoning should continue to be the responsibility of local governments," states that provisions providing for county review should be strengthened, particularly with regard to giving each county planning commission review powers over critical areas such as the shore line, adjacent wetlands and proposed county parks. This regional plan urges local municipalities not to enact zoning rules contrary to the purposes of the plan. It states that the regional planning agency "should be notified of all proposed zoning changes in the two counties and have the privilege of appearing when necessary on behalf of the plans."

The Committee should consider very seriously whether or not national legislation should be aimed at encouraging and facilitating regional planning rather than being framed in such a way as to put regional planning agencies out of business.

We note also that in S. 632 under the heading "Federal Guidelines and Requirements for Statewide Land Use Plans" that statewide land use plans would be required to include measures such as buffer zones, scenic easements and prohibitions against non-conforming uses. Blanket requirements for buffer zones and scenic easements could be extremely costly, particularly if such requirements were applied retroactively. In addition, zoning legislation has historically provided protection for existing non-conforming uses. We believe that any criteria laid down for statewide land use plans should avoid sweeping requirements which might result in substantial adverse economic impacts.

Such land use plans require identification of those areas best suited for mineral development and areas important for mineral purposes. Except for areas of known discoveries, minerals are hidden and lands best suited for mineral development or important for mineral purposes cannot be properly identified as required by the proposed bill. It is important that such land use plans not categorize land uses or segregate land areas in a manner that would lock up and prevent exploration and development of areas not now known as mineral lands.

On the plus side of the ledger, the guideline that the statewide land use plan should include appropriate provisions designed to ensure that projected requirements for material goods, natural resources, energy, housing, recreation, and environmental amenities have been given consideration is constructive and desirable. Likewise, we support the declaration that it is the national land use policy, among other things, to "foster beneficial economic activity and development in all States and regions of the United States." Further, the statement that "Such policy shall serve as a guide in making specific decisions at the national level which affect the pattern of environmental, recreational, and industrial growth and development on the Federal lands, and shall provide a framework for the development of regional, State, and local land use policy" appears to conform to the concept supported by this Association.

State agencies which engage in development of statewide land use plans in accordance with the guidelines would be eligible for land use planning grants for five fiscal years. Eligibility after five years would depend upon approval of the plan and the meeting of certain federal guidelines and requirements. Land use planning grants during the first five years would be in any amount not to exceed ninety percent of the estimated cost of the plan. Thereafter, grants may be made in an amount not to exceed two-thirds of the State agency's planning and operating costs.

In addition to establishing a federal grant-in-aid program for support of state agencies carrying out statewide land use planning responsibilities, S. 632 would

expand the present Water Resources Council into a Land and Water Resources Council composed of the Vice President; the Secretaries of Agriculture, Commerce, Health, Education and Welfare, Housing and Urban Development, the Interior, Transportation, and the Army; the Chairmen of the Council on Environmental Quality and the Federal Power Commission; and the Administrator of the Environmental Protection Agency. Thus, S. 632 proceeds by way of amending the Water Resources Planning Act, which would be redesignated as the Land and Water Resources Planning Act of 1971. A mechanism for the establishment of river basin land and water resources commissions would be provided. Such river basin land and water resources commissions would be directed among other things, to "serve as the principal agency for the coordination of Federal, State, interstate, local and nongovernment plans for the development of land and water resources in its area, river basin or group of river basins." They would also be directed "upon written request of the Council and of the Governors of not less than one-half of the participating States, (to) prepare and keep up to date, to the extent practicable, a comprehensive, coordinated joint plan of Federal, regional, State, local, and nongovernmental plans which significantly involve land use or have significant impacts upon land-use patterns; of zoning and other land-use regulations."

Such river basin land and water resources commissions would be directed to "submit to the Council for transmission to the President and by him to the Congress, and the Governors, and the legislatures of the participating States a comprehensive, coordinated, joint plan, or any major portion thereof or necessary revisions thereof, for water and related land resources development in the area, river basin or group of river basins for which such commission was established," and to "undertake such studies of regional land use conditions, patterns and projections as may be requested by the Council and concurred in by the Governors of at least one-half of the States included within the commission's jurisdiction."

Upon submission by a river basin land and water resources commission of a comprehensive, coordinated, joint plan for water and related land resources development to the Land and Water Resources Council, it would be the duty of the Council to review the plan with special regard to "(a) the efficacy of such plan or revision in achieving optimum use of the land and water resources in the area involved; (b) the effect of the plan on the achievement of other programs for the development of agricultural, urban, energy, industrial, recreational, fish and wildlife, and other resources of the entire Nation; and (c) the contribution which such plan or revision will make in obtaining the Nation's economic, social, and environmental goals." The Council would then transmit the plan together with its recommendations to the President for his review and transmittal to the Congress with his recommendations in regard to authorization of federal projects.

The Council would be called upon to develop and maintain a Federal Planning Information Center which would include, among other things, copies of all approved statewide land use plans, including approved modifications and variances; copies of all federally initiated and federally assisted plans for activities which directly affect and involve land use; and, to the extent practicable, when appropriate, the plans of local governments and private enterprise which have more than local significance for land use planning. In addition all federal agencies would be required, as a part of their planning procedures on projects involving a major land use activity, to consult with the Council for the purpose of determining whether the proposed activities would conflict in any way with the plans of other federal, State, or local agencies. The Council would be required to investigate conflicts and report its findings, along with its recommendations concerning the proper resolution of the issue, to the Congress, the President and to state and local agencies involved.

In addition to administering the grant-in-aid program for state land use planning agencies and determining eligibility through review of planning activities and of the plans themselves, the Council would be required to review and approve or disapprove any variances granted by a State from its statewide land use plan.

All of this raises two major issues: (1) Would such a Council be an appropriate group to administer such a program? (2) Would the dual structure of state land use planning agencies and river basin land and water resources commissions create overlapping and confusion?

We find it difficult to believe, from a realistic standpoint, that a group composed of the Vice President of the United States, six Cabinet officers, a subcabinet officer, the heads of two independent agencies, and the head of an Advisory Council—with all their other important and multitudinous duties—could effectively ad-

minister such a program. In general, we believe that programs should be administered within the executive departments of the government rather than through the creation of new entities. The Board of Directors of the Association has adopted a resolution commending the Administration's efforts to increase efficiency and improve the management of the public sector, and urging the public and the appropriate Committees of the Congress to give prompt attention to the several proposals for reorganizing the Executive Branch. If a national land use policy program is established, it would appear that the proposed Department of Natural Resources would be in a better position to administer the program rather than the group which S. 632 proposes.

We further believe that the dual structure of state land use planning agencies and river basin land and water resources commissions would create overlapping and confusion. There appears to be no clear demarcation as to land and water resources planning functions as between the states and the river basin commissions. The proposed structure gives the impression of an overlapping quiltwork pattern.

Therefore, we strongly urge that, before recommending any legislation on this subject, the Senate Interior Committee give careful study to working out a better overall administrative structure for the program and a unified infra-structure with clear-cut functions and responsibilities.

PROVISIONS OF S. 992

S. 992 would also establish a federal grant-in-aid program, but it would be administered by the Secretary of the Interior, which appears to be a preferable administrative structure. Under this bill, the Secretary would be authorized to make not more than two annual grants to each state to assist that state in developing a land use program meeting certain guidelines. Such grants would not exceed 50 per cent of the cost of the program developed.

If the Secretary determined that the state land use program conformed to the guidelines, he could then make program management grants annually to assist in managing the state land use program. These grants would not exceed 50 per cent of the cost of managing the program.

Among the guidelines are provisions which would require that the program include a procedure for designating areas of environmental concern; a method for inventorying and designating areas impacted by key facilities; a method of exercising the use of control over state land within areas of critical environmental concern and areas impacted by key facilities; a method of assuring that local regulations do not restrict or exclude development and land use for regional benefit; a policy for influencing the location of new communities and a method for controlling large-scale development of more than local significance in its impact on the environment. "Areas of critical environment concern" are defined as areas where uncontrolled development could result in irreversible damage to important historic, cultural, or aesthetic values, or natural systems or processes, which are of more than local significance; or to life and safety as a result of natural hazards of more than local significance. Such areas would include coastal zones and estuaries; shorelands and flood plains, rivers, lakes and streams of State importance; rare or valuable ecosystems; scenic or historic areas; and such additional areas of similar valuable or hazardous characteristics which a State determines to be of critical environmental concern.

"Key facilities" are defined as public facilities which tend to induce development and urbanization of more than local impact. These would include any major airport that is used or that is designed to be used for instrument landings; interchanges between the Interstate Highway System and frontage access streets or highways, major interchanges between other limited access highways and frontage access streets or highways, and major recreational lands and facilities.

Thus S. 992 appears to be focused on major areas of critical environmental concern and key facilities which have more than local impact, rather than on the entire field of land use planning and zoning. Presumably, this would lessen the instances of conflicts between state planning agencies and regional and local planning and zoning agencies, and to this extent would appear to be a preferable approach.

A serious deficiency in S. 992 relates to the guidelines set forth in proposed section 104(d), which would require that State laws, regulations and criteria affecting land use of the coastal zones and estuaries take into account (1) the aesthetic and ecological values of wetlands for wildlife habitat, food production

sources for aquatic life, recreation, sedimentation control and shoreland storm protection, and (2) the susceptibility of wetlands to permanent destruction through draining, dredging, and filling, and the need to restrict such activities. This guideline is deficient because it does not mention the importance of waterways for anchorage, navigation, transportation and distribution. Water transportation is a great economic asset of this country, and provides extremely valuable economies. It would be a terrible blow to the strength of our economic system if industrial enterprises were denied access to water transportation. It would be very unwise to establish a program which would seemingly ignore these considerations. Navigable waterways and harbors require dredging, but the implication of the bill is that dredging should be prohibited. We strongly urge that, in any legislation recommended by the Committee, the importance of waterways for transportation and related purposes be specifically set forth.

CONCLUSION

It should be clearly noted that new legislation is not necessary for states to engage in statewide land use planning. For example, the State of New York, through its Office of Planning Coordination, has issued a New York State Development Plan. This 128-page plan states that it is presented as a guide for state agencies in carrying out their specialized function; regional agencies and local governments in fulfilling local hopes and needs; and private enterprise to apprise it of public priorities and not, incidentally, to open vast opportunities in support of these priorities. The land use pattern recognizes four basic categories in varying intensities of development within each: urban, farming, rural and natural open space. Conflicts among objectives are resolved on a basis of priorities. The Plan assumes a population of 23 million in about the year 1990 (or somewhat later, if a slowing growth trend, indicated by new census data, persists). The printing of the report on the Plan was financed through a comprehensive planning grant from the United States Department of Housing and Urban Development.

If the Committee decides that new legislation dealing with statewide land use planning is necessary, S. 992 would appear to be somewhat preferable to S. 632, because of S. 992's provision that the program be administered within the Department of the Interior and because its scope is limited to areas of critical environmental concern and key facilities with more than local impact. Further, any legislation should include a specific recognition of the valuable function of waterway transportation. S. 632's provisions for a program administered by an unwieldy group of high administration officials and an overlapping system of land and water resources planning by both state agencies and by river basin land and water resources commissions, and the potentially in the bill for conflicts among various levels of government, appear especially undesirable. In any event, land use planning, as distinguished from land use policy, should not be placed in the hands of any federal agency.

Finally, we note that neither bill makes specific reference to (1) multiple use management of land, nor to (2) watershed improvement programs, which contribute greatly to soil and water conservation and improvement of the environment. Both emissions would seem to be serious deficiencies in legislation dealing with land use policy.

We appreciate this opportunity to comment on S. 632 and S. 992.

STATEMENT OF JOHN W. SCOTT, MASTER OF THE NATIONAL GRANGE

Mr. Chairman and Members of the Committee, I am John W. Scott, Master of the National Grange, with headquarters at 1616 H. Street, N.W., Washington, D.C.

The Grange is more than a farm organization. Its purpose is to serve the total interest of the rural community and the Nation. Thus, policies and programs of the Grange pertain to a broad array of circumstances affecting the lives of rural Americans; they result from member action generated by total community and national interest—not by agricultural interest alone.

Mr. Chairman, the subject before this Committee today—"Land and Water Resources Planning Act of 1971"—is of utmost importance, not only to the future of rural America and the Nation's agricultural interests, but to every citizen of the United States.

The Grange firmly believes that the future of rural America and its economic development are closely associated with the success of the family farm structure

continuing as the cornerstone of our agricultural system. Family agriculture in America is the envy of people around the world. Its efficient, well-organized and managed system of production has provided consumers with a variety of products that require the smallest proportion of disposable income of any nation. For this type of agriculture to continue—and we believe that it is in the national interest for it to continue—we need a national policy for planned land and water resource use.

The Grange has long recognized that the growing population pressures, steady advances in technological development, and the continuing congregation of our people in and around urban areas are combining to place ever-increasing demands on America's limited supply of natural resources. In the years directly ahead, the actions we take to preserve, improve and use wisely our soil, water, timber, and wildlife resources will constitute a significant measure of our wisdom and maturity as a nation.

The Grange's concern over wise use of our natural resources has been exemplified by the following resolutions adopted by the delegate body, meeting in Annual Sessions during the past several years:

"THE RESPONSIBILITY OF OUR HERITAGE"

"When God created this great universe and placed therein all that was or would be needed, He also created man to conserve, improve and keep it.

"An ancient proverb says:

"God will not seek thy race nor will He ask thy birth. Alone will He demand of thee, 'What has thou done with the land I gave thee?'"

"The principle of conservation, therefore, is old in its inception, but in our modern world we are apt to be confused by its use only in relation to certain phases of this great plan of life.

"Ever since the beginning of time, conservation in its many and varied forms has been, and still is, a part of man's life.

"As we face an exploding population, waste and pollution of air and water, ours is the responsibility to preserve for succeeding generations the open spaces, the clean streams, the pure air and the natural resources enjoyed by us and our ancestors. Of all the conservation practices and programs, initiative, opportunity, responsibility, freedom of choice, press, speech, encouragement to stand on our own two feet, self-reliance and self-help should be our greatest concern. We have the right; let us accept the responsibility.

"America and the American way of life are the envy of the world. It has attained this position by developing character and initiative of individuals to pioneer and use our many natural resources. Indeed few would dispute the need to avoid waste of our natural resources; the need to proceed cautiously, to use wisely, to conserve must be basic in our thinking and our planning at all levels. We must begin to recognize the rate at which we are depleting our non-renewable resources. Our youth of the future must have the opportunity to walk in the forest as an antidote for the 'Sidewalks of New York' and the boardwalks of their eyes to the hills as well as the chrome and glass of the city, to marvel at the dance of leaf-filtered sunlight on clear pure streams, as well as the blistering heat waves rising from concrete canyons.

"It is imperative for man's survival that our streams shall remain forever a place for physical relaxation and spiritual renewal.

"Man needs three things to live physically: air, food and water, all of which we are fast beginning to realize are not unlimited. Conservation should then mean the wise use of all things God gave us here on earth (products above and below, water and air); the preservation of prime agricultural land; the wise use of land by farmers, ranchers and all others; keeping our water clean and our air pure.

"Let us take a lesson from the Roman empire which declined as much from the depletion of its soil as any other cause. Sterility set in and bounties were offered for every child born. The hapless and inept agriculture of India and China is another good example.

"We, too, must face the grim fact that only eight inches of soil, on the average, lie between humanity and extinction. That eight inches is the life blood of America. And so, as we continue to waste the soil, we add to the very hazards of our existence.

"The irrefutable fact is that the soil is our basic heritage. Everything starts and ends with the soil. The soil is our life.

"The Committee heartily concurs with the worthy National Master's address on conservation in which he stated in part 'while we tend to blame some par-

ticular segment of our industry, we as individuals and Grangers must begin to share the burden of waste, destruction and pollution. Let us make sure that septic systems at our homes are working properly. We must become involved and willing to help with plans for a public sewage system if needed in our community, and to formulate ways of successfully handling trash or solid wastes. We must promote educational programs in our Granges, schools and other organizations on the careful handling procedures of pesticides, herbicides, or antibiotics. If we are going to control pollution, it must begin with us. We must be willing to cooperate with all agencies who promote programs for clean air, clean streams, a beautiful trash free countryside and an unblighted landscape for future generations."

"PLANNING FOR THE BEST USE OF LANDS

"Whereas, increasing population continues to place additional demands upon agricultural lands; and

"Whereas, it is recognized that wise use of all lands is necessary to take care of the population in the not too distant future in providing housing, as well as food; therefore, be it

"Resolved, That the National Grange support legislation which would provide for comprehensive planning, so as to get the greatest benefit of our lands and natural resources."

"LAND USE

"Resolved, That our Federal and State legislatures should enact without delay legislation which shall evaluate and preserve land most suitable for agricultural purposes and use; and be it further

"Resolved, That the government on all levels—Federal, State, County, City, and communities—make available and/or avail themselves of the resources and technical knowledge and manpower of the Soil Conservation Service and other governmental agencies to establish land use criteria and evaluate the domain of the country and direct the use of land to those purposes for which it is best suited."

"PRESERVATION OF FARM LAND

"Whereas, cities continue to expand onto surrounding lands, and

"Whereas, this is sometimes highly productive farm land, and

"Whereas, our growing population will require greater food production; therefore, be it

"Resolved, That the National Grange urge the State Granges to work for immediate introduction and rapid passage of land-use laws that will protect prime agricultural land from further urban and industrial expansion."

"ORDERLY DEVELOPMENT OF RIVER RESOURCES

"Whereas, long-established National Grange policy calls for comprehensive development of the nation's water resources, and

"Whereas, it is essential that the Federal program for river development go forward in an orderly manner; therefore, be it

"Resolved, That the National Grange, by its delegate action, urges the Federal government to accelerate development of river resource projects that have engineering feasibility to provide for hydroelectric production of electricity to fight air pollution, to aid navigation and provide flood control, to create a better living environment for people and to open up to the general public the tremendous recreational values of our rivers; and be it further

"Resolved, That the National Grange oppose long periods of moratorium on construction of river development projects which engineering studies clearly show to be in the best interests of the general public."

"WATER DIVERSION

"We recommend that all proposed diversion of water be held in abeyance until completion of studies by all authorized agencies, these studies to cover each river basin as to the future needs of each area before any waters be authorized for diversion to another region; and

"That in the studies of any water development project, the cost of such development be weighed against the value of benefits anticipated, including irrigation

reclamation costs in the area of water origin as compared to the same uses in the area water might be diverted to."

Mr. Chairman, these are only a few of the policy statements that have been adopted over the years by the National Grange. I believe they emphasize the importance that the Grange places on wise land and water use planning. We are thankful that you, Mr. Chairman, this Committee and the Administration share this concern.

Though our land resources appear adequate to provide ample food supply for many years to come, a strong case can be made for wise planning of the way land is used. Therefore, our main concern with the pending legislation, S. 632 and S. 992, is that we do not feel that ample consideration is given to the preservation of our land for agricultural production to meet the future needs for food, shelter, and clothing of an ever-increasing population.

We agree with Russell E. Train, Chairman, Council on Environmental Quality, when he appeared before this distinguished Committee. However, we must point out that Mr. Train's testimony and S. 992 place heavy emphasis on land use and protection of the environment, with little attention to the agricultural needs in land use planning. Mr. Train stated, "Land is our most valuable resource. There will never be any more of it. Rapidly rising human numbers and expectations place rapidly rising pressures on the land. It is imperative that we act now to adopt a national land use policy which will both protect our heritage of irreplaceable land values and provide guidance for future development and growth".

Approximately 1½ million acres have been dropping out of our cropland base each year. During the 1945-64 period, 54 million acres were abandoned or shifted to noncrop uses. But for every 2 acres that went out, about 1 acre of new cropland was developed. So, on balance the annual reduction came to roughly 1.4 million acres.

However, the land drain is not as bad as it looks. Much of the new land is more productive than that abandoned. This is due primarily to the fact that most of the new land being brought into production is irrigated land—which emphasizes the importance of proper water use planning.

Right now about one-fifth of the Nation's land area is used for crops, or roughly 430 million acres. Another 640 million consists of grassland, pasture and rangeland, although some of this has very low carrying capacity for livestock.

Some may think that agriculture is creating paper tigers in constantly talking about and insisting on the preservation of agricultural lands. They point to the fact that agricultural production is outstripping our population's growth rate by 1 percent a year. They further contend that agriculture is always overproducing, creating costly surpluses, resulting in depressed prices and low farm income. That may be true now, but what about next year and the next 25 years?

Agriculture Secretary Clifford M. Hardin said, "In the judgment of competent authorities the United States has the land, and the ability, to satisfy the food requirements of a population perhaps double the size of today's *provided we plan the use of the land wisely.* (italic supplied)"

"A crucial question arises, however, and policy makers must keep it constantly in mind. It is this: In planning for greater economic, urban and industrial growth, how do we preserve our better farmlands for future needs and at the same time assure adequate land areas for other open space uses?"

Looking at recent trends in land use, it's apparent that urbanization favors the use of the better farmland. Also, a fair-sized chunk of the better quality land is located in those counties within Standard Metropolitan Statistical Areas (SMSA's)—the ones in or nearby a city or community with at least 50,000 people.

In 1964, by the latest data available, the SMSA's had some 17 percent of total farm numbers, and 14 percent of the harvested cropland. The SMSA's also contained about 15 percent of the better land, i.e., of Land Use Capability Classes I, II, and III.

The annual conversion of land to urban uses is around 420,000 acres on the average. Most of this is former cropland, and much of it, probably of Classes I-III. Nationwide estimates have not been made, but a study of urbanization in 98 northeastern counties showed that about 80 percent of the converted land fell into this category.

In the 1950's and most of the 1960's it was population pressure and high incomes—coupled with readily available mortgage money—that led to large shifts of rural land to urban use. Financing difficulties reduced the level of urban expansion in the late sixties.

How much farmland that urbanization will swallow in the seventies is anybody's guess. But urban uses per se are only one part of this story. A variety of other uses also compete for rural land—

Highways and airports.—The Interstate Highway System begun in the 1950's will be completed by the mid-1970's, so the conversion of land to highways may have reached a temporary zenith. Land takeover for airports has increased, but the acres involved are relatively small. Together, highways and airports outside urban areas use some 160,000 acres of new land each year.

Recreation.—This has been taking ever-increasing quantities of land. Sales of boats, sleeping bags, and tents, have gone up phenomenally in recent years. Travel trailer sales rose tenfold between 1956 and 1966. An estimated 2 million families now own cottages, cabins, and second homes. Over 30 million acres are in national and State parks. Expansion of recreational areas and wildlife refuges in the next decade may involve considerable acreages, but much of this will have only limited direct public use and little of it will come from cropland.

Overall—recreational and wildlife and wilderness uses do not seriously compete with agriculture for land. Most of the land taken for such uses has terrain or drainage features making it unadapted to agriculture. Some competition occurs when wetlands having an exotic ecology or serving as habitat for waterfowl, are drained for agricultural use.

Water control.—Reservoirs claim about 420,000 new acres each year. The amount has been going up with population.

Surface mining.—It takes a sizeable bite and leaves ugly scars. Each year the disturbance comes to something over 150,000 new acres, most for excavation or pits and waste or spoil disposal. The rest is taken by mine access roads and exploration activities. As of last year, the total came to over 4 million acres. However, about a million acres of this can be recovered by regrading and revegetation.

The immediate future will probably see an expansion of surface mining because of the rapid demand for electrical power, slow progress in developing nuclear power, increasing costs of deep mining operations, and shifts to low-sulfur coal to minimize air pollution. Also, exports of coal, particularly to Japan, have been picking up in recent years.

Though our land resources appear adequate to provide ample food supply for many years to come, certain developments would alter the outlook.

For one, the past increases in per-acre yields are attributed to a number of factors—improved varieties, higher use of fertilizers and pesticides, the elimination of less productive land from cropping, and land improvement practices such as drainage and irrigation.

The economists do not have at hand the information necessary to assign to each of these factors its contribution to overall growth in output. However, this much is evident: Future per-acre production gains, say 2 percent per year, would depend to a considerable degree on continuing increases in uses of farm chemicals on land. If it becomes necessary to curtail usage of chemicals, per-acre yields would be less, and more land would be required to achieve a given level of production.

According to Dr. W. C. Shaw, U.S.D.A., if pesticide use was withdrawn, "Farm exports would be eliminated. The number of agricultural workers currently on farms would have to be doubled. Instead of spending 17 percent of family income on food, we would be forced to devote 30 to 40 percent of our income and perhaps even more to provide current food needs. Without increasing the amount of land in farm crops, we could not provide food for more than 40 percent of our current population."

On the livestock side, questions are being raised about how much beef demand will increase and whether pasture and rangeland would be sufficient to carry all the cattle needed.

Although the trend has been toward greater consumption of grain concentrates in mixed feed rations, demand for beef has been growing even faster than the utilization of grain concentrates. Thus, greater amounts of roughage from pastureland will be required. In addition the use of growth stimulants in beef production is being questioned by Federal health authorities as being a possible cause of cancer in humans. If it becomes necessary to suspend the use of such drugs in beef production, more land will have to be brought into production to raise the grain needed to finish off cattle to market weights.

One possibility for filling the bigger needs for roughage is to use for pasture the land retired from crop production. Much of this land has higher carrying

capacity—if properly developed—than rangeland and pasture now used for grazing, although if cattlemen are denied the use of growth stimulates, as referred to above, this cropland will be needed for grain production and will not be available as a source of roughage.

The long-range picture for exports also harbors uncertainties. The acreage equivalent used to produce export commodities has varied widely over the past 20 years, from a low of 31 million acres in 1953 to a high of 77 million in 1963.

Barring sharp increases in exports, there should be sufficient land resources to accommodate them. But exports are difficult to project because of the unpredictable changes in the import and export policies of the world trading nations, and in the unforeseeable changes in the technologies used by developing countries.

Agricultural exports are, and have been in the past, a substantial contributor to a favorable balance of payments. We believe that it is in the national interest to maintain this position. American farmers will not be able to continue to export the \$7.7 billion or reach the goal of \$10 billion in exports if the land to produce is not available.

The Grange is strongly in favor of leaving local zoning laws in the hands of local government; however, it is difficult in many areas and in some states to convince the local or state governments of the importance of preserving land for agricultural uses. In this respect some overall national planning is desirable.

As you can see by the policy resolution quoted earlier in our statement, the National Grange is encouraging State Granges to take an active part in securing legislation in their states to preserve land for agricultural uses. Many states have taken such action and we hope more will do so in the future.

The Grange also would endorse the fact that any national policy must have a strong conservation element—conservation in its truest sense and not preservation as advocated by many so-called conservation groups—protecting diminishing natural and scenic areas must be a priority concern of national policy. However, it should not subordinate all other economic land uses to environmental protection.

But, in our opinion, this would be the main purpose of a national land use policy, determining the priorities of land use in relationship to economic needs and national goals.

In summary, Mr. Chairman, the National Grange places its case for wise development of a national use policy for land in the Committee's hands. We are not endorsing S. 632 or S. 992, as we have not had the benefit of all of the discussion pertaining to these two bills regarding a national land use policy. Our main point is that we sincerely hope that in your deliberation on the type of legislation you report to Congress, you will keep in mind the economic need of the preservation of lands best suited for the production of food and fiber. This can best be accomplished with the cooperation of local, state and Federal governments, following the guidelines of an overall plan of a national land use policy that sets the priorities of land use in their proper perspective.

We would also like to call the committee's attention to the fact that Congress has under consideration various plans for rural development. In our judgment, land use planning is of vital importance to the future development of rural areas. Every consideration should be given to the maintenance of a strong, viable, family-oriented agricultural structure—this is, and will continue to be, the backbone of any successful rural development program.

