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AMEND CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

GOVERNMENT

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HEARINGS

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BEFORE THE

SUBCOMMITTEE ON CONSERVATION AND CREDIT

OF THE

COMMITTEE ON AGRICULTURE HOUSE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

S. 555 and Related House Bills

APRIL 23 AND 24, 1975

BUSINESS MEETING

APRIL 30 AND MAY 7, 1975

Serial No. 94-G



Printed for the use of the Committee on Agriculture

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1975

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AMEND CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

WEDNESDAY, APRIL 23, 1975

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CONSERVATION AND CREDIT
OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to notice, in room 1301, Longworth House Office Building, Hon. Bob Bergland (chairman of the subcommittee) presiding.

Present: Representatives Poage, de la Garza, Bergland, Richmond, Baldus, Hightower, Bedell, English, Madigan, and Jeffords.

Staff present: Robert M. Bor, counsel; John Hogan, associate counsel; Fowler C. West, staff director; Steve Allen and Steve Pringle, staff consultants; Robert Palmer, staff consultant, Subcommittee on Department Operations, Investigations and Oversight; L. T. Easley, press assistant; Perry Shaw and Mary Jarratt, staff assistants.

Mr. BERGLAND. The Subcommittee on Conservation and Credit will come to order. We are here today to consider S. 555 and related House bills dealing with amendments to the emergency loan program of the Farmers Home Administration within the Department of Agriculture.

[S. 555 follows:]

[S. 555, 94th Cong., 1st sess.]

A BILL To amend the Consolidated Farm and Rural Development Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Consolidated Farm and Rural Development Act (the Act) is amended as follows:

SEC. 2. Subsection (a) of section 321 of the Act is amended to read: "The Secretary may designate any area in the United States, Puerto Rico, and the Virgin Islands as an emergency area if he finds that a natural disaster has occurred in said area which substantially affected farming, ranching, or oyster producing operations."

SEC. 3. Subsection (b) of section 321 of the Act is amended as follows: In the first sentence after the words "major disaster" insert "or emergency" and delete everything after the first sentence, strike the period, and insert: "and are unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time."

SEC. 4. Section 322 of the Act is amended to read: "Loans may be made under this subtitle for any of the purposes authorized for loans under subtitle A or B of this title, as well as for crop changes deemed desirable as a result of changes in market demand since the occurrence of the natural disaster: *Provided*, That such loans may include, but are not limited to, the amount of the actual loss sustained as a result of said disaster."

SEC. 5. Section 324 of the Act is amended to read: "Loans made or insured under this Act shall be (1) at a rate of interest not in excess of 5 per centum per annum on loans up to the amount of the actual loss caused by the disaster, and

(2) for any loans or portions of loans in excess of that amount, the interest rate will be that prevailing in the private market for similar loans, as determined by the Secretary. All such loans shall be repayable at such times as the Secretary may determine, taking into account the purposes of the loan and the nature and effect of the disaster, but not later than provided for loans for similar purposes under subtitles A and B of this title, and upon the full personal liability of the borrower and upon the best security available, as the Secretary may prescribe: *Provided*, That the security is adequate to assure repayment of the loan."

SEC. 6. Section 325 of the Act is amended to read as follows: "The Secretary may delegate authority to any State director of the Farmers Home Administration to make emergency loans in any area within a State of the United States, Puerto Rico, or the Virgin Islands on the same terms and conditions set out in section 321(a) without any formal area designation being made: *Provided*, That the State director finds an emergency has substantially affected twenty-five or less farming, ranching, or oyster producing operations in the area."

SEC. 7. At the end of subtitle C of the Act, add a new section 329 stating: "An applicant seeking financial assistance based on production losses must show that the farming, ranching, or oyster producing operation has sustained at least a 20 per centum loss of normal per acre or per animal production as a result of the natural disaster."

SEC. 8. At the end of subtitle C of the Act, add a new section 330A stating: "Subsequent emergency loans, to continue the farming, ranching, or oyster producing operation may be made on an annual basis, for not to exceed five additional years, to farmers, ranchers, or oyster producers, at the prevailing rate of interest in the private market for similar loans as determined by the Secretary, when the financial situation of the said farming, ranching, or oyster producing operation has not improved sufficiently to permit it to obtain such financing from other sources."

SEC. 9. At the end of subtitle C of the Act, add a new section 330B stating: "In the administration of the emergency loan program pursuant to subtitle C of the Act, the Secretary may utilize any funds available, including the Agricultural Credit Insurance Fund, to pay for such administrative expenses not withstanding any limitations imposed for budgetary reasons."

MR. BERGLAND. We have on the agenda this morning Secretary William Erwin, and his associate, Mr. Bostic, and two Members of Congress.

At this time I would like to call on the Honorable David Bowen, a member of the House Committee on Agriculture, from Mississippi, and a distinguished member, may I add, who has taken a keen interest in this matter of rural credit. He is the author of a bill which is nearly identical to S. 555.

At this time, Mr. Bowen, we would be pleased to hear from you.

STATEMENT OF HON. DAVID R. BOWEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI

MR. BOWEN. Mr. Chairman, I appreciate the opportunity that you have given me to present testimony in support of S. 555, which would amend the Consolidated Farm and Rural Development Act to make the Farmers Home Administration more responsive to the needs of farmers who suffer natural disasters.

S. 555, as originally introduced in the Senate by both Senators from my State and others, is the same bill that I placed in the hopper of the House of Representatives on the same day. This bill as reported by the Senate Committee on Agriculture and Forestry and passed by the Senate on March 26 has been slightly amended. The Senate committee adopted seven amendments to the bill, five of which were tech-

nical in nature. Other than these amendments, which I support, this proposed legislation is the same as my bill, H.R. 2866.

Several of my colleagues have joined me in sponsorship of this legislative measure. I respectfully request that the names of the sponsors be included in the record of hearings: Mr. Bedell, Mr. Brown of California, Mr. Cochran, Mr. Davis, Mr. Dodd, Mr. Gilman, Mr. Hubbard, Mr. Jenrette, Mr. Jones of North Carolina, Mr. McCormack, Mr. Montgomery, Mr. Murtha, Mr. Perkins, Mr. Pressler, Mr. Simon, Mr. Steiger of Wisconsin, Mr. Traxler, Mr. Waggonner, and Mr. Yatron. I am pleased that one of the distinguished members of this subcommittee, Berkley Bedell, is among the sponsors.

As you know, bad weather had a devastating impact on crop production in a number of States last year. Conditions proved much worse than had been anticipated, with the result that many farmers have encountered formidable difficulties in obtaining financing. In such cases of extreme hardship Farmers Home Administration programs are simply inadequate, and S. 555 and my companion bill seek to bring the needed relief. I would like to discuss briefly with you some of the highlights of this proposed legislation.

The Consolidated Farm and Rural Development Act now requires the Secretary of Agriculture to find in each county that a general need for agricultural credit exists before he can designate the county. S. 555 and my companion bill would eliminate that requirement and would permit the Secretary to make the designation if he finds that a natural disaster substantially affected farming, ranching or oyster production operations. This simplifies the designation process and will permit quicker designations and faster service to those affected.

This bill also deals with a problem which has been a thorn in the side of farmers for a long time. As you know, when the President makes an emergency declaration, the Small Business Administration is automatically "triggered" to make loans to business establishments and to assist owners of private homes in the cities and towns. However, a separate designation is required in order for Farmers Home to be "triggered" to provide services to people in rural areas. This matter has been rectified in section 3 by inserting "or emergency" following "major disaster."

Another important feature of the bill provides that the Secretary of Agriculture may delegate authority to any State director of the Farmers Home Administration to make emergency loans in any area without any formal designation being made, provided that the State director finds an emergency has substantially affected 25 or less farm operators in the area.

Now I would like to get into the heart of the bill. Under existing law emergency loans are only made for actual losses and must be adequately secured to protect the Government. It is recognized that many farmers, ranchers, and oyster planters who have suffered losses from a natural disaster will not be able to continue their operations because they have also suffered substantial economic injury as a result of such disaster. The extra burden of debts incurred because of actual losses makes credit from normal agricultural sources in many cases difficult to obtain or it is not available at all.

Specifically, private sources of credit usually require large equities and down payments which in some instances are held in the bank until the installment comes due in the fall. Furthermore, many private credit sources will only finance about 60 percent of the present market value of the security. Therefore, emergency loans are also needed for agricultural production during a recovery period following a disaster.

This bill provides that a production or operating loan could be extended at commercial rates by Farmers Home Administration provided that conventional credit is not available after the 5 percent disaster loan is made. These loans could be made to all farmers who qualified on an annual basis and could be remade annually up to 5 years. This provision will enable farmers to recover sufficiently to return to their normal sources of credit.

Under the provisions of the bill a farmer would be enabled to obtain credit and change his crop or livestock operation to produce for market demand. Many need financing to change their operations because of economic conditions to permit them to continue to operate and overcome the financial difficulties encountered by the natural disaster. Section 4 of the bill provides authority to finance crop changes considered desirable because of changes in market demand that might develop following a disaster.

A significant number of farmers are unable to obtain the credit they need from conventional sources to recover from the disaster. The requirements in the bill that loans may be made only to disaster victims unable to obtain credit from other sources, coupled with the interest rate prevailing in the private market for similar loans for annual operating expense and financing changes in the operation, will overcome many of the difficulties now encountered by applicants in obtaining loans. Also the making of loans nearer the market value of the existing security and giving some value consideration to crops financed with the loans should provide adequate security for emergency loans.

A question that is surely uppermost in your minds is: What will be the cost of these proposed changes? The departmental report addresses itself to that issue, and I would like to quote the appropriate paragraph from that report:

Actual cost of these proposed legislative changes is unknown because the frequency and severity of natural disasters are unpredictable. However, based on experience with an emergency loan program involving a "credit test" for eligibility and loans to permit farmers to continue in business, we believe the average loan will increase in amount, but that the total number of loans will decrease substantially because of the test for credit. This will result in a lower volume loan program serving only those disaster victims who are unable to obtain private credit needed to continue their operations.

I am very pleased that the Department of Agriculture has taken a favorable position on this legislation. And I feel that it will, by correcting and improving some of the language of present statute law and, at the same time, introducing new concepts to make it possible for farmers to finance their upcoming crop needs, contribute substantially to meeting the food and fiber needs of the Nation as well as serving America's role in terms of exporting agricultural products to the rest of the world.

I think, Mr. Chairman, that you do have before you a letter which was just delivered to you by the ranking Democratic member of the Senate Agriculture Committee and the President, pro tem, my colleague from the State of Mississippi, Senator Eastland. I would simply like to call your attention to one particular section of that letter from Senator Eastland, who is the man most responsible for the initiation of this legislation. On page 3, there was an oversight which I would like to mention here, if I might be permitted to read a section from it. It says:

When I requested the drafting assistance of the Department, it was my understanding that the bill would deal with the current problem as well as those that occur after passage. I have now been informed that the language of the bill is such that it would only deal with disasters occurring after its becoming law. In order to obtain my original objective of both current relief and tools for future use, I have consulted with the Senate Agriculture Committee staff, and they, with the General Counsels Office in the Department of Agriculture, in the drafting of an amendment that would clarify the situation. This clarification can be accomplished by adding at the end of the bill a new section as follows: * * *.

And that section is quoted there. The committee might want to work its will on that language if it is not precisely suited to your needs as you see it. But the main upshot of that is that language is needed to make the provisions of this legislation applicable to those who suffered disasters during the past crop year.

There are a great many American farmers who have been sorely injured by disasters of the past crop year. They are having great difficulty at this very moment in borrowing money to make a crop. Many of them are still in a position to go out and try to borrow that money. I am not sure when planting time is in the Midwest, but in our part of the country in terms of soybeans, planting can take place into June or July. Cotton is still being planted. There are a number of people who are making decisions right now who have not planted cotton. Of course they are hopefully awaiting the signature of President Ford on that farm bill. But failing that, and failing our ability to override that veto, the only hope they would have would be through this legislation to be able to provide them with some kind of security and some basis of borrowing money to make a crop this year.

So it would be greatly needed that the committee place in the language of the bill something applying to those who have suffered a disaster in their 1974 crop. There needs to be something appropriate to that situation, such as saying that it is applicable to all disasters occurring on or after April 1, 1974.

It was, as you note in that letter, an oversight, an error on the part of the drafters of the legislation. As it stands, it will pass without such language and would only be applicable to disasters occurring after enactment of the legislation.

I would at this point conclude my remarks and just say that I hope the subcommittee will see fit to report this to the full committee; and that we, in turn, on the full committee to the House will enact this vital piece of credit legislation as rapidly as possible.

We look forward to working with the Farmers Home Administration in the implementation of this, and do appreciate their cooperation. I am sure we look forward to hearing their comments on the legislation. Thank you, Mr. Chairman.

Mr. BERGLAND. Thank you, Mr. Bowen. Are there any questions of our colleague?

We appreciate very much your contribution to this effort, and you can be assured that the subcommittee will move as expeditiously as possible.

Mr. BOWEN. Thank you. Mr. Chairman, I will stay for a while in order to answer any questions that may come up at a later point.

Mr. BERGLAND. Our next witness will be the Honorable Ben Gilman, a Member of Congress from the State of New York. Mr. Gilman, we are delighted to have you. You may proceed, sir.

STATEMENT OF HON. BENJAMIN A. GILMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. GILMAN. Thank you, Mr. Chairman.

Mr. Chairman and members of the subcommittee, I thank you for considering this highly important legislation, and commend the committee for expeditiously considering this vitally needed legislation.

I also welcome the opportunity to appear before you today on behalf of my bill, H.R. 1854, and other similar bills under consideration.

This legislation is essential because of the critical, intolerable situation confronting the muckland farmers not only in my congressional district, but farmers throughout the nation.

Orange County, in the 26th Congressional District of New York, includes an intensive vegetable growing agricultural industry normally producing nearly 8,000 acres of onions, 1,800 acres of lettuce, 1,200 acres of celery and 2,500 acres of sod. Most of the production is on less than 100 family owned and family managed farm operations normally funded with long-term and short-term credit provided by banks, the PCA, the Federal Land Bank, and farm suppliers.

The nature of this farming requires high levels of short-term annual credit for most operators with acreage crop investments reliably estimated to range from \$1,600 per acre for our main onion storage crop to \$3,000, more or less, per acre for celery. Area agri-business suppliers formerly supplied seasonal credit for most suppliers. However, this has now been limited to 30-day credit.

In brief, we have an intensive farming industry made up of family operated vegetable farms that have a broad impact on the economy of the area requiring high levels of financing. Our farm produce moves to a broad market over the entire east coast, concentrated mostly between Norfolk, Va., and Boston, Mass.

Hurricane Agnes in June of 1972 dealt a crippling blow to this industry—from which they never fully recovered—with most of the anticipated production lost in the fields.

In the winter of the 1972-73 year growers were urged to apply to the Small Business Administration for emergency loans that would provide low-interest, long-term (20 to 30 year) loans covering the economic disaster loss of the farm business. However, following extensive paperwork preparatory to loan approvals, the farm applicants were informed that the Small Business Administration had no jurisdiction for farm disaster loans. Thereafter, in the spring of 1973, FmHA took over the farm loan applications from the Small Business

Administration, treating them as operating loans under the emergency program, at 1 percent interest rates for 1 year, with the understanding that additional operating loans could be arranged, year-to-year for a 5-year period.

This intensive vegetable industry suffered another—this time undeclared—severe disaster to the 1973 onion crop due to the season-long adverse weather resulting in poorer crop yields than the prior year (attested to by the USDA Crop Reporting Service). Thus the Orange County growers lost the opportunity again in 1973 to recover from their 1972 disaster.

Because of the additional 1973 crop disaster, applications were made to renew and extend operating loans for the 1974 crop year. However, due to policy changes based upon an internal legal opinion of the U.S. Department of Agriculture's Office of General Counsel who interpreted Public Law 93-237 adversely to the interests of the vegetable growers and all others who had outstanding loans, these applications were renewed for 1 year only.

The 1974 onion crop resulted in production of a large crop, but with resultant low prices. An estimated 70 percent of our area onion crop was moved at \$2.75 to \$3 per hundred weight, which returned only about two-thirds of the estimated costs—thus our vegetable industry lost yet another opportunity to recover from the severe 1972 disaster.

Presently, Orange County, N.Y., has over 10 percent unemployment. Family owned and operated farms, representing about 50 percent of the vegetable industry acreage, and 80 percent of the hired worker jobs are in desperate financial straits as they seek to arrange funding for the 1975 crop year. Due to their inability to recover from the 1972 losses, these farms have all of their available security committed through existing loans to banks, to the PCA, to the Federal Land Bank, and FmHA. Accordingly, no collateral is available for additional private credit.

The measure I have introduced, H.R. 1854, which is before the committee, provides long-term refinancing and short-term production loans to farmers who are confronted with substantial real estate and chattel indebtedness as a result of any natural disaster.

Current FmHA regulations bar long-term financing where a farmer's real estate indebtedness exceeds \$300,000. Considering today's high land values, it is obvious that any fair-sized farm is likely to sustain damage and destruction far in excess of \$300,000 in a natural disaster. To correct this ill-conceived, arbitrary, self-imposed limitation, which prevents larger farms from securing adequate long-term disaster financing, H.R. 1854 provides financial assistance to producers of agricultural commodities for the express purpose of permitting them to obtain short-term production loans and to repay natural disaster loans over a long period rather than sustaining the burden of short-term financing at a time when their operations have been curtailed.

Specifically, H.R. 1854 provides long-term financing up to a maximum of \$5 million. The proposed period of repayment is 7 years for any loan secured by an interest in personal property, and 40 years for any loan secured by an interest in real property. The bill further authorizes 1 year crop production loans with interest rates not exceeding 5 percent.

The bill also spells out that it is the intent of Congress, in providing this financial assistance, that the Secretary of Agriculture give highest priority to making it possible for a farmer to continue his operations as long as there is a reasonably good chance to recover from his indebtedness and that secondary consideration be given to the security of collateral available for any loans made under this act.

Mr. Chairman, while my district has particular need for this type of relief, this legislation addresses itself to a nationwide problem. pared by the Department of Agriculture for those congressional districts which have suffered natural disasters, and which required assistance in the form of emergency loans.

Mr. BERGLAND. Without objection, the survey will be made a part of the record.

[The material referred to follows:]

NUMBER OF COUNTIES HAVING EMERGENCY LOANS—FISCAL YEAR 1972

State	Congressional District	Number of Counties	State	Congressional District	Number of Counties
Wisconsin.....	3	1	Oklahoma.....	1	2
Arkansas.....	1	18		2	4
	2	3		3	20
	3	11		4	9
Illinois.....	3	10		6	24
	15	2	Texas.....	1	4
	22	1		2	2
Louisiana.....	3	6		4	5
	4	3		6	8
	5	12		7	1
	6	2		8	1
	7	9		9	2
	8	14		10	11
Minnesota.....	1	1		11	9
	2	1		12	1
	6	1		13	34
	7	13		14	8
	8	1		15	10
North Dakota.....	1	7		16	2
Indiana.....	2	1		17	27
	5	1		18	1
	6	1		19	17
	7	5		21	15
	8	3		22	1
	9	2		23	17
	10	1		24	3
Iowa.....	2	1	South Dakota.....	1	6
	3	3		2	2
	5	2	Missouri.....	4	12
	6	1		6	12
Kansas.....	1	18		7	1
	2	7		8	13
	3	1		9	7
	5	17	Nebraska.....	10	9
				1	5
				3	5

Mr. GILMAN. Efforts administratively to resolve the financial dilemma faced by the farmers in my district have been to no avail. I met just this morning with Secretary Butz and brought this to his attention. Hopefully, there will be some further consideration. But it may not be in time to save this crop year. My constituents contend that without swift action by the Congress, many of the large family farms in Orange County will go bankrupt.

This will be substantiated by representatives of Orange County growers who will be appearing before this subcommittee tomorrow to

testify on the plight of the vegetable industry in Orange County and their urgent need for some form of relief if they are to survive.

I have had the opportunity to review S. 555 and its companion bill, H.R. 5506, both of which I wholeheartedly support. But, I do not believe that either of them goes far enough. To correct this, I propose two specific amendments to S. 555.

On page 5, immediately after line 3 of S. 555, I would add the following language:

"Sec. 10. The amendments made by sections 4 and 8 of this act shall apply for the benefit of any individual or private domestic corporation or partnership which has received a loan under subtitle C of the Consolidated Farm and Rural Development Act after June 1, 1972."

The purpose of this amendment would make S. 555 retroactive to include all loan recipients from June 1, 1972 who would qualify otherwise under the provisions of sections 4 and 8 of S. 555.

Second, on page 4, line 11, and page 4, line 16, immediately after the word "ranchers" I would add this language: "private domestic corporations or partnerships".

It is not obvious from the face of S. 555 why this language was excluded, since the identical language is contained in section 321 of the same act. By omitting this language, it is conceivable that the Department of Agriculture could exclude large family farm operations from the benefits of this bill, since the bill doesn't specifically provide for agricultural corporations and partnership.

In closing, Mr. Chairman, I urge this committee to act with utmost dispatch, for without the swift enactment of some form of remedial legislation, I fear for the vitality of the farming industry in my district and probably in other regions of the country as well.

Mr. Chairman, I also request permission to submit at this point for the record a statement by one of our vegetable growers, Harold Utter, of the Gratz & Utter Farm, of Goshen, N.Y. He will not be available to testify tomorrow.

Mr. BERGLAND. Without objection, your constituent's statement will appear in the record as prepared.

(See p. 10.)

Mr. GILMAN. I would like to add just one more thought, Mr. Chairman.

The Congress and the administration have at all times attempted to help preserve farming in our country. Farmers have not had available to them the same type of disaster relief that is available to businessmen in this country—especially large farmers.

Large businesses have available long-term financing at low-interest rates which helps them survive a natural disaster. This is not available to farmers in our country whose farms are worth more than \$300,000.

I submit that it is not the intention of Congress nor the administration to treat farmers as second-class citizens. I urge the committee to try to help us correct this inequity in the law.

Thank you, Mr. Chairman.

Mr. BERGLAND. Thank you, Mr. Gilman. Are there any questions of our colleague from New York?

If not, we appreciate your coming here this morning, Mr. Gilman. Your recommendations will be given very serious consideration.

STATEMENT OF HAROLD UTTER, GRATZ & UTTER, GOSHEN, N.Y.

Mr. Chairman: My name is Harold Utter, a 700 acre vegetable grower from Goshen in Orange County, N.Y.

It is with pleasure that I appear before this sub-committee to testify about the emergency farm loan bill HR-1854.

Our rich vegetable farming valley of nearly 11,000 acres had crops severely damaged by 1972 rainfall resulting in a federally declared disaster area. Unusually wet weather in 1973 resulted in production of even poorer crops than 1972 according to the USDA Statistical Reporting Service. The 1974 crop season resulted in production of generally good yielding crops however farm prices for the crops were generally low. Thus our intensive farming area has not been able to recover from the effects of the 1972 disaster due to 3 successive bad years, in terms of net farm income.

The present situation finds our larger family owned and operated farms to be in a most difficult situation in trying to arrange operating capital to finance the 1975 crop year which has already started. This represents about 5,000 acres of vegetable farm land.

In the winter of 1972-73 we found that Fm & HA was not prepared to extend emergency funding, on a realistic way, to our large, viable family farms. Small Business Administration offered realistic emergency loans to our larger farms. After final SBA approval by Administrator Kleppe these SBA loans were summarily canceled and dumped back on Fm & HA. We were finally extended annual emergency operating loans to meet our needs but with little realistic refinancing money to meet disaster incurred indebtedness. It had been long standing Fm & HA policy to extend annual emergency operating loans for up to 5 years to farms reasonably expected to recover.

After enactment of PL 93-237 in Jan. 1974 USDA ruled no operating loans would be made after the 1974 crop season.

We find ourselves facing a 1975 crop year with a severe operating capital problem particularly for the large family farm. USDA policy of renewal of emergency annual crop loans was suddenly reversed and the effect made retroactive to programs already in progress. Review of this USDA action by the Congressional Research Service of the Library of Congress indicates this action was not mandated by PL 93-237 and the effect is opposite, in restricting farm emergency loans, to the Congressional intent of this new law.

The need for Congress to develop effective emergency farm loan legislation that will allow larger size family owned and operated farms to qualify is apparent.

We urgently need legislation that provides for long term, low interest emergency refinancing loans to repay disaster incurred indebtedness. We need provision for annual emergency crop loans at low interest rates to insure ability to replant crops in the season ahead. This crop loan should include provision for subsequent annual emergency operating loans for up to 5 years, if required, for a farm with a reasonable chance to recover. Keeping a good farmer in business should be of primary importance.

Emergency legislation should place primary qualifying emphasis on the ability of the farm management and farm resources available with secondary consideration of the security available for loans.

Maximum indebtedness limits for emergency lending should be set high enough to include our viable, larger sized family owned and operated farms.

Bill HR 1854 includes these basic features with the provision that it be retroactive to June 1, 1972.

Bill S 555 also addresses the need for refinancing and annual operating loans in disaster or emergency situations.

I would urge that Sec. 4 of S 555 be amended to make it retroactive to June 1, 1972. I would further urge that Sec. 8 be amended to limit the interest rate to 5% and that the section be made retroactive to June 1, 1972.

I believe that our viable, large sized family owned and operated farms have been largely excluded from meaningful emergency loan eligibility in the past. These farms are the ones that produce most of our food in this country. It is essential that this need be recognized by our Congress and provided for thru the creation of an effective emergency farm loan program retroactive to June 1, 1972.

Mr. BERGLAND. At this time we will hear from the Honorable William Erwin, the Assistant Secretary of Agriculture for Rural Development.

Mr. Secretary, would you introduce your associates for the record.

STATEMENT OF WILLIAM ERWIN, ASSISTANT SECRETARY FOR
RURAL DEVELOPMENT, U.S. DEPARTMENT OF AGRICULTURE

Mr. ERWIN. Thank you, Mr. Chairman. On my left is Dr. James Bostic, Deputy Assistant Secretary; on my right is Mr. Frank Elliott, Administrator of the Farmers Home Administration. We have several technical people with us: Mr. Ray Hastings, Director of the Budget and Finance Division of FCIC; Gene Gautz, Program Specialist, Contract Services Division, FCIC; Mr. Robert Hanson, Director, Program Operations Division, ASCS; James Vermeer, Assistant Director of Commodity Economics Division, ERS. We have two representatives of the General Counsel's Office, Mr. L. Guniot and Richard Fowler. Also Mr. Hansen and Mr. Dickerson of the Farmers Home Administration are here.

Mr. Chairman and members of the committee, we appreciate the opportunity to appear before you to discuss proposed legislation (S. 555 and H.R. 2866) which would make changes in the emergency loan program administered by the Farmers Home Administration.

The history of the emergency legislation for FmHA has been turbulent and the program has undergone five major changes since 1969. These changes have been so frequent that it has been difficult for those affected by a natural disaster to keep abreast of benefits available to them.

The Administration can support changes in the emergency loan program provided that, first, loans would be made only to applicants who are unable to obtain sufficient credit elsewhere at reasonable rates and terms; second, the amount of the loan made for actual loss at 5-percent interest not exceed \$100,000; third, in order to qualify for assistance based on production losses, the applicant must show that a single enterprise which constitutes a basic part of his farming, ranching or oyster producing operation has suffered at least a 20-percent loss of normal per-acre or per-animal production as a result of the natural disaster; and fourth, no special, more liberal benefits are made available to some favored disaster victims that would not serve all disaster victims equally. Items two and three, just mentioned, represent changes in the Department's evaluation of S. 555 since we reported our views on this legislation.

H.R. 2866 and S. 555 are similar proposals, and since action has been taken on S. 555, the majority of my remarks will be toward the present version of that bill.

After the Department commented on S. 555 on March 19, 1975, a second proviso was added to section 5, and the bill was passed by the Senate. The Department does not support that addition.

Let me now take the sections in sequence and comment briefly on each.

Section 2 eliminates the present requirement for designation of an area for emergency assistance, namely that there be a general need for agricultural credit as the result of a natural disaster. The change eliminates the present necessity for polling private lenders to determine whether adequate credit is available. Under this section the Secretary could designate an area, provided a natural disaster substantially affected farming, ranching, or oyster-producing operations. This change should simplify the designation process.

Section 3 requires the Secretary to make loans available in presidentially declared emergency areas and restores a "test for credit" as an eligibility requirement for each borrower. By making loans only to disaster victims unable to obtain sufficient credit from other sources at reasonable rates and terms, this section should direct the emergency aid to those who most need it. This section is essential to our support of changes in the emergency loan program.

Section 4 provides authority to finance production changes deemed desirable as a result of changes in market demand subsequent to the disaster, and authorizes emergency loans for more than the actual loss sustained. Both provisions can benefit the disaster victim, and help him resume his farming operations as an effective producer.

Section 5 retains 5 percent per annum as the maximum interest rate for emergency loans made for actual loss, and provides that the prevailing market rate for similar loans, as determined by the Secretary, will apply to the amount of the loan above actual loss. The department would like to see this section changed so that the loan made for actual loss at 5 percent not exceed \$100,000. We believe that the prescribed 5-percent interest rate for the portion of the loan that covers actual loss up to \$100,000 is a reasonable subsidy for disaster victims. Loans for actual loss in excess of \$100,000 and loans to finance forward production would involve no interest subsidy. Since the interest rate will be one which the Secretary determines to be prevailing in the private market, it is possible that there will be a stimulation of activity among private lenders for this portion of the loan, with the FmHA providing a guarantee. We believe this feature is a desirable one. The requirement in the section for security continues the present Secretarial policy.

Earlier I referred to a second proviso added to section 5 following the Department's report. That proviso authorizes the Secretary to make emergency loans for an operating type purpose for up to 20 years for victims of disasters occurring between January 1, 1975, and July 1, 1976, if it is determined that the applicant's financial need as a result of the disaster justifies a longer payment period than normal, and if there is adequate security to assure repayment. The Department opposes this portion of section 5 because the Secretary presently has adequate flexibility to tailor loan repayment periods to the purpose of the loan and the nature and the effect of a given natural disaster upon farmer or rancher. The proposed 20-year period would extend beyond the useful life of chattel security, and since many tenant family farmers do not have real property to offer, these special benefits would not be available to them even if a severe disaster struck. Setting dates within which eligibility occurs does not provide equal treatment to all disaster victims, including others who may have had as severe disruption of their operations as occurred in the specified 18-month period.

Section 6 permits the Secretary to delegate to State Directors of Farmers Home Administration the authority for making emergency loans without a formal designation when 25 or less farming, ranching, or oyster producing operations in an area are affected by a natural disaster. This provision formalizes an existing practice which has made it possible to reach disaster victims who may be separated from the main area of damage by a county or State boundary line.

Section 7 provides guidelines for individual borrowers by requiring that an applicant for assistance based on a production loss show at least a 20-percent loss of normal per acre or per animal production as a result of the disaster. The Department would like to have this section changed so that to qualify for assistance based on production losses the applicant must show that a single enterprise which constitutes a basic part of his farming, ranching or oyster producing operation has suffered at least a 20-percent loss of normal per acre or per animal production as a result of the natural disaster. In most agricultural areas a fluctuation in a basic enterprise of 20 percent or more is considered abnormal.

Section 8 allows the Secretary to make annual subsequent emergency loans for up to 5 years when borrowers need the credit to continue their operation and cannot obtain sufficient financing from other sources at reasonable rates and terms. The section requires such loans to be made at the prevailing rate of interest in the private market as determined by the Secretary. This authority to make subsequent loans will be used only when the borrower cannot obtain financing from other sources.

Section 9 of the bill adds a new section to the Consolidated Farm and Rural Development Act confirming present Secretarial authority to utilize funds from the Agricultural Credit Insurance Fund to pay for administrative expenses of the emergency loan program.

Based on the experience of Farmers Home Administration with an emergency loan program that involved a test for credit and with loans that will permit the farmer to pay for forward agricultural production, we believe that the individual loans will be larger than at present, but that the number of loans will show a substantial decrease. The effect will be to provide help only to those disaster victims who are unable to obtain necessary private credit at reasonable rates and terms, and the credit will be in sufficient amount to help them restore their operations to pre-disaster condition.

We feel that the changes in the emergency loan program that have been suggested and recommended in this statement will give us a program that will be of benefit to disaster victims.

If there are any question, we will be pleased to respond.

Mr. BERGLAND. Thank you very much, Mr. Secretary. Mr. Elliott or Mr. Bostic, do you have anything at this time?

Mr. BOSTIC. No, Mr. Chairman.

Mr. BERGLAND. We appreciate very much your testimony and your constructive criticism of S. 555.

I do have some questions, Mr. Secretary. Under the terms of the bill, what would the repayment authority be in terms of time?

Mr. ERWIN. The initial period is up in 7, and can be extended 5 years.

Mr. BERGLAND. Will the 5-year renewal options be negotiated after the first 7 years?

Mr. ERWIN. Yes. That is for the operating-type loans, not for the real-estate-type loans.

Mr. BERGLAND. We understand. We are concerned with only the operating loans at this time.

I have a copy of a form, FmHA 441-26, which is the application form for benefits under the disaster program. This is an actual copy that was prepared for a constituent in my district. This particular

operator suffered a very substantial loss in the corn enterprise due to a premature frost. At the same time they were engaged in the production of turkeys. In the very complicated formula used, they were ineligible for a disaster loan even though they suffered an economic loss in the turkey enterprise, not due to the disaster, but due to the economic conditions prevailing in the industry at the time.

As I understand S. 555 and companion bills, this will allow you to separate the enterprises on a farm. So in this instance where the farmer definitely had a substantial loss as a consequence of the frost and was ineligible for benefits because of the rather large turkey enterprise, you would be able to separate these enterprises and make an emergency loan in that instance, would you not?

Mr. ERWIN. That is correct.

Mr. BERGLAND. I think that is a very important improvement in the current program. I know there has been a lot of controversy surrounding this whole question of disaster loans. You have provided the subcommittee with some maps and graphs showing the frequency with which we have had disaster designations over the years. A quick examination of this indicates that there have been some chronic disaster counties across the United States over the years; that is to say they are applying for disaster benefits most years. Could you comment on that?

Mr. ERWIN. We drew up these maps as much as we could prior to this testimony. We do not have them for all of the States.

It has been apparent as we have observed the emergency loan program that there were areas that tend to repeat over and over and over. I think this gives rise to some things that need to be said. One of them is: Does the emergency loan program's being available over and over lead to any allocation of agricultural resources in the areas of higher risk? I am not really prepared to answer that at this time, but I think it needs to be looked at.

I think another question that arises is whether repeated subsidized loans in the areas that over and over are disaster areas becomes an equitable distribution of tax funds as the individuals become aware that these are high risk areas because of there being disasters year after year. I am not really prepared at this time to indicate the answer to that. But I think that these maps are an indication of a chronic situation in certain areas of the United States.

They are an indication of a need to study the effect of disaster laws on the agricultural production and the potential redistribution of production as a result of emergency loans.

[The maps referred to by Mr. Erwin are held in the subcommittee file.]

Mr. BERGLAND. Are there any questions to be asked of the Secretary? I have more, but I don't want to monopolize the time. Mr. Hightower.

Mr. HIGHTOWER. Mr. Secretary, do you think under this bill that a cattle feeder would qualify? I have been told that under the law in the past the Administrator has ruled that a cattle feeder is not a bona fide farmer or rancher.

Mr. BOSTIC. It is our opinion that it doesn't make any difference whether a cattleman has a thousand head on a 5,000-acre field or a five-acre field. If he is in the business, he is in the business.

Mr. ELLIOTT. Congressman, the ruling I think you are speaking about is with reference to the current Emergency Livestock Act that limits us by law to the bona fide rancher and farmer as defined in that particular law. This particular legislation should take care of the destruction suffered by a feed lot due to a tornado. He has suffered a disaster and this law should take care of it if the disaster is so declared.

Mr. HIGHTOWER. The words "bona fide farmer or rancher" did not appear in this.

Mr. ERWIN. Neither in this nor in your companion House bill.

Mr. HIGHTOWER. I wanted to make sure that we did have some legislative history on that. But they would not be excluded.

Mr. ELLIOTT. No, sir. Under this particular legislation as currently discussed, if a feed lot operator or owner suffered a disaster, a flood, a tornado, or otherwise, and it was so declared a disaster, he would be eligible to apply.

Mr. BERGLAND. Mr. Madigan.

Mr. MADIGAN. Mr. Secretary, have you had an opportunity to review H.R. 1854, the bill introduced by Representative Gilman, of New York?

Mr. ERWIN. I have not had a chance to study that in depth. I am just barely familiar with it.

Mr. MADIGAN. Might I ask that later you submit to the committee your comments in writing on Mr. Gilman's bill so we would know how you would feel about it?

Mr. ERWIN. I would be delighted to submit that for the record.

[At the time of printing the material had not been received.]

Mr. MADIGAN. Specifically, in Mr. Gilman's statement, he suggested two amendments to the bill that you are testifying on. One of his suggestions is that we add, on page 5, a section 10, which would say that the amendments made by sections 4 and 8 of this act shall apply for the benefit of any individual or private domestic corporation or partnership which has received a loan under subtitle C of the Consolidated Farm and Rural Development Act after June 1, 1972.

He goes on to describe that the purpose of that amendment would be to make either of these bills, both of these bills, retroactive, to include all loan recipients from June 1, 1972, who would otherwise qualify under the provisions of section 4 of the Senate bill. Do you have any comment on Mr. Gilman's suggested amendment?

Mr. ERWIN. Retroactive bills give us a good many administrative difficulties. This would be very complex to administer. I would prefer to comment in detail for the record.

Mr. MADIGAN. He also suggested a second amendment which seems rather simple. On page 4, line 11, immediately after the word "ranchers", he would like to add the words "private domestic corporations or partnerships." That is the Senate bill 555. Do you have any feeling about that?

Mr. ERWIN. I will give you a general reaction, and that is that we have great concern about the preservation of the family farm and about the attention of cattle in agriculture. One of the devices that is commonly used is the Subchapter S corporation in which you have a situation where there are three brothers raised on the farm and two move to town. They take an interest in the family partnership and the

third brother farms the farm. It would seem to me that it would be in the best interest of agriculture to see that type of family farm receives the same consideration that any other kind of farm receives.

Mr. MADIGAN. Thank you. I have no further questions.

Mr. BERGLAND. Mr. Baldus.

Mr. BALDUS. Mr. Secretary, I am interested in the remarks you had on dependency. I have had a chance to look through the map a little. Do you have some suggestions; would you like to elaborate more on that?

Mr. ERWIN. In preparation for this hearing, we brought what we had at this point. In going over certain areas, it has been apparent as these came in that a rather high percent of repetition does occur. It simply raises the question. As you may know, I spent my life as a farmer prior to 3 years ago when I came into Government. And we simply know that certain areas are higher risks. Everybody in the neighborhood knows that particular low grounds are high risks. But you put a crop on there and you know that you are taking a greater risk. Historically, that risk has been capitalized into land values.

Now if over and over you have emergency loans that give some concession, then one would think—and I say “think” because we haven’t documented this—that this might be a situation where Government programs could, to a degree, become capitalized into land values and then cause some kind of dislocation of agricultural inputs.

I have raised the question simply because it was apparent. We had this much information and we felt there was a need for study. And we felt that this need should be pointed out to this committee.

Mr. BALDUS. Is it necessary both for counties to apply and for the Governor to designate, and would the designation part of this bill, where the Secretary designates, have an effect on that?

Mr. ERWIN. Yes; this includes secretarial designation.

Mr. BALDUS. But it would still require local and State designation?

Mr. ERWIN. Yes, sir. I think that the reality of the process is that when there is this condition, there tends to be a pressure for these applications to come rather quickly.

Mr. BALDUS. In the preparation of this, did you find that these were repeats of the same thing? Were they areas that usually flood, or usually frost, or have unusually late springs?

Mr. ERWIN. I will see if I can get some of our technical people here to give us some background. Mr. Dickerson, could you comment on whether these were repeats of the same type of disaster?

Mr. DICKERSON. No; not in every case but in some States there are repeats. In other words, they show the number of times that the area has been designated for disaster purposes.

Mr. ERWIN. I might add, Congressman, that I think that a study should include that very question you are asking. We should find out whether these are repetitions of the same disaster or whether there is a variation.

Mr. BALDUS. I think I would include two things; and that is that designation is a judgmental thing, and the kind of disaster.

Going on from there, you said that loans made for above the actual loss would be made at the prevailing market rate of interest. That is a rather loose term. The prevailing rate in a community might be

considerably different for different kinds of loans. What would be your interpretation of that? I presume it would be under a rulemaking procedure so that it would be the same throughout the country. But what would be your idea of what would constitute the definition of "prevailing rate"?

Mr. ERWIN. With your permission, I would like to turn this over to Mr. DICKERSON. He has had considerable experience in this area.

Mr. DICKERSON. Would you restate the question, sir?

Mr. BALDUS. I am asking for a definition of "prevailing rate". And I am assuming that "prevailing rate" would be further defined by the Secretary so that it would be the same definition throughout the country and the same from year to year. As I see prevailing rate, even within a community, it could vary. The prime rate right now is down to 5.5 percent. And if the prime rate is a factor in it, it would fluctuate a great deal. On the other hand, if you said prevailing for real estate, that could be considerably over or under the prime rate.

So how would you determine prevailing rate?

Mr. DICKERSON. This particular topic has been under discussion, but no particular method or formula has been arrived at. I would add, however, that to be fair to the entire country, we would have to look at the average costs or the average interest rates charged throughout the country. We probably, in this case, would take a blend on what Production Credits, Federal Land Bank, and commercial banks were charging in order to arrive at that unit. And it would also be attached to the costs of money for different types of maturity rates. There would have to be a formula of some sort set up for that to make it equitable to all sections of the country.

Mr. ERWIN. I would think that the committee might like some further definition of that. We would be happy to submit it for the record.

Mr. BALDUS. I would understand that if it were left with the wording that it has that it would still be a rulemaking authority. But it might be well for the committee to have some idea of how you would proceed on it.

Referring to the question which the chairman asked about treating different operations of a farm differently—the turkey operation as opposed to the beef operation—it would be appropriate to have a clarification of these. How would the test of need be met? Would that be determined by the farm operator's total need, or would it be determined by the need of that enterprise?

Mr. ERWIN. The test for credit is simply his going to the local lender and asking for credit, giving his full property statement. If that lender cannot make the loan, and if he is turned down by two lenders, then he becomes eligible for loans under this act or other Farmers Home Administration loans that require the credit elsewhere provision.

Mr. BALDUS. The change, then, would be beneficial in that it would eliminate a disqualifying provision which might otherwise be there.

Mr. ERWIN. The change that we recommended in here simply makes it more specific, and easier for our people to determine what the actual loss is.

MR. BALDUS. I have one further question. I don't understand the administrative expenses coming from the Agricultural Credit Insurance Fund. Could you elaborate on that?

MR. ELLIOTT. It merely provides and recognizes that when we do declare a disaster that we do need personnel and expense money. This would provide a source which would not require appropriation. It would come from our revolving Agricultural Insurance Fund. It just defines that it should be recognized. The problem arose in the original emergency livestock credit legislation where we forgot to recognize in that legislation that we needed to provide additional personnel or temporary help to accomplish the work as we do normally in other disaster legislation. This just clarifies it.

MR. BERGLAND. Would the gentleman yield on that point?

MR. BALDUS. Yes.

MR. BERGLAND. Section 401A of the Budget Control Act was designed to limit backdoor spending. A question has been raised as to whether or not the use of the Agricultural Insurance Fund is a form of backdoor spending. Could you give us some estimate as to how much money we are talking about for administrative purposes? Is it a significant amount, or is it a minor element in the total cost?

MR. ELLIOTT. It would not necessarily be minor. But it would be documented and accounted for, depending on the numbers and sizes of the disasters and the amount of expenses incurred in dealing with that as over and above our normal program.

MR. BERGLAND. You normally have a line item budget for administrative personnel, and this would be used to supplement that budget in those instances in which you had, because of a rash of disasters across the country, found your budget was insufficient to meet the demand administratively.

MR. ELLIOTT. That is correct because in dealing with disasters it is a matter of priority to restore production in the farming area. We do it in the order of first priority, to the detriment of our normal programs. This points out that we have to get temporary people on board, and we would report them and account for them as such.

MR. BERGLAND. And that is reported to the Appropriations Committee at the proper time?

MR. ELLIOTT. That is reported in all of our accounting records to the Appropriations Committee.

MR. BERGLAND. Mr. Baldus.

MR. BALDUS. Would that end up being reflected in a raise for the insurance? Is that the same as crop insurance?

MR. ELLIOTT. No, sir; this is not insurance at all. We have three types of funds. The way we finance FMHA's lending authority is that we expend money, then we replace that money by selling notes to the commercial market. In this way we restore the loan levels of the Agricultural Insurance Fund, the Rural Housing Insurance Fund, and the Rural Development Insurance Fund. The word "Insurance" is not a meaningful one in that context. That has no effect on rates.

MR. BALDUS. Thank you.

MR. BERGLAND. Thank you very much, Mr. Baldus, Mr. English.

Mr. ENGLISH. Mr. Erwin, I would like to go back and discuss your thoughts with regard to the application of disaster areas, that some areas are more inclined to have disasters than other areas. Do you see anything in this bill that would allow the interpretation that certain areas would not be allowed to participate in the disaster program more than once or twice every 3 years or so?

Mr. ERWIN. No, sir; I did not see anything in the bill to that effect. It seemed to me that if this committee were studying the overall question of emergency loans, and as we administered these programs, these things became apparent. I thought it indicated a need for further study. I presented it only in that context.

Mr. ENGLISH. Do you feel that this is something that we should take into consideration in writing the bill, that we should try to come up with something along that line?

Mr. ERWIN. The only recommendation I would make is that there be a study made of this to see if it is or it is not a problem. At this point, we simply have the evidence of where these designations are made; and, we have no study made beyond that. It would seem to me that if you look at these, it leads to the next question: What is the significance of this. I think it should be looked at.

Mr. ENGLISH. I would like to point out that in my own district we have had two 20-year floods hit us in the last 2 years. Of course, the name indicates that we shouldn't have one of those but every 20 years. But they seem to be coming quite regularly now. With nature being what it is, we do have these disasters, and it is extremely difficult to predict when they are going to happen. But unless you study an extremely long period of time, I would think that it would be difficult to come to any valid conclusions simply because an area of the country was unfortunate to be struck by several disasters.

Mr. ERWIN. I would make no comment on that other than to say that the question of chronic disaster areas has been repeatedly raised. To the best of my knowledge, we have not had an indepth study of this; and it would be well to have that kind of study and have some answers when these questions are raised.

Mr. BERGLAND. Will the gentleman yield?

Mr. Secretary, I know of instances in my district where there has been a great demand for the designation as a disaster area because of the 5 percent interest on these loans and the no test for credit policy that has been practiced in the past. I can think of a couple of instances, at least, where rather well to do farmers who had other interests applied for and were approved for a substantial loan. They qualified under the law. But there was really no justification for providing them with it because they had ample assets elsewhere.

My guess would be that if we approve this bill and if we apply the test for credit in this program, this will, to some extent, reduce the demand from those who just look upon this as a means of getting low-cost money. It may substantially reduce the amounts of requests for the designation.

I thank the gentleman for yielding.

Mr. ENGLISH. I think that is very true, Mr. Chairman. But while that is certainly a valid observation, I would hate to see the Department start getting the idea that certain areas which are unfortunate

enough to be struck by several disasters within a short period of time are going to continue to have those kinds of disasters.

It is quite true that nature is very fickle. And I would hope that the Department keeps that in mind if they do conduct such a study. That is all, Mr. Chairman.

Mr. BERGLAND. Thank you, Mr. English. Mr. Bedell.

Mr. BEDELL. Mr. Secretary, I would understand from your testimony that you do accept the fact that if section 5 is left as is, it is completely to the discretion of the Secretary as to whether or not any loans would be extended; and, in order for them to be extended, he would have to justify a longer payment period than normal; and there would have to be adequate security to insure repayment. Is that correct?

Mr. ERWIN. I think that your statement of it is correct.

Mr. BEDELL. It is completely at his discretion as to whether or not and you would have to justify it in order to make loans for any longer.

Mr. ERWIN. As I understand it, your statement is that this would be at the discretion of the Secretary.

Mr. BEDELL. Correct.

Mr. ERWIN. I would like to ask counsel on that to make sure that we understand your question. Would you mind repeating that?

Mr. BEDELL. My question is that it is the interpretation of the Department that section 5 simply gives the Secretary the authority, if he judges that the disaster justifies a longer payment period than normal, and if there is adequate security to assure repayment, to extend this loan for a longer period of time than the 7 years. Is that correct?

Mr. ERWIN. Mr. Fowler, of the General Counsel's Office will answer that.

Mr. FOWLER. Mr. Bedell, I understand your question relates to the 20-year period. Is that right?

Mr. BEDELL. Yes, sir.

Mr. FOWLER. And your question is whether or not the Secretary could make a loan for longer than 7 years under this new bill. The answer to that question, without any other factors thrown in, would be that the Secretary could make a loan for up to 20 years—the initial loan—for a disaster that occurred between those dates, provided, of course, that there would be security that would have a sufficient life-time to cover the loan made.

Mr. BEDELL. And providing that, as was said in Mr. Erwin's testimony, the disaster justified a longer repayment period than normal.

Mr. FOWLER. If the need of the applicant justifies a longer period of time; yes, sir.

Mr. BEDELL. It says here "... the disaster justifies a longer payment period than normal ..." page 4, line 7.

Mr. FOWLER. I think there is a combination there. If the effect of the disaster on the applicant is such that his credit need is altered to such a degree that this would be necessary, the language of the statute would allow him to do this.

Mr. BEDELL. And at his discretion as this seemed to be necessary.

Mr. FOWLER. Yes.

Mr. BEDELL. On that same page it says: "The proposed 20-year period would extend beyond the useful life of chattel security, and since many tenant family farmers do not have real property to offer, these special benefits would not be available to them even if a severe disaster struck." Does that statement mean to say that if indeed there were severe disasters and you needed money for more than the 7 years, whereas under the present law they would not be eligible, under the new law those who had security would be eligible, but those who simply had chattel security would not? Is that correct?

Mr. FOWLER. That is what I understood Mr. Erwin to say; yes, sir.

Mr. BEDELL. So if that is correct, then this new law would be giving the Secretary the authority, if the need existed, or if he thought the need existed, for those people who had adequate security, to extend the loan period from 7 up to 20 years. Is that correct?

Mr. FOWLER. Yes, sir.

Mr. BEDELL. At his discretion it gives him the opportunity, if the need exists, and you say the need could exist in a severe disaster, to go ahead and extend that loan for that period. If so, it would seem to me that then a statement which is between here which says: "The Department opposes this portion of section 5 because the Secretary presently has adequate flexibility to tailor loan repayment periods to the purpose of the loan and the nature and the effect of a given natural disaster upon farmer or rancher," should be extended to say "dependent upon the disaster." You have already testified that there could be disasters in which a 7 year repayment period would not be adequate. If that is true, then it seems to me that the purpose here is simply to extend to him the authority to give him the leeway, if he sees fit, to extend that period when the disaster requires it. And you have said that it might in some cases. Is that correct?

Mr. ERWIN. I think we really have a difference here in opinion. The Department feels that a total of 12 years is adequate, and this amendment would indicate that it would be 20 years. Our Department position is that 12 years would be adequate.

Mr. BEDELL. Except that you have testified that in case of a severe disaster that it would not be adequate, and would, therefore, discriminate against those who didn't have adequate security and those who did have adequate security. Is that correct? Your last statement says: "... these special benefits would not be available to them even if a severe disaster struck."

Mr. ERWIN. That is right. The Secretary would have to have security for this. The chattels would not last for 20 years. Therefore, those who did not have that kind of security would be relatively disadvantaged.

The principal objection to this is simply, from the standpoint of the Department, the policy of giving special benefits to those who have disasters at a given time. I think one of the very useful things about this consideration of the legislation is considering an objective situation not relative to specific disasters because we chronically have the problem of individual disasters. Our concern here is the setting aside of a particular group and giving them the extended period.

Mr. BEDELL. If this recommendation of Mr. Eastland were to be adopted, which would say that everything would apply from April 1, 1974 forward, would that then take care of your objection with regard to the 18-month period specified here in your section 5?

Mr. ERWIN. We are going to comment on that for the record. On the face of it, we have some reservation.

Mr. BEDELL. Is your reservation of the 18-month period the beginning date or the ending date or both?

Mr. ERWIN. The 18-month period is simply the special treatment of an individual group by giving them a longer period for repayment.

Mr. BEDELL. So a special treatment to anybody in the United States who suffers similar disasters during that period is what it is; is it not?

Mr. ERWIN. The very difficult thing about disaster legislation is that there isn't any adequate way to cover everybody's disaster. Therefore, to say that the disasters in that particular period are more severe or are different and require special treatment gives us concern policy-wise.

Mr. BEDELL. Would you feel better if the 1976 date were removed from that section?

Mr. ERWIN. We would feel better if the whole section were removed.

Mr. BEDELL. That wasn't my question. Would you feel better if the July 1, 1976, date were removed so that it would be——

Mr. ERWIN. Then we get back to our basic disagreement as to what is an adequate period of repayment. We had two concerns about this. One was the increased period of repayment; the other was the special treatment for the individual time period. That would remove one of those concerns.

Mr. BEDELL. So that would remove that objection.

Mr. ERWIN. It would remove one of the two objections.

Mr. BERGLAND. Would the gentleman yield?

Mr. Secretary, if we were to adopt any form of retroactivity and adopt the credit elsewhere test, would the Department be obliged to review loans that have been approved since that retroactive date and apply the credit elsewhere test?

Mr. ERWIN. It is my understanding that they would.

Mr. BERGLAND. So if we were to adopt the April 1, 1974, date that has been recommended by our colleague, Mr. Bowen, all disaster loans that have been approved since that date would be reviewed, and if the credit elsewhere test found them to be ineligible, the loan could be recalled?

Mr. ERWIN. Yes, sir. This is our concern. Administratively, this would give us great difficulty if we went back to review all of these. And there would be the problem of disqualification when someone didn't meet the credit elsewhere test.

Mr. BERGLAND. So if the Clark amendment in the Senate bill were adopted in the House and became law, those disaster loans that have been made in Iowa, South Dakota, and Minnesota, as a consequence of that arctic hurricane would have to be reviewed to determine whether or not they could get credit elsewhere. And if they found that they were credit worthy from private sources, the loan could be recalled.

Mr. ERWIN. They are periodically reviewed for purposes of graduation, and obviously, this criteria would carry weight in this review.

Mr. BERGLAND. Do you not have a contract, however, with that borrower?

Mr. ERWIN. I would like to refer this to counsel.

We would like to submit the response to this for the record in detail.

But since we do have the requirement to review these loans, obviously, they would be subject to the credit elsewhere test as they were reviewed, if this does become law. This would be a factor in the review.

[The following letter was submitted by the Department:]

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., April 29, 1975.

HON. BOB BERGLAND,
Chairman, Subcommittee on Conservation and Credit, House Committee on Agriculture, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request at the hearing on April 23, 1975, for clarification of our views as to whether retroactive application of the provisions of S. 555 would require this Department to examine loans existing at or prior to enactment and falling within the period of retroactive statutory operation with a view toward applying the "test-for-credit" provision of S. 555. You raised the question of whether the retroactive application of a "test-for-credit" might result in cancellation of existing emergency loans for those borrowers who are able to obtain funds elsewhere.

Of course, the consequences of retroactive statutory application depend upon the specific language of the provision in question. But for purposes of this response, we will assume that such provision will be essentially similar to the one set out below, which we understand to be presently under consideration:

"Insofar as practical the provisions of this Act shall be effective upon the date of enactment and shall be applicable to all disasters occurring on or after April 1, 1974."

In the Department's view, this language, on its face, requires retroactive application of *all* the provisions of S. 555 including that containing the "test-for-credit." It purports to require the Department to examine all existing emergency loans relating to disasters occurring on or after April 1, 1974, so as to determine whether the borrower can meet the "test-for-credit" set forth in section 3 of the bill.

Our Office of the General Counsel advises us that such provision gives rise to a constitutional question premised upon the due process clause of the Fifth Amendment. Whether the retrospective operation of the quoted provision is unconstitutional in view of its direct effect upon contractual commitments of an agency of the United States cannot be determined with certainty at this time.

The Department would prefer that the provisions of S. 555 (with our suggested changes) become effective upon the date of enactment and be applicable to all disasters occurring on or after the date of enactment. To do otherwise, we believe, would create serious administrative problems for the Department and may create some legal questions, as stated above.

We will be pleased to provide additional information if it is needed.

Sincerely,

JAMES E. BOSTIC, Jr.,
Acting Assistant Secretary.

MR. BEDELL. Thank you, Mr. Secretary.

MR. BERGLAND. Thank you, Mr. Bedell. Mr. Jeffords.

MR. JEFFORDS. Mr. Secretary, I would like to turn your attention now to S. 1236. I think Mr. Fowler may be more able to answer some of these questions. But, it may be advisable to amend S. 555 in lieu of 1236, depending upon what we can do with some of the problems which the Department has raised with respect to section 2 of that bill.

I am sure you are aware that the Department raised some questions on section 2 in the letter to Mr. Foley, dated April 17. To respond to that letter, Mr. Bergland wrote the Secretary on April 21 and set forth some goals for removing these objections which were contained in the letter dated April 17. The staff has provided some very fine language which appears to remove the objections. Would you or Mr.

Fowler let me know whether or not the language as supplied by the Department does remove the objections contained in the letter of April 17?

Mr. ERWIN. I would like to refer that question to Mr. Fowler who has been working on this matter.

Mr. FOWLER. Mr. Jeffords, as you are aware from our discussions about this, the matter of whether loans can be consolidated has been difficult to deal with. This particular language would appear to resolve most of the problems we have been able to isolate—if a consolidation feature is to be added. Now maybe I am not being fully responsive.

Mr. JEFFORDS. As you are aware, we submitted this language to the staff of the House Appropriations Committee, and they suggested two additional changes to the language. The first would occur in next to the last line. They would strike, after the word "amount", the two words, "of the", and substitute "unpaid principal of prior". So it would read "in the amount of unpaid principal of prior loans so consolidated."

Mr. FOWLER. I guess you are asking whether we would have any objection to that?

Mr. JEFFORDS. Yes; I am.

Mr. FOWLER. No, sir; we would not. That would, in effect, accomplish the same result as we would accomplish in reading the language as it was already typed.

Mr. JEFFORDS. I tend to agree with your reading also, but in order to make them happy, I certainly would like to include that in there.

They suggested also the striking of the period at the end of that sentence and adding the words "authorized by Congress." So it would read: "create a new charge against any loan levels authorized by Congress." Can you give your comments for the record on the addition of that charge?

Mr. FOWLER. I cannot give conclusive comment at this point. We are dealing here with revolving funds, not appropriated funds, the funds from which Farmers Home can draw to make its loans. And Congress does establish various loan levels for these funds.

Now the difficulty this would appear to raise is that when this loan level has been reached—in the past it has been possible for the Agency to continue to meet loan demands and return to Congress and report what it has done concerning its use of these revolving funds. This language would appear to be such that it would restrict the Agency's ability to do that. So we would like to give you some further comment on that after we have had a chance to study this.

Mr. JEFFORDS. Now assuming that we can have peace between the House Appropriations Committee and the Department on that particular issue, can you tell me now what the feelings of the Department would be as to section 2 with this new language included?

Mr. FOWLER. I would ask Mr. Erwin to take that.

Mr. ERWIN. If we can reconcile the technical matters involved, at this point I see no problem with it.

Mr. JEFFORDS. Thank you, Mr. Erwin.

Mr. BERGLAND. Would it be possible for you to have those comments submitted to the committee by Thursday? The reason for that is that H.R. 1236 probably will be scheduled for floor action tomorrow.

Mr. JEFFORDS. Mr. Chairman, my staff and Mr. Fowler are meeting this afternoon, with I believe, the staff of the Appropriations Committee. We are going to try to iron this out.

Mr. BERGLAND. Thank you, Mr. Jeffords.

Mr. ERWIN. Mr. Chairman, to respond to your question—it is the opinion of General Counsel that we could complete that by the end of Thursday.

Mr. BERGLAND. Thank you. Mr. Secretary, under section 5 the bill provides for 5 percent interest rates on those actual losses that were incurred as a consequence of a disaster, and each enterprise of the farm is considered separately. I am not quite clear on the language of the bill with respect to the ability to add to that loan for the purposes of forward financing. For example, let us assume that a producer suffered an economic loss as a consequence of a disaster, and that loss was \$10,000.00. You could extend up to \$10,000.00 at 5-percent interest. That loan would be repaid over a period of up to 7 years, with the option to renew at the end of that period. It also provides that additional moneys could be provided at commercial rates of interest for the financing of this year's crop enterprise or for succeeding years. Could you explain how that would work?

Mr. ERWIN. With your permission, I would like to have Dr. Bostic respond to that.

Dr. BOSTIC. Mr. Bergland, the amount of the loan for actual loss would be at 5 percent. That amount that would be for forward financing would be at the market rate. Those two could be separate notes.

Mr. BERGLAND. For example, in the case of the farmer who had a \$10,000 loss on a crop and was eligible for that amount at 5 percent, he could also, at the same time, negotiate a loan for the financing of his current crop year provided that he met the credit elsewhere test. What would be the repayment terms on that loan?

Dr. BOSTIC. It could be up to 7 years.

Mr. BERGLAND. What sort of security would be required?

Dr. BOSTIC. If it were for a crop, it would be security on the crop. You might ask Mr. Dickerson that question.

Mr. DICKERSON. It would depend upon the loan purpose. For crops, it would probably be written on a 1-year period. If it were for some type of chattel material not expendable in that 1 year, it might be scheduled over greater than 1 year. Normally our procedure is that those types of moneys used for expendable materials are repayable when the material is expended. In the case of fertilizer, that is 1 year.

Mr. BERGLAND. So it is possible to have a \$10,000 note to be repaid over a 7-year period to pay off the losses of the preceding year; and if the farmer needed another \$10,000 to pay for the current crop, he could have two notes—one repayable over a 7-year period, and the other repayable in that same fall.

Mr. DICKERSON. Yes; and the 7-year loan would be apart from the forward financing.

Mr. POAGE. Would the gentleman yield?

Mr. BERGLAND. Mr. Poage.

Mr. POAGE. What difference does that give us then from the present law? Of course I understand the 5-percent loan, the actual disaster loan. But don't you have authority at the present time to make that production loan and take this chattel mortgage on the crop?

Dr. BOSTIC. Mr. Poage, under the current law, we are not able to make subsequent loans or loans for forward plantings, and we are only able to make a loan for the actual amount of loss.

Mr. POAGE. That is true as far as the amount of loss, but you do have the right to make a production loan.

Dr. BOSTIC. No, sir. Under the current law, we do not have the authority to make a loan for forward financing. The bill that is under consideration by the committee would give us that.

Mr. POAGE. You do have the authority to make production loans. You are making them all the time. Now that is not disaster loans—I am talking about your basic authority.

Mr. ERWIN. Yes, sir; that is correct.

Mr. POAGE. Then how does this add to the basic authority?

Mr. ERWIN. It adds the authority to do it under this act.

Mr. POAGE. But you already have the authority to do it under other acts. So how does it add anything?

Mr. ERWIN. I would like Mr. Hanson to address that.

Mr. HANSON. Yes; under our operating loan authority, we can make operating loans to eligible applicants, family-sized farmers. But many of the people who are involved in disasters are not in that category. Therefore, under our operating loan procedure, we cannot make the forward-type financing that you refer to unless they qualify as family farmers. This is where the problem lies.

Mr. POAGE. Then all you are doing here is giving authority to make operating loans to individuals and corporations who would not otherwise be eligible for an operating loan.

Mr. HANSON. In effect, that is correct.

Mr. POAGE. So then it becomes somewhat of an asset to have a disaster, if that is what it comes to.

Mr. HANSON. No; this loan would be at the market rate of interest. And it would not be available if credit were available to them elsewhere.

Mr. BERGLAND. Would the chairman yield on that point.

Your operating program is limited by law to \$50,000; and this authority carries no such limitation.

Mr. HANSON. That is correct.

Mr. BERGLAND. So in effect, this authority, if granted, could extend credit beyond \$50,000, which you could not make with your operating loan authority.

Mr. HANSON. That is correct.

Mr. BERGLAND. Are there any other distinctions between the two beyond the limit of the loan?

Mr. HANSON. I think that we have to recognize that the emergency loan refers only to the losses in that we would be making the loan as a result of a disaster, whereas the operating loan covers the entire farming spectrum.

Mr. BERGLAND. I understand that. Under the operating loan program, it applies in all counties, irrespective of a disaster declaration; and under this authority, we are limited to those counties that have either a Presidential or Secretarial designation, or in the instance where there are 25 or fewer producers affected, the State director would approve the authority. So the only difference between the cur-

rent operating loan program and this amendment would be to obviate the \$50,000 limitation currently imposed by law on the operating loans.

Mr. HANSON. I think there is another distinction here that should be brought out. The privilege of forward financing or a subsequent type of loan is related to the emergency. In other words, an indebted emergency loan borrower would have the privilege, under this new law, to have a subsequent loan if he met the required tests. He would not come in and get operating money unless he had an eligibility under the disaster type of designation.

Mr. BERGLAND. There is a 5-year reference in this provision. Does this apply in the instance where he may have up to 5 years consecutively in which the disaster is declared?

Mr. HANSON. I think the intent of this particular language indicates that if an individual is an indebted emergency borrower and he needs an additional subsequent loan, then it would be possible for him to get such loans up to 5 years.

Mr. BERGLAND. Five years consecutively?

Mr. HANSON. Possibly; yes.

Mr. BERGLAND. At what rate?

Mr. HANSON. It would be at market rate.

Mr. BERGLAND. So if an individual in 1975 was approved for a loan, and if he were hit again in 1976 and suffered a loss, would his loan in that year, 1976, be at the commercial rate of interest?

Mr. HANSON. No, sir. An individual's loss is judged on each individual disaster. The privilege for a subsequent loan for forward financing would be involved with the previous loss. In other words, if you had a loss this year and required a subsequent loan for next year, you would have that privilege. Now if you had another disaster in 1976, then the program essentially starts over again because each individual disaster carries its own designation and its own criteria of when the loss was and the amount of the loss covered under that particular type of disaster.

Mr. POAGE. Mr. Chairman, will you yield.

Mr. BERGLAND. Mr. Poage.

Mr. POAGE. Going to that same question, you don't have enough money now to make all of the regular production loans that you would like to make, do you?

Mr. HANSON. We have used up all of our production loan.

Mr. POAGE. That is right. I heard a complaint about it this very morning. They couldn't get operating loans in a county of Texas.

Mr. HANSON. That is right. We have used up the \$525,000,000 operating loans.

Mr. POAGE. And that was all limited to \$50,000.

Mr. HANSON. That is correct.

Mr. POAGE. If you put a \$500,000 limit on, how fast is that money going to be taken each year—by the 3d day of January?

Mr. HANSON. Mr. Congressman, I think you have a pretty good judgment of how fast it would go.

Mr. POAGE. If we let this money go out in the big blocks that this bill would let it do, you are not going to have the money to take care of your ordinary requirements for operating loans.

Mr. HANSON. Be careful, sir. Let me make a distinction. We talk about the normal operating loan and production loan authority which has a limit of \$50,000. It has a test for credit in it. That is one set of authority.

Now we are talking about emergency legislation in which you would have to have a disaster. It would have to be designated, and you would have to prove loss. And you will be restored for your loss at 5 per cent. Then the production loan to put you back into your forward crop year could be made, under this legislation, to any extent necessary to forward finance you for the coming year, and it would be separate from this \$50,000 issue completely.

Mr. POAGE. You simply mean that you hope to get from the Appropriations Committee additional money, rather than taking it from the fund from which you make the regular operating loan.

Mr. HANSON. This is coming out of a separate fund—

Mr. POAGE. Don't say "separate," say "additional."

Mr. HANSON. The point I am making is that the emergency funds are separate of the operating loans in the budget.

Mr. POAGE. In other words, you are creating two operating funds and hoping to get them both financed, and hoping thereby to get a larger sum total of money available.

Mr. HANSON. No, sir; this is the Senate bill 555.

Mr. POAGE. Then let us say that the advocates of this bill are seeking that.

Mr. HANSON. Let's put it another way. If we had no disasters at all out there, we would not use any of the authority under S. 555. We would have operating loans being made.

Mr. POAGE. We are going to have more disasters every year; aren't we?

Mr. HANSON. We are having a considerable number this year.

Mr. POAGE. And you have had more every year; haven't you?

Mr. HANSON. No, sir; we got them down a year ago.

Mr. POAGE. That's fine. I just know that the trend is toward an increased number of disasters. Of course, that is purely a matter of definition.

Mr. ERWIN. Mr. Chairman, I want to make it clear that the administration claims no credit for the weather.

Mr. POAGE. But the demands will be coming to you. I won't suggest that I won't. We will all be coming to you with our disasters. I had a frost and that is a disaster. Now a year or two ago, it took a freeze to be a disaster, but now a frost will be a disaster. And a year or two from now a cold spell that retards the germination of my seed is going to be a disaster. Now isn't that the way it is working?

I am not blaming you. I come to you with those kinds of requests; and every other Member of Congress will do it.

Mr. ERWIN. Mr. Congressman, I think it is accurate to say that in the 3 years that I have been with the Department of Agriculture there has been an escalation of that kind of pressure.

Mr. POAGE. That is true, and I am not blaming you for it. That is human nature. But we are passing legislation that will double or triple it.

Mr. ERWIN. I think there are some very creative portions to this legislation.

Mr. POAGE. I like your language.

Mr. BERGLAND. Mr. Bedell.

Mr. BEDELL. Section 7—originally I think the Department had felt that the interpretation of the production loss probably applied only to your, if you are feeding cattle, cattle feeder operation, and then there was a new interpretation through the legal department that indeed it applied to the total income of the farmer. Under section 7, as we now have it under this bill, it would mean that if I am a livestock feeder or farmer and suffer a 20-percent loss on my cattle feeding operation that I would be entitled to a loan under this program if the Secretary deemed it advisable, or does it still ask for 20 percent of the total income of your total operations?

Mr. HANSON. Mr. Congressman, I am not sure I got the essence of your question.

Mr. BEDELL. The original interpretation that even went out into the field from the Department was that if a farmer or feeder had bought steers at 500 pounds and normally fed them to 1,000 pounds and then marketed them, and if, indeed, as a result of a storm there was a 100 pound loss, then he would be entitled to these loans. Then apparently it was looked at from the standpoint of legality, and a new directive went out—at least in my district this happened—that said it is the total income of the farmer that is used instead of simply the loss on his feeding operation. My question is: Does this then get back to what was the original interpretation of this year of such a shrinkage loss?

Mr. HANSON. As I understand it, Congressman, perhaps the reason for the change in directives there is that under our present law there has to be a determination of a 10 percent minimum loss overall, of the total operation.

Mr. BEDELL. Does this change that, or is that still in effect?

Mr. HANSON. This new bill, as I understand it, would refer to the individual project loss of 20 percent or more. I may be corrected on that, but that is my understanding.

Mr. BEDELL. So it would be 20 instead of 10 percent, but if the storm were sufficient that he had 20 percent shrinkage in the normal gain that he put on his livestock, he would then be entitled to this—if that were the result of the storm?

Mr. ERWIN. Yes, sir. Our statement here recommends a wording that we think would tighten this and make it clear.

Mr. BERGLAND. I think it is important that each enterprise be considered separately. And we can do that now if we approve the credit elsewhere test. We have eliminated a very serious problem that has arisen in the bill. Mr. Hightower.

Mr. HIGHTOWER. Mr. Chairman, I just want to point out to Chairman Poage who was talking about the increasing number of disasters that I think the 13th District of Texas is entitled to some kind of dubious honor. I was noticing in the information furnished here of the number of counties having emergency loans that we were listed as having 34 counties having emergency loans and we have only 33 counties in the district. So that is some kind of record, I believe.

Mr. BERGLAND. Mr. Baldus.

Mr. BALDUS. Do I understand from the bill and from your testimony in favor of a \$100,000 limitation that there is no limitation in the bill now for either the actual loss or the forward producing loan?

Mr. ERWIN. Yes, sir. And our recommendation is just a limitation on the amount of 5-percent interest, not a recommendation of limitation on the market rate loan.

Mr. BALDUS. But the bill now has no limitation?

Mr. ERWIN. That is correct.

Mr. BALDUS. And there is none in the act?

Mr. ERWIN. Right.

Mr. BALDUS. I wanted to make that clear. The other thing I would like to ask is how are the administrative moneys for administering present law working now? I am from Wisconsin and there is money—I think you were able to extend it.

Mr. ELLIOTT. As you know, our line item budget for emergency loans is open ended, as Mr. Poage has pointed out. We budget annually for \$100,000,000, and then when the disasters occur and the demand goes above that, we request an additional apportionment. We are allowed by a certain formula amount to administer it.

We are now up to \$400,000,000 worth of loans made and are going to need some more. So we were able to handle the emergency and provide for travel relief out there.

Mr. BALDUS. Will you be able to make all of the loans that are qualified for whom there are applications?

Mr. ELLIOTT. We certainly expect to, and we are taking on some additional help. As you know, we have had additional help from ASCS, and we will take on the necessary temporary personnel to get it done.

Mr. BALDUS. Does this act hook up to the other Agricultural acts at all? In other words, that you must be qualified only on certain acres. I have heard complaints, not from my district, incidentally, and I am not sure if it is on loan or disaster payments where they said that they were encouraged to plant to full capacity, but then when it came to the benefit after a disaster, they only could qualify for those acres that the old farm program gave them acreage allocation for.

Mr. BERGLAND. If my colleagues would yield on that point, I think there is a bit of confusion here in that the proposition to which he is referring is with the provisions of the Farm Act of 1973 that provides that the authority for certain payments if there is a crop loss. And those payments are tied to the normal yield times the feed grain base. These bases are obsolete and has caused a good deal of concern throughout the country.

Mr. Hogan will be recognized. Counsel has a question.

Mr. HOGAN. Thank you, Mr. Chairman. This does not refer to the bill, it refers to S. 1236, more particularly to section 5 of that bill.

We have a letter from the Department to Chairman Foley which would add one additional sentence to section 5 of the Emergency Livestock Credit Act, which is scheduled to come up on the floor for action on Thursday. It is my understanding that the Department would like to see this particular sentence added to section 5 of the Emergency Livestock Credit Act of 1974, for the reason that if it is not added, you will lose, in effect, one of your options for secondary financing through

the lender who would go to a private secondary market and sell the guaranteed portion of the loan to a secondary private lender. Is that correct?

Mr. ELLIOTT. Mr. Hogan is pointing out a problem that we have with our guaranteed loans under the Emergency Livestock Credit Act and with our guaranteed loans under the Rural Development Act of 1972. The commercial institutions have a problem in making a secondary market because of the language of 90 percent of the loss sustained in our Rural Development Act and up to 80 percent of loss sustained in the Emergency Livestock Credit Act.

The problem here is the ability to market into a secondary market a clean financial instrument on which we can place full faith and credit of the United States. A language change has been requested and agreed to with Treasury to state that we will guarantee up to a percent of the principal and interest, as opposed to a percent of the sustained loss.

The banking community has indicated that this would make it possible for them to participate in the program on a guaranteed basis. They then would be able to move the paper into a secondary market as a clean instrument with this language change.

The Department does support this language change to take care of this issue.

Mr. HOGAN. The one option would be the Federal Financing Bank and this would give you a second option. But we currently do not have the existing language.

Mr. ELLIOTT. That is correct.

Mr. HOGAN. As far as this particular language is concerned, there wouldn't be any additional cost to the Government because you already have the option of going to the Federal Government.

Mr. ELLIOTT. That is correct. It just makes it possible to move the paper into a secondary market as a clean instrument.

Mr. HOGAN. And the Department would favor the inclusion of this language in it.

Mr. ELLIOTT. That is correct.

Mr. HOGAN. I think that clarifies it then.

Mr. BERGLAND. Thank you very much, Mr. Hogan.

Mr. Secretary, section 2 of the bill, line 6, says "The Secretary may designate an area * * *" and goes on with other words. We have a letter here from our colleague from Arkansas, Mr. Alexander, who raises a question about the discretionary powers of the Secretary in this regard. This word "may" applies only where you have fewer than 25 producers in a county, does it not; or does it extend to all designated areas?

Mr. ERWIN. I will have to go to counsel on that.

Mr. FOWLER. Mr. Chairman, that language in section 2 would refer to any disaster anywhere.

Mr. BERGLAND. So it would mean that if it were adopted in this form that a county could be declared eligible for disaster assistance and the Secretary could choose not to approve the disaster loan program?

Mr. FOWLER. I may not understand your question, but section 2 deals with those areas which the Secretary may decide are disaster areas. So it would be his decision.

Mr. BERGLAND. Do you mean he could designate an area eligible for disaster aid and not approve this program?

Mr. FOWLER. No, sir. He would not designate the county for disaster aid unless he found there was a sufficient disaster in that particular area. Section 2 is merely his authority to do this.

Mr. BERGLAND. How does that compare with current law?

Mr. FOWLER. Mr. Chairman, Mr. Wasserstrom will answer that.

Mr. WASSERSTROM. Mr. Chairman, I believe the Secretary is required to extend the program when the President designates an area under the Disaster Act. In the event the President does not, the Secretary may then designate an area on his own.

Under the new law, the Secretary can automatically extend the program in an area which the President has declared a disaster area. Under 555, the Secretary need not poll to see whether there is a need for private credit in the area, as he does under present law. Under 555 the Secretary can automatically extend the disaster program to areas in which the President has already made a declaration of disaster.

Mr. POAGE. But there is no requirement that he do it.

Mr. WASSERSTROM. He is required to do it. Under present law he must first determine whether or not there is a need for private credit to the area which flows from a natural disaster.

Mr. POAGE. But he "shall" declare it a disaster area if he finds these things.

Mr. WASSERSTROM. Provided he makes that determination; yes.

Mr. POAGE. And here you say he "may" do it.

Mr. WASSERSTROM. He may go ahead and make that designation; yes, if the President does not go ahead and determine that that area is a natural disaster. The Secretary must go ahead and extend the program to an area so designated.

Mr. POAGE. Isn't this language, "The Secretary may designate any area of the United States * * *" word for word out of the old law except that they have changed the word "shall" to "may"?

Mr. ELLIOTT. We will check into the language of the present authority if you will give me a moment.

Mr. WASSERSTROM. Mr. Chairman, section 321 in our present act states: "The Secretary shall designate * * *" as opposed to the proposal S. 555 where it says, "The Secretary may designate . . ."

There is, in Mr. Alexander's letter, a point that your present legislation under consideration makes it discretionary with the word "may" as opposed to "The Secretary shall * * *" in our current legislation.

Mr. POAGE. Now why make that?

Mr. WASSERSTROM. The point is that we didn't propose this particular language, so I leave that at the discretion of the committee.

Mr. POAGE. Do you know where that change came from?

Mr. WASSERSTROM. I personally don't. It might have come out of our legislative help, but I personally don't know.

Mr. POAGE. Does the Department see any reason for making the change?

Mr. ELLIOTT. Only in that it is always useful for the Secretary to have some discretion in these matters.

Mr. POAGE. The Secretary has the discretion now and would have under any of this language regardless of whether it says "shall" or "may".

He would have the right to make the determination. And unless he, in his judgment, determines that this fact existed, he wouldn't be required to declare the disaster areas. What if, in the Secretary's opinion, these circumstances did exist, then under the existing law he would be required to declare it a disaster area; whereas under the proposed language, he could declare it a disaster area or he could simply ignore it as he saw fit to do.

Now it is not my purpose to try to keep the Secretary from making the determination. He ought to look at it in terms of whether there is a disaster there or not. But having determined that there is a disaster, then why shouldn't he go ahead and declare a disaster?

Mr. ERWIN. Mr. Chairman, as long as the Secretary has the authority to determine need, we have no objection to the "shall" wording.

Mr. POAGE. If we make the change, then some court is going to say that Congress changed that for the purpose of not declaring these disaster areas when they exist.

Mr. ERWIN. We have no objection to any change here so long as the discretion of the Secretary to evaluate the need and the situation is maintained.

Mr. POAGE. I am perfectly willing to have the Secretary evaluate the situation, and I think the law requires that he make the determination. But having made the determination and having found that the fact exists, then we think you ought to have to declare the disaster.

Mr. BERGLAND. Thank you, Mr. Poage. Are there any other questions of the panel?

If not, we want to thank you for your constructive help this morning. We appreciate your testimony and we are looking forward to working with you.

The subcommittee will stand adjourned until 10 a.m. tomorrow morning.

[Whereupon, at 12 noon, the subcommittee was adjourned, to reconvene at 10 a.m., Thursday, April 24, 1975.]

AMEND CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

THURSDAY, APRIL 24, 1975

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CONSERVATION AND CREDIT
OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to notice, in room 1301, Longworth House Office Building, Hon. Bob Bergland (chairman of the subcommittee) presiding.

Present: Representatives Bergland, Poage, Baldus, Hightower, Bedell, English, Wampler, Sebelius, and Jeffords.

Staff present: Robert M. Bor, counsel; John E. Hogan, associate counsel; Steve Allen and Steve Pringle, staff consultants; Robert Palmer, staff consultant, Subcommittee on Department Operations, Investigations and Oversight; Norman Gay, staff consultant; Subcommittee on Oilseeds and Rice; John Baize, staff consultant, Subcommittee on Livestock and Grains; L. T. Easley, press assistant; and Glenda Temple, staff assistant.

Mr. BERGLAND. The subcommittee will come to order. The first witness is the Honorable James Oberstar, a colleague of mine from the State of Minnesota, and one of the new Members. He succeeded the long time, very effective Representative, the Honorable John Blatnik. But we will hear from Jim Oberstar who is now a Member in his own right. He is a friend of mine and a friend of this committee and a friend of rural America.

Jim, we would be pleased to hear from you.

STATEMENT OF HON. JAMES L. OBERSTAR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. OBERSTAR. Thank you very much, Mr. Chairman. I don't have a prepared statement; I just have some scattered notes that I have put together from various meetings that I have had in my district. I will proceed from those notes, if I may.

I want to commend the chairman and the members of the committee, and thank them on behalf of the farming people in my district for holding these hearings to highlight a very critical issue. This is a very pressing problem that needs immediate attention and immediate action. And I know that through the distinguished leadership of the chairman that we are going to be able to make some progress. It has been my pleasure to observe the chairman as he proceeded from freshman Member to chairman of the subcommittee. And we are all proud

and pleased that he is from Minnesota, and proud that he is lending his considerable talent to the great issues confronting agriculture in this country.

Mr. Chairman, last August 29 I left on a rather long drive to the southernmost part of my district. It was not a tourist excursion; I was then in pursuit of employment; namely, the job that I now have. I was on my way up north, driving through the farm country of Chisago, Isanti, Pine, and Kanabec Counties. It was lush and green and beautiful. The farmers were preparing for harvest.

Four days later, on September 3, I came back down to that part of the country for personal engagements. And that whole territory was brown. A day later the Chisago County Press had a headline in the newspaper, entitled "The Silent Disaster".

On September 1, Mother Nature added the third of the triple crown that agriculture had to wear last year: a late spring, one of the driest in history; a dry summer; and the earliest frost on record. That virtually wiped out the farm crop in eastern central Minnesota.

A couple of months later when I was again in that part of the district, this problem for the dairymen and the cash crop farmers and feed mill operators was going on. I went into the Farmers Home Office and the ASCS office in North Branch, and there was a table as long as these two combined stacked literally a foot deep with applications for disaster assistance. There were at least 600 applications sitting there on the table. As I went through them, every one of them said "Freeze, September 1". Today only a handful of those applications for emergency disaster assistance, made available by this Government and promised by Congress and for which funds have been appropriated, have been processed. And only a few have been funded.

I think that is a disaster in itself; it is a tragedy of the greatest magnitude. On the one hand, our Secretary of Agriculture said to them, "Farming people of America, plant to the fences, and help this country prosper and grow. Help our country in its balance of payments. Help us in this \$21 billion agricultural contribution to foreign exchange." And they did. But then when they ran into trouble, the Secretary of Agriculture seemed to be saying, "You didn't read the fine print."

The fine print seems to say that if you get into trouble, we can't help you very much.

Now there have been problems with the formula of the emergency loan program. There have been problems with personnel. From the stories that I heard both during the Lincoln Day recess and the Easter recess, from farmers of my district, the main problem is that they just can't seem to get anybody to process their loan applications.

In addition to that, there are problems such as they, meaning the FmHA representatives, are not following the so-called "normal yield standard" of ASCS. Even though the regulations allow the use of appraisals by local bankers, the local FmHA offices had, until the end of last week, refused to accept those appraisals on the grounds that they were unrealistic.

It was only through personal intervention, when a delegation from my district came to Washington and we put them together with Farmers Home Administration people, and I personally had a meeting

with those representatives, that someone was finally sent out to Minnesota from Washington. Then in one afternoon, 23 of those applications were approved. The same appraisals that were called unrealistic a week ago were this week realistic.

They were demanding that appraisals for those guaranteed loan applications be submitted on FmHA application forms even though there was absolutely nothing wrong with the format and form of the appraisals submitted by the local bankers. I asked the FmHA representative in Washington what difference it made if it was on one piece of paper or another. Isn't the same information there? Isn't this an emergency program? Aren't we supposed to help these people? And it was a result of that kind of pleading and imploring that they finally sent somebody out who insisted that the bankers rewrite the applications, didn't insist that they resubmit them on FmHA forms, but who accepted the bankers' appraisals.

I think if I were a farmer out there, as Hubert Humphrey once said, I guess I would go on strike too, and I would raise all kinds of dickens.

Another complaint that was raised was that the FmHA representatives were demanding, on loans of over \$25,000, that securities should be real estate only, rather than a combination, which is traditional, of real estate and personal property.

Many of the farmers in my district are renting land—most of their land in most cases. Sometimes 90 percent of their land is rented land. Now they can't secure it with real estate. It is unrealistic. If you are going to keep the man in agriculture who wants to be a full-time farmer, you can't make this kind of unrealistic demand.

And yet, when I checked into the regulations, I found that there was no regulation that requires that kind of collateral, real estate collateral, for those guaranteed loans.

Furthermore, although the authority exists in the program and in the law for 5-year loans, the FmHA Office in Minnesota has been cutting them back to 2 and 3 years. With the uncertainty of the weather and the crop history of the past couple of years, I don't know that the farmers can make it on a 2 or 3 year guaranteed loan.

As I mentioned awhile ago, the Farmers Home Offices in my district are swamped with the sheer number of applications. They don't have enough people to operate. And in some communities that I know of, a very unusual thing is happening. With the ceiling on personnel, imposed by OMB on FmHA, they can't hire new people to do the job. They have been borrowing from ASCS. But that is going to end on May 1.

In the meantime, some of the local community folks have been very resourceful. They have gone to CETA, the Concentrated Employment Training Act Program, and have had the city fathers get a couple of folks on the CETA program, using one Federal pocket. They then loan those people to FmHA, putting them in another Federal pocket, to process the loan applications that the FmHA itself couldn't handle. Now that has to be the height of folly and ridiculousness.

I did some checking on the Farmers Home manpower levels. In the fiscal year of 1970, there were 6,697 people on the FmHA payroll. In fiscal year 1974, there were 6,607—a drop of 90. And budgeted for fiscal year 1976, they are up a mere 93 to 6,700. Since they have a

vastly increased budget and vastly increased needs, I thought that there must be awfully efficient folks down there. Per million dollars of Farmers Home loan and servicing, the number of man-years in 1962 was 2.7 man-years. In 1970, it was 1.1 man-years; and in 1974, it is less than one-half man-year per each million dollars loan and servicing. So whether their productivity has increased just because they are working harder or better, or whether it has increased simply because the work load has dropped, I don't know. But the figures show that they certainly need more people to do the job of providing and servicing these loans.

I submit that if it is increased productivity, it is certainly at the expense of the farmer because those loans are not being processed in any greater numbers today than they were 6 months ago.

Let me give you an example of what has happened in just one little rural community of Cambridge, Minn. Fifty-five emergency loan applications were submitted to the Peoples State Bank of Cambridge, beginning last fall, for a total of \$1,725,000. To date, 37 of them have been approved for a total of \$1,042,000; another 16 are awaiting action which were resubmitted recently for a total of another \$683,000.

Of those 37 that have been approved, 23 were approved just in the last few days as a result of my own personal intervention. If we had not intervened for the people of that part of the district, they would still be sitting there without those loans.

Another example. Mr. Burton Peterson of North Branch owns and operates Peterson's North Branch Mill, Inc. It is a grain, seed, fertilizer, feed, and chemical operation. He described the situation to me during my last visit at home, and it just made me shake my head. He ran an add in the paper saying that farmers interested in information about the emergency loan program should contact him or the FmHA Office because Farmers Home doesn't run ads like this to tell people about their programs or their availability. He got from 50 to 60 requests from farmers within a 10-mile radius. They came in to him; they went to the Farmers Home Office. They came back discouraged and said, "Look, there is no help for us." So Burt Peterson has become a mini-Farmers Home Office, personally loaning money out to the farmers in the area. Now he does that in the course of his business, expecting that by the end of the crop year he will get his money back. And he will normally make about \$200,000 to \$250,000 in loans.

This year he went to the bank and has personally loaned out \$750,000 to farmers in that area. The Farmers Home Office is just not able to carry the load.

Now I don't think that a private individual ought to be doing this kind of thing. I think this is a Government program and the Government ought to be helping these folks.

For the whole state of Minnesota, some 2,885 applications have been submitted. But only 36 percent of those have been approved—1,047. There are over 1,800 applications that haven't been acted upon; and there are over 2,000 applications that have not yet been returned. So they just can't handle it for one reason or another.

The MORA Office in the central part of my district serves a three county area—Kanabec, Isanti, and Anoka Counties. They had 75 applications pending on March 10. Forty-five of those were for direct

loans. The Office reported to me that it takes about 8 hours to process each application. They have only two people to handle the work load. And after we and the farmers in the area pleaded and begged and cajoled and wheedled, they finally put on two temporary clerical people, and borrowed another body from ASCS. But they are still far behind on their work load.

Now it seems to me that there are certain steps that could be taken. I am not an expert in this area, and I would certainly defer to the committee's judgment because I know that you are going to come up with some solutions. But just from my own personal intervention of going into these offices and looking there and talking to the people and listening to what the farmers had to say, it seems to me that the first and most important need is to increase the number of people working out in the field—not swell up the Washington bureaucracy, but get some folks out there who are close to the people where they can do some good and help them get those loans processed.

It might not be a bad idea, Mr. Chairman, if Farmers Home furloughed some of those folks from Washington out into the hinterland. If we could get them out there at ground level where they have to roll up their sleeves and get to work, it would help move those loans along. We did it during Hurricane Agnes; we did it during Hurricane Camille. We shipped the folks right out of offices from HUD, from Federal Disaster Assistance Administration, from EDA. They took people right out of their Washington offices and shipped them out. We have a disaster of similar proportions here. I think that makes good sense.

The next step that could be taken would be to increase the size of loan that local officials can approve. We've got those folks out in the field. And I have dealt, as the chairman knows, with the bureaucracy for the past 12 years. There isn't any special wisdom conferred upon someone just because he happens to be sitting behind a Washington desk. We have good people out in the field who are much closer to the judgments they have to make, and I think we can entrust them with a little larger responsibility, particularly under these unusual circumstances.

Right now a county supervisor can approve a loan of up to the amount of \$30,000. The district supervisor is imbued with the authority to approve loans up to \$40,000. The State office can approve loans of up to \$200,000. Maybe the pyramid is in a reversed position. They ought to just invert that pyramid. But they certainly ought to increase the size of loan that the local officials can approve.

In reference to the question that I raised a moment ago of the requirement for collateral, right now under Farmers Home regulations, the request by a farmer to waive the requirement of real estate collateral for direct loans in excess of \$25,000 must be approved in Washington. Again, I say, what special wisdom is there in Washington that this thing has to travel all the way out here, get lost in the mailroom of the Agriculture Department down the street, and be resurrected eventually, and be funneled around, and be massaged, and be shuffled before it is finally sent back when the help is too late. This doesn't make sense to me. I should think that in consultation with the local banker and with an adequate staff level at the local level, those waivers could be approved right there in the State office.

The processing of checks is another matter. It takes over 3 weeks from the time the loan is approved until the time the check is received from the Kansas City payment center. That doesn't make sense to me. Every month the Social Security Administration headquarters in Baltimore processes 32 million checks totaling \$5 billion, and every one of the social security recipients in the country—except those who write to their Congressmen—get that check on time. Now if they need more equipment to process those loans and those loan checks, then this committee ought to see that they get them.

Finally, the designation procedure ought to be simplified. I won't go into all of the details of it, but it just takes too long to designate an area eligible for assistance.

Mr. Chairman, I think that these and other considerations that this committee will look into in the course of these hearings and the deliberations afterward are vitally important to those folks who make America run. The basic wealth of this country is agriculture.

When I look back at the 8th District of Minnesota, about all I can say is that the only factor that keeps it from being worse than it is now is that the snow is still on the ground; the ground is frozen; and, they can't get out there and plow and plant. And that might be the final valedictory. If we have an even later spring this year, we might just not have to worry about a farming disaster program because there won't be any farmers around to apply for loans.

Thank you, Mr. Chairman. If you have any questions, I will be glad to try to respond.

Mr. BERGLAND. Thank you very much, Mr. Oberstar, for providing us with some very useful criticism of the way the program is run. We have heard some of the criticisms from other quarters. The problem apparently is a lack of adequate help in the Agency in those counties where a disaster strikes and hundreds of people descend on that office for services. They simply are not able to keep up.

May I inquire, Jim, since your intervention, has the work load been reduced in those offices? Are they getting caught up now?

Mr. OBERSTAR. They approved 23 loans in one day early this week. Processing has speeded up, but the few people they have can only do so much.

Mr. BERGLAND. Are there any questions of our colleague? Mr. Baldus.

Mr. BALDUS. We also have a number of loan problems in Wisconsin. I asked Mr. Elliott yesterday if he had enough help to complete his mission, and he said that he did. However, I think almost all of the testimony here, Mr. Chairman, was about the administration of the program. Mr. Elliott isn't here, but would it be unfair to ask the staff to prepare that testimony in written form and ask Mr. Elliott to respond to it?

Mr. BERGLAND. It certainly wouldn't be inappropriate to have the Administrator respond. I am not sure we could have it by tomorrow. It will take some time to prepare the record.

Mr. BALDUS. Perhaps Mr. Oberstar would put it down in written form himself.

Mr. OBERSTAR. We will be glad to work with the committee in whatever way is possible.

Mr. BERGLAND. Are there any other questions of our colleague? If not, again, we want to thank you very much for coming this morning and providing us with some very helpful information.

Mr. BALDUS. May I ask one more question?

Mr. BERGLAND. Yes, Mr. Baldus.

Mr. BALDUS. The Administration proposed a \$100,000 limitation on the 5-percent portion which is that part which is in compensation of actual loss. Would the \$100,000 limitation present any problems in your district?

Mr. OBERSTAR. It might present a hardship in a few cases; but, I think that in the majority of cases it would not present a hardship.

Mr. BERGLAND. Thank you once again.

At this time we will hear from our colleague on the committee, Mr. Berkley Bedell, who has a short statement. Then, Mr. Gilman, we will ask you to introduce your guests.

Mr. Bedell, as we all know, is one of the hard charging members of this subcommittee and of the House. He has served that district in Iowa with great distinction since the third day of January of this year. Mr. Bedell.

STATEMENT OF HON. BERKLEY BEDELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA

Mr. BEDELL. Mr. Chairman, thank you for providing me with this opportunity to express my support for S. 555.

This bill makes a variety of changes in the emergency loan program administered by the Farmers Home Administration. It would simplify the procedures under which the loans are made to victims of natural disasters, and would make additional credit assistance available to them. I believe that prompt enactment of this legislation into law is essential. It will initiate needed improvements in our FmHA emergency loan program and make it more responsive to the needs of individuals suffering unavoidable setbacks as a result of unexpected natural disasters.

I would like to take a moment at this point to comment on section 5 of S. 555. This section of the bill provides the Secretary of Agriculture with the authority to extend the loan repayment period for emergency operating loans for a period of not more than 20 years if he determines that the applicant's financial need, as a result of the disaster, justifies such extension, and if there is adequate security to assure repayment over the longer period. Under existing law, such loans can be made for up to 7 years, with the possibility of a 5-year extension where warranted. This provision would apply only to the victims of natural disasters occurring between January 1, 1975 and July 1, 1976.

This particular provision has been the subject of considerable controversy in this committee, and I would like to once again outline the reasons why I feel that it should be included in S. 555 and enacted into law.

Section 5 does not constitute any radical change in the structure of existing disaster relief statutes. It simply brings the emergency loan program more in line with the current realities of a disaster situation.

In my view, current economic conditions make it imperative that section 5 be enacted into law. Many of the farmers and ranchers who

now need emergency loans have already suffered severe financial losses as a result of low livestock market prices, the high cost of feed and other materials necessary to livestock production, or as a result of other factors over which they have no control. In many cases, unexpected natural disasters are, or will be, the straw that breaks the camel's back unless we can provide some realistic help to see them through this crisis. I can see no advantage in standing idly by while our Nation's farmers are driven off their land and out of their lifelong profession because they had the misfortune to reside in an area hit by a natural disaster. The extension of the loan repayment period, where justified, would do much to preclude this eventuality.

We are living in unusual economic times. Circumstances are not the same today as they were a year ago. Section 5 acknowledges this fact. It thus provides the authority and sets a time frame for the extension of the loan repayment period in cases where the Secretary of Agriculture determines that such an extension is justified. It does not make a permanent change in the repayment terms of the loan program. And, it does not mandate any extension of the loan repayment period. It simply adds some flexibility to the program in order to make it more responsive to the needs of the victims of natural disasters.

I believe section 5 constitutes a sound and relatively low risk investment in the future of our country and its people. I hope that the committee will report it, and S. 555, favorably to the House for enactment into law.

Mr. BERGLAND. Are there any questions of our colleague? Mr. Baldus.

Mr. BALDUS. Referring to the \$100,000 proposed loan limitation by the Administration, but also considering that the total appropriation for loans is a limited amount, in your judgment would it be better to have that \$100,000 loan limitation?

Mr. BEDELL. In my judgment, since there is a limited amount of money, it should have a top limit on it so that we can get maximum distribution of it.

Mr. BERGLAND. Are there any other questions? If not, Berkley, thank you very much for bringing this to the record.

At this time we will ask our colleague, the Honorable Ben Gilman, from the State of New York, to introduce our next witnesses.

Mr. GILMAN. Thank you, Mr. Chairman. I appreciate the opportunity to appear once again before your committee with witnesses from my congressional district in New York State who are seeking a reasonable solution to the problems that are emanating from the existing FmHA emergency loan program.

With your permission, Mr. Chairman, I wish to submit for the record the testimony of Ralph Gurda, a vegetable farmer of Orange County, who was not able to attend the meeting, and who operates one of the larger farms in the New York area.

Mr. BERGLAND. Without objection, Mr. Gurda's testimony will appear in the record as prepared.

Mr. GILMAN. Thank you, Mr. Chairman.

[Mr. Gurda's statement follows:]

STATEMENT OF RALPH GURDA, GURDA FARMS, PINE ISLAND, N.Y.

My name is Ralph Gurda. I operate a large 2000 acre vegetable farm, with others of my family in Pine Island in Orange County, N.Y.

Our farm crops were severely damaged by Hurricane Agnes and subsequent adverse weather conditions in 1972 and qualified within a federally declared disaster area. The subsequent wet 1973 crop season resulted in another disastrous crop year. Low vegetable prices for 1974 crops at the time of our marketing resulted in our farm's inability to recover financially from 3 bad years in a row. Between 1967 and 1972 we suffered additional severe losses to our onion, lettuce and celery crop due to heavy rain storms.

Our security for loans has been exhausted due to the financial reverses we have suffered over the past 7 or 8 years as a result of refinancing, to cover crop losses, with banks, PCA, and FmHA mostly.

Our large family owned farm includes extensive equipment investments, a large payroll involving many yearly workers as well as many seasonal workers, large investments in land and buildings, and very sizeable taxes to be paid. Agri-business suppliers of chemicals, fertilizer, seed, equipment, fuel, and containers have depended on our business for their business. Now our equity is all secured by mortgages, notes and chattels.

The Farmers Home Administration has had a long standing policy of extending emergency operating crop loans to farms for up to 5 years if needed for them to recover. This was our understanding as we faced efforts to recover from the 1972 disaster. After FmHA extended emergency crop loans to us for the 1973 and 1974 crop we found we still were not able to financially recover. At this point USDA made an internal legal policy decision regarding PL 93-237 that they would not make any more emergency crop loans and further that this decision would be made retroactive to emergency loan programs already in progress from 1972.

We felt it was incredible that such a reversal of USDA policy could be made to farms in the midst of attempting to recover under conditions where our collateral was already fully committed. There appeared to be a serious lack of understanding of agricultural needs, within USDA, of the problems created by disasters. It has appeared that impartial study of PL 93-237 and review of Congressional debate by the Library of Congress found no requirement that the existing emergency loan program be curtailed and further no intent that such affect be retroactive in effect. Thus it appears that our USDA has moved to severely restrict the emergency farm loan program in opposition to the intent of Congress thru internal legal opinion and development of rules and regulations. At a time when our Secretary of Agriculture has called for more food production in our country it is incomprehensible that his department should take such deliberate negative action directed toward farms they have already formally recognized as severely hurt thru the disaster declaration.

Our need for legislation to mandate effective emergency loan farm programs is very apparent. We need an emergency loan program to provide farms, still struggling with 1972 disaster losses, with long term, low interest refinancing loans secured by real estate and personal property. We need annual operating crop loans of low interest rates, that may be continued for up to 5 years, secured by the crop chattel to insure that the farm may continue with planting the next year. We need a high enough limit of total indebtedness to allow our large farms to be included. Security requirements should be secondary to the probably chance for recovery of the farm business with a high priority in keeping the farm business operating.

I feel H.R. 1854 is a bill that realistically recognizes the need for an effective emergency loan program including farms still struggling with 1972 disaster losses. I would urge that this subcommittee support H.R. 1854.

S. 555 is a bill that also recognizes the need for mandating low interest, long term refinancing emergency loans and annual crop loans. I would urge that this bill be amended to make section 4 and section 8 retroactive to June 1, 1972, and further that the section 8 crop loan interest be limited to not over 5%.

Unless there is Congressional awareness and action to develop a meaningful emergency farm loan program to include farms not yet recovered from 1972 losses our farm business survival will be extremely difficult.

Mr. GILMAN. Mr. Chairman, accompanying me this morning is Anthony La Scala, a vegetable farmer of the Ingrassia and La Scala Farms, a large vegetable producer in our region at Middletown, N.Y.

And to my right is Stanley Wiecek, a vegetable farmer of the W.K.W. Farms of Goshen, N.Y. Mr. Wiecek is also president of the Orange County Vegetable Growers Association.

I would like to introduce Mr. La Scala for his testimony.

STATEMENT OF ANTHONY LA SCALA, INGRASSIA AND LA SCALA FARMS, MIDDLETOWN, N.Y.

Mr. LA SCALA. Mr. Chairman, and members of the subcommittee. I appreciate the opportunity to appear before you today to address a problem so crucial that, if left unresolved, it will eventually mean the bankruptcy of myself and many other similarly situated growers in Orange County.

As a grower who suffered a series of natural disasters from 1972 through 1974, and then had to live through his worst personal disaster—dealing with the Byzantine machinations of the U.S. Department of Agriculture—it is easy for me to discuss the measure before you with an insight born of personal frustrations with the inability of the FmHA to resolve our financial dilemma, either administratively or through existing law.

It is my hope, that after listening to the personal accounts of two growers who suffered natural disasters and then were denied the requisite aid by the Department of Agriculture, you will perceive the need to move expeditiously on the measures before you in order that the growers of Orange County can return to the fields and produce the food that is essential to this country's survival.

I would like to briefly comment on S. 555 and the changes recommended by the Department of Agriculture during yesterday's testimony.

Section 3. We must have clarification as to what is exactly meant by the "credit elsewhere" test and what is meant by "reasonable rates and interest."

Section 4. We support the amendment offered by Congressman Gilman yesterday that would have the effect of making S. 555 retroactive to June 1, 1972. We believe that this is only fair since the Department of Agriculture used Public Law 93-237 to retroactively cut off subsequent emergency aid to the growers in Orange County.

Section 5. The change to this section as proposed by the Department of Agriculture is totally unrealistic. By granting 5 percent interest on only the first \$100,000 of loss, a double burden is imposed on growers, since revenues from the amount of the actual loss are gone forever and we are still stuck with paying high rates of interest on that loss.

In our type of industry, where investments run between \$1,200 and \$1,300 per acre, we would be severely penalized if you accept the Department of Agriculture's suggested amendment.

The question of security is by far the most important aspect of S. 555. It must be understood that the present Department of Agriculture's requirement for security that is adequate to assure repayment of the loan is simply impossible for many of us to meet.

Let me state the facts as they pertain to the large family farms in Orange County. When Agnes hit us in 1972, many of us already had outstanding mortgages with FLB and PCA. When FmHA loaned us emergency aid in 1972, we were forced to pledge all our remaining security. In the years 1973 and 1974, we were required to pledge any personal security that we might have left in order to qualify for an operational loan. Thus, 1975 finds us without the security required by the Department of Agriculture in order to obtain further forward financing.

Many of the growers in Orange County have in fact been urged to take chapter 11 of the bankruptcy law rather than continue under the present intolerable circumstance. Yet, all we have asked for is a chance to farm our land and repay our debts—not to take the easy way out. Our area has never had a farmer on welfare in 75 years and we are not asking for a handout now.

I urge the adoption of H.R. 1854 because it poses the only real solution to our present dilemma. I would refer you to Congressman Gilman's comments on H.R. 1854 and would endorse them wholeheartedly.

Whatever bill is passed—and one must be passed—we ask that such a measure be fair, equitable, and flexible, with language precise enough to prevent future litigation and, most importantly of all, live up to the intent of Congress to keep agriculture viable by enabling farmers to produce the food that is necessary for our continued well-being.

Thank you.

Mr. BERGLAND. Thank you very much, Mr. La Scala, for your very moving testimony.

At this time we will hear from Mr. Stanley Wiecek of Orange County, N.Y.; and then we will question you in block. Mr. Wiecek.

**STATEMENT OF STANLEY WIECEK, PRESIDENT, ORANGE COUNTY
VEGETABLE GROWERS ASSOCIATION, GOSHEN, N.Y.**

Mr. WIECEK. Thank you, Mr. Chairman and Representatives. I thank you on behalf of myself and the Orange County Vegetable Association. I also thank the members of the subcommittee.

I am pleased to be here to testify on H.R. 1854. Existing USDA legal interpretation of emergency farm loans, as administered through the Farmers Home Administration, has resulted in policy that is grossly lacking in providing meaningful emergency funding for the normally viable, larger size family-owned and family-managed produce farms.

Present self-imposed limitations upon emergency farm loans by FmHA exclude farms not yet recovered from the effects of the 1972 farm disasters from renewal or extension of emergency operating loans. These loans had been available for continuance in disaster areas for up to 5 years, in cases with a reasonable chance for recovery, as a matter of longstanding policy.

One-half of our 10,000-plus-acre vegetable farming area in Orange County, N.Y., faces an extremely difficult problem in securing adequate operating capital for our 1975 crop. I operate a 300-acre vegetable farm that normally would have a planting of onion seed well underway by now. I have not been able to start planting at this time. Unless I can find adequate operating capital soon, I will not be able to operate at all in 1975.

Our valley lost heavily in 1972 with an extensive average of onions, lettuce, and celery damaged by the weather. Wet weather in 1973 resulted in an even poorer crop than in 1972. Low prices in 1974 prevented our financial recovery in spite of good crop yields. In the 3-year period we have managed to use up our security through mortgages and chattels to banks, PCA, and FmHA primarily.

H.R. 1854 provides for emergency refinancing of indebtedness by a grower over a long term with provision for short-term production loans as needed for recovery in federally declared disaster areas.

This bill places highest priority in evaluating a loan request on the farm resources, the operator's experience, and prospect for repayment with secondary consideration of the security available which is consistent with SBA loan policy.

H.R. 1854 limits interest rates to a maximum of 5 percent recognizing that qualified farms have already been seriously hurt and are striving to recover in a farming business enterprise that inherently involves extensive risk of capital due to weather problems and uncontrolled market prices, to name two factors.

The provision for 7-year repayment on personal property secured loans and 40 years for real property secured emergency loans relieves the farm business of the added burden of having to pay off disaster losses too quickly.

Farm investment is vastly greater now than 20 years ago. The previous emergency refinancing loan self-imposed FmHA limitation of \$300,000 total secured indebtedness was not realistic for a larger family-owned farm. We feel the \$5 million total debt limit will be much more realistic in allowing viable farms to qualify.

Provision in H.R. 1854 for emergency crop loans secured only by the crop recognizes that a farm suffering a disaster may have all the security committed except for a current crop to be produced.

Senate bill S. 555 recognizes the need for emergency refinancing long-term loans to cover the farm losses due to disaster with a 5-percent interest rate ceiling in section 4. This section should be amended to make it retroactive to disaster-incurred farm indebtedness since June 1, 1972.

And might I add here that S. 555 certainly recognizes the plight of the farmer in the Mississippi Delta, and the urgent need of aiding those farms stricken by that disaster. It, however, is not retroactive. There are existing loans in FmHA which have been terminated by self-imposed interpretations of existing laws. And certainly in the future more disasters will occur; and a given bill, I should think, should be much more flexible than the present form of S. 555.

S. 555 also recognizes the need for annual subsequent crop loans for up to 5 additional years. This section should be amended to make the annual emergency crop loan provision retroactive to disaster declared areas since June 1, 1972.

Agriculture is a high risk business at best with heavy amounts of privately borrowed long- and short-term capital invested. An effective emergency farm loan program designed in consideration of the importance of keeping viable farms, with a reasonable chance for recovery, in operation will go far to insure that the vast amount of private credit needed by farms will continue to be available.

Such an effective farm disaster loan program will go far to help stabilize our farming industry.

(1) I would also like to add that Mr. La Scala's mention of frustration due to local and State and Federal interpretation of FmHA loaning policy is not peculiar to one case. It extends to every branch of the farming business. Our frustration probably stems from the fact

that farmers in general are not considered businessmen. They are not considered as businessmen by the Small Business Administration, and they are also shunned by the Small Business Administration. FHA, in turn, doesn't recognize the farmer as a small businessman.

And all that we, as growers, ask is that we receive the same consideration that someone such as a golf course operator or anyone else who is considered a businessman receives.

Also, I would like to add that the farmer is not asking for handouts or doles. He is asking for a loan—a loan not only to continue his form of occupation and his form of livelihood, but also for a loan to support agri-business, employees and agri-business in general. This is business.

Certainly the areas of Mississippi and Minnesota which were most recently hurt by natural disasters are not unique in the sense that that has happened in the past in the country and will continue to happen. Therefore, I feel that the present FHA loaning policy, their regulations, and their interpretation of existing regulations, is inadequate for today's agriculture. And I do respectfully request and urge full committee support of Mr. Gilman's bill, H.R. 1854, and also S. 555 with amendments. Thank you very much.

Mr. BERGLAND. Thank you very much, Mr. Wiecek. Apparently the problem in and around Orange County, N.Y. is that the amounts of credit needed for farming exceed the lending limits of FHA. They currently have operating loans of up to \$50,000 and real estate loans of up to \$100,000. Under those authorities, credit can be extended and repayed for periods of up to 40 years.

But as I read your testimony, the difficulty is that your credit requirements exceed those limitations. Am I correct?

Mr. WIECEK. This is true.

Mr. BERGLAND. Are there any questions of these witnesses? Mr. Bedell.

Mr. BEDELL. Mr. Gurda operates a 2,000-acre farm. Is that correct?

Mr. GILMAN. Mr. Gurda, who did submit his testimony, does operate that large a farm; yes.

Mr. BEDELL. Mr. La Scala, how many acres do you operate?

Mr. LA SCALA. Approximately 700 acres.

Mr. BEDELL. What crops do you raise?

Mr. LA SCALA. Celery, lettuce, and onions.

Mr. BEDELL. How many people do you employ at those times when you have your maximum amount of people involved?

Mr. LA SCALA. When we are operating the full 700 acres of property, 485 people will be needed at harvest time.

Mr. BEDELL. How many do you employ during the planting time?

Mr. LA SCALA. We never carry fewer than 50 people; and, it goes up to approximately 100 people almost immediately in early April, and continues along an increasing rate in May and June until harvest, which is late June and through until the middle of October.

Mr. BEDELL. So the 50 people would be full time?

Mr. LA SCALA. That is correct. It will take a crew of at least 50 people at all times.

Mr. BERGLAND. Thank you very much, Mr. Bedell. Are there any other questions or comments?

If not, gentlemen, we want to thank you for bringing this evidence to the committee. You may be certain that we will carefully consider the recommendations you have provided as the subcommittee proceeds.

Mr. GILMAN. Mr. Chairman, once again I want to thank the committee for enabling us to appear before you with our farm witnesses. I just wish to stress once again that our farmers in our region are not seeking any special consideration, as farmers throughout the Nation are requesting, but are merely asking to be treated as businessmen when they are confronted with natural disaster. The average businessman can go in and get a long-term, reasonable interest loan which is not available to larger farmers. I think this is something that I am sure the committee is going to correct as they are reviewing the problems emanating from the existing emergency farmer loan programs. Thank you, Mr. Chairman.

Mr. BERGLAND. Thank you very much, Mr. Gilman.

Are there any others in the gallery who wish to be heard or provide a statement for the record on the bills pending before the subcommittee?

I understand that two or three of our colleagues in the House have statements prepared for the record. Without objection, the record will stay open until tomorrow night for the purpose of receiving those statements.

If there is no one else who cares to be heard, the hearings receiving testimony on these matters will close.

It will be the Chair's intention that we not proceed with markup this morning. We simply don't have the time to consider the many matters pending before the subcommittee. We will schedule a markup session at an early date next week.

In talking with leadership of the House, I am informed that the House floor calendar in the next few weeks is filled. So there would be no chance for any action we may take to be considered in the House within 2 weeks anyway. So the urgency in marking up the bill is not as important as would be the case if the calendar were open.

The Chairman inquires as to the situation on our amendments to the emergency livestock loan program on the floor. We are No. 8, Mr. Chairman. We were No. 2 at one time, but there has been some shifting in the agenda for matters that were originally on the agenda for this week but were delayed because of the action on the Vietnam aid bill. So that put us back.

I doubt very much that there would be any chance that we will be up today. I am told that we will not continue into the late hours this evening, and that the House will not be in session tomorrow. So we have been informed by Mr. Foley that the earliest that we would probably be considered would be next Tuesday.

On Wednesday of next week, the House will consider the budget bill. That has 10 hours of general debate and with the amendments to be offered it will probably take the balance of the week. So if we don't get on the calendar next Tuesday, it will, unfortunately, be put off until the following week.

Are there any other comments or questions from the members of the subcommittee?

If not, I want to thank you very much for attending this morning. It is especially important to commend you considering the fact that you were in session until 3 this morning.

The subcommittee will stand adjourned.

(Whereupon, at 11 :20 a.m., the subcommittee was adjourned.)

[The following statements and correspondence were submitted:]

STATEMENT OF HON. ED JONES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

Mr. Chairman, I appreciate this opportunity to present my ideas on S. 555 and express my sincere support for this legislation.

I have seen the need for this legislation not only in my area of Tennessee, but throughout the agricultural areas of the nation. The shortage of credit has reached critical proportions in areas of the south and mid west. The extra burden of debts from losses suffered in the last year have made it practically impossible for farmers and ranchers to continue their operations. In many instances, the market value of livestock has dropped so low that even prior credit sources are expended.

I feel that S. 555 is a major step toward improving the disaster loan program, and will allow it to function in a far more equitable manner. For instance, the credit elsewhere test, which is in section 3 of the bill, will allow those producers who have truly suffered disaster losses, to obtain the necessary financing to stay in business. Those operators who are able to obtain credit from other sources will be forced to do so, and thus relieve the stress on the limited supply of capital.

However, I feel the most important provision of S. 555 is that element which allows a farmer to borrow over and above the amount of his loss. Even though the excess loan will be at the current market rate of interest, it will nevertheless allow the producer to make added improvements to his operation.

In addition, annual subsequent emergency loans for a period up to five years could be made when borrowers need additional credit to continue their operations, and are not able to obtain financing from other sources. Again, however, the interest rate on these subsequent loans would be the market rate of interest and not subsidized by the federal government.

Mr. Chairman, I have discussed only a portion of the provisions contained in this legislation; however, I feel these are most important in the improvement of the Emergency Loan Program. I would hope that this legislation could receive prompt and careful attention by your Subcommittee, and that it be reported to the Full Committee as soon as possible.

STATEMENT OF CHAUNCEY L. DENTON, JR., PRESIDENT, NATIONAL COTTON COUNCIL OF AMERICA

Mr. Chairman, this statement is submitted on behalf of the National Cotton Council, which is the central organization of the American cotton industry. The statement is submitted in support of S. 555.

Farmers in many areas of the Cotton Belt are currently attempting to carry on land preparation and planting operations under a combination of adverse conditions that have no parallel in recent agricultural history. Costs of each and every input involved in the production of cotton are at inordinately high levels. And these higher costs come at a time when prices for cotton are about 25 cents a pound lower than in the Spring of 1974. All cotton farmers are affected by these two conditions—higher production costs and lower market prices.

A third element—adverse weather—has added to the problems of many farmers in several areas of the Cotton Belt. Reports from North Carolina to Texas indicate excessive moisture, cool weather and in some areas flooding have brought farming operations to a standstill. These reports could have added another dimension to the situation by pointing out that in many instances the local banks and other financial organizations lack the resources to provide additional funds and credit to carry farmers through this difficult period. Under these conditions, it seems imperative that the Congress act to assist farmers engaged in producing

needed food and fiber by making additional credit available. Unless credit is provided without delay, many farmers in the Cotton Belt will not be able to plant and produce crops this year.

S. 555 approved earlier by the Senate contains amendments to the Consolidated Farm and Rural Development Act that if enacted into law would do much to alleviate the difficult credit situation many farmers face. We urge your approval of these amendments.

Changes they would effect in the FHA emergency loan program are as follows:

1. The Secretary is authorized to designate any area as an emergency area for purposes of the emergency loan program if he finds that a natural disaster has occurred in the area which substantially affected farming, ranching, or oyster producing operations. Under existing law, the Secretary is required to find a general need for agricultural credit which is the result of a natural disaster before he can make such a designation.

2. The Secretary is required to make loans available in emergency areas declared by the President. Also, there is added a requirement that the loan applicant be unable to obtain sufficient credit elsewhere at reasonable rates and terms.

3. Loans may be made for crop or livestock changes deemed desirable as a result of changes in market demand since the occurrence of the disaster. Loans may include, but are not limited to, the amount of the actual loss sustained as a result of the disaster.

4. The prevailing private market rate of interest for similar loans, as determined by the Secretary, shall apply to the amount of any loan in excess of the actual loss caused by the disaster. As under existing law, the maximum rate of interest for emergency loans made for actual loss would be 5 percent. Adequate security to assure repayment of loans is required.

5. The Secretary is authorized, with respect to any disaster occurring between January 1, 1975, and July 1, 1976, to make an emergency loan for an operating type purpose for not more than 20 years if it is determined that the applicant's financial need as a result of the disaster justifies a longer payment term than that normally extended for operating loans and there is adequate security to assure repayment.

6. The Secretary may delegate to State Directors of FHA authority to make emergency loans without a formal designation when 25 or less farming, ranching, or oyster producing operations in an area are affected by a natural disaster.

7. In order to be eligible for emergency loan assistance based on a production loss, an applicant must show that he incurred at least a 20 percent loss of normal per acre or per animal production as a result of the disaster.

8. The Secretary is authorized to make annual subsequent emergency loans to a borrower, for up to 5 years, when he needs the credit to continue his operation and cannot obtain financing from other sources. The prevailing rate of interest in the private market for similar loans, as determined by the Secretary, would apply to these subsequent loans.

S. 555, therefore, Mr. Chairman, will provide needed assistance to many farmers who are adversely affected by disaster conditions. We believe passage of the bill will materially contribute to the production of adequate supplies of food and fiber. We urge the approval of your Committee and subsequent passage by the House.

We greatly appreciate the opportunity provided to submit the views of the National Cotton Council on this important legislation.

THE AMERICAN BANKERS ASSOCIATION,
Washington, D.C., April 24, 1975.

HON. BOB BERGLAND,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BERGLAND: The American Bankers Association takes this opportunity to support S. 555 which will simplify procedures and improve the Emergency Loan Program. This is a program which provides support for victims of natural disasters.

We are particularly pleased that the legislation will reinstate the provision limiting emergency loans to borrowers who are unable to obtain sufficient "credit elsewhere" to finance their needs at reasonable interest rates and terms. We believe that this provision will eliminate the more affluent and provide necessary credit for those with a real need for emergency credit.

Our Association also is pleased to note that the legislation has made provision for forward financing and at commercial rates. This will reduce government expense and bring more private financing into the program.

Our Association has some concern with the amendment to Section 324 which increases the maximum maturity for emergency operating loans from seven to twenty years with respect to victims of disasters occurring between January 1, 1975 and July 1, 1976. We believe a twenty year term is longer than necessary and could be used as a subsidy for borrowers who are able to amortize emergency loans on shorter maturities. This could possibly be abused by lenders and borrowers alike.

We urge enactment of this legislation as a means of providing more effective assistance to those unfortunate farmers and ranchers who have been involved in disasters.

Sincerely yours,

LESLIE W. PETERSON,
Member, Agriculture Bankers Division and President,
Farmers State Bank, Trimont, Minn.

DELTA COUNCIL,
Stoneville, Miss., April 24, 1975.

Congressman BOB BERGLAND,
Chairman, Conservation and Credit Subcommittee, Committee on Agriculture,
U.S. House of Representatives

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE: My name is B. F. Smith. I am Executive Vice President of Delta Council, an organization representing the 18 Delta and part-Delta counties of Mississippi. Our area is largely dependent upon agriculture for a livelihood and our principal crops are cotton, soybeans and rice.

For the third year in succession, our area is experiencing devastating floods from the Mississippi River. Although not yet as severe as in 1973, approximately one million acres in our area are now underwater from Mississippi River backwater and from interior stream flooding. The Mississippi River crested in Vicksburg on April 12 and we expect a very slow fall, barring additional storms in the headwater areas including the Missouri, Ohio and Tennessee River Valleys. Even if the Mississippi high water stages continue to fall as expected, it will be late June before much of the flooded areas can be planted in crops. This means that it will be too late to plant any crop except soybeans and even then, reduced yields are a certainty because of the late planting date.

In addition, our entire area experienced the most unfavorable weather conditions in recorded history in 1974. Weather records show that we had 42 inches of rainfall during the first six months of 1974. Our normal rainfall is 52 inches per year. Crops that were saved from spring and early summer rains were reduced in yield by rains that started in September and extended through December. In fact, this unusual pattern of frequent and heavy rainfall has extended into 1975. As of April 17, farmers had only 11 days this year that they could enter fields with farm machinery to prepare land for spring planting. The optimum planting dates for cotton in this area are April 15 to May 15 and less than 50 percent of the land in the Mississippi Delta has been prepared for planting. We are, therefore, facing the prospects of a late crop with all the hazards of severe losses should we have an early frost this fall.

As a result of the disaster experienced in 1974, many of our farmers were unable to meet notes for production credit and have high debt carryovers. Our agricultural credit agencies are straining every resource to extend credit for crop production and are doing an outstanding job. Where land equity is low, however, farm credit agencies have found themselves in a position of not being able to provide needed financing. This is also true of a great many farmers who

rent land. Most of these farmers have had an excellent production record and their plight is due to disaster conditions aggravated by low commodity prices and sharp increases in production costs.

We were greatly concerned to learn that Farmers Home Administration programs that had previously been available to assist farmers who had disaster losses and who could not obtain credit from normal sources were no longer available due either to changes in the law or to changes in regulations. Without immediate action to alleviate our problems, many good farmers in our area are facing bankruptcy.

We, therefore, urge immediate approval of amendments to the Consolidated Farm and Rural Development Act as provided in Senate Bill 555, already passed unanimously by the United States Senate and now before your Subcommittee.

S. 555 makes changes in the emergency loan program administered by the Farmers Home Administration. The changes would simplify the procedures under which loans are made to victims of natural and major disasters and make additional credit assistance available to them. This bill has been approved by the U.S. Department of Agriculture and, we understand, that is looked upon favorably by the Office of Budget and Management.

We respectfully urge favorable and prompt action by the Conservation and Credit Subcommittee, the Committee on Agriculture and the House of Representatives.

Respectfully submitted.

B. F. SMITH,
Executive Vice President, Delta Council.

NATIONAL FARMERS UNION,
Washington, D.C., April 28, 1975.

Hon. BOB BERGLAND,
*Chairman, Conservation and Credit Subcommittee, House Agriculture Committee,
Longworth House Office Bldg., Washington, D.C.*

DEAR CHAIRMAN BERGLAND: Please include this letter in the record of hearings concerning S. 555 to amend the Consolidated Farm and Rural Development Act to strengthen the disaster loan program.

Farmers Union supports enactment of this legislation. We understand some minor amendments have been proposed when the bill was passed by the Senate on March 26.

We have confidence in you and members of the Subcommittee to take whatever action on the amendments that seems to be in response to the interest of farmers who are eligible for disaster loans.

Sincerely,

REUBEN L. JOHNSON,
Director of Legislative Services.

BUSINESS MEETING

WEDNESDAY, APRIL 30, 1975

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CONSERVATION AND CREDIT
OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to call, in room 1302, Longworth House Office Building, Hon. Bob Bergland (chairman of the subcommittee) presiding.

Present: Representatives Bergland, Poage, de la Garza, Richmond, Baldus, Hightower, Bedell, English, Madigan, Jeffords, and Kelly.

Staff present: Robert M. Bor, counsel; John Hogan, associate counsel; and Steve Pringle, staff consultant.

Mr. BERGLAND. The Subcommittee on Conservation and Credit will come to order. We are here today to consider a bill, S. 555, and companion bills after 2 days of hearings last week during which we received testimony from representatives from the Department of Agriculture, Members of Congress, and others.

The Senate has passed the bill, S. 555, after holding a hearing in the field and hearing departmental comments in the committee meetings here in Washington. The bill passed the Senate with some amendments.

There have been a number of Members of Congress and others who have urged that we move on this matter with some dispatch because it will rather dramatically change the authorities of the Department of Agriculture in administering the emergency loan program.

The testimony provided by the Department was generally supportive of S. 555 with some amendments which are outlined in the statement provided by the Assistant Secretary before the committee on April 27.

I think it might be best at this time if we would have our counsel talk of the provisions of the bill. You have before you a copy of the bill and the Senate committee report which is easier to read and does explain the proposition in considerable detail.

Counsel, if you would, I think we ought to take a section at a time. If the Department has any comments on a section, would you call that to our attention so we may consider it as we proceed rather than taking a shotgun approach on the entire proposition. If we go section by section, we can proceed rather systematically.

Mr. BOR. It may make it a little easier to follow the bill if we were to pick up the Senate committee report. This is a report on the emergency loan program. I think each of you have a copy of this before you. Turn to page 8. Beginning on page 8 they have included the

changes that would be made by S. 555 in the provisions of existing law. It can be seen more readily how this fits in with existing law as we go through the provisions of S. 555.

The first part deals with the change in a designation of areas. The first part, which is section 2 of the bill provides that you do not have to take a poll of the area, as previously was the case to determine whether generally speaking there is a need for credit in the area. The language would enable the Secretary to designate any area as an emergency area if he finds that a natural disaster has occurred there which substantially affects farming, ranching, or oyster producing operations.

The last time we met, the question was raised in regard to the word, "may." Section 2 says, "The Secretary may designate any area," if he finds these conditions to exist. I think the consensus around the table at that time was that it would perhaps be appropriate to change the word, "may" to "shall." The Department indicated no objection to the substitution of the word, "shall" for the word, "may."

Mr. BERGLAND. The net effect of this section would be to eliminate the rather cumbersome procedure through which the Department must now go prior to its designation of an area for emergency credit.

The Department support of this change is contingent upon the introduction of a credit elsewhere test which comes later in the bill. It would seem to me that this would be a very worthwhile change. Does the committee have any comment on this?

What about the matter of changing the word that appears on line 6, striking the word "may" and inserting the word, "shall?" As counsel has suggested, the matter was brought to the attention of the Department last week and they had no objection.

Mr. POAGE. Mr. Chairman, I move to strike the word "may" and insert the word "shall."

Mr. BERGLAND. The motion has been offered that we take out the word, "may" and insert the word, "shall."

Mr. BERGLAND. In effect, if the word is adopted, it means the Secretary may determine whether or not conditions in the community exist to warrant the designation of the application of the emergency credit program. If he finds the conditions exist, then he shall approve the program. Is there any other comment?

All those in favor say, "Aye"; opposed, say "No." The "ayes" have it; the amendment is agreed to.

Mr. KELLY. May I ask a question on this point about the extended authority of the Secretary? I have an explanation here saying that without formal designation, the State director finds the emergency has substantially affected 25 or less farming, ranches, or so forth; the language here and the point that you referred to in italics does not have any such limitation as 25.

Mr. BERGLAND. If I may direct your attention to section 6 on page 3, line 21, it deals with the matter to which you have referred. We will get to that section directly. I don't think that in any way affects section 2 of the bill; does it?

Mr. BOR. No.

Mr. KELLY. All right.

Mr. BERGLAND. Thank you, sir. You may proceed, Mr. Bor.

Mr. BOR. Section 3 of the bill is the provision that adds the credit elsewhere test as a qualification for eligibility. This is a new provision and has the support of the Department.

What it means is that once an area has been found to be a disaster or an emergency area, a person can qualify for assistance under this program only if he cannot obtain credit elsewhere on reasonable terms or conditions.

Mr. BERGLAND. I think this is one of the more important sections to the bill. As the members may recall, the current law does not have such a test. There have been a number of instances in which rather well-to-do persons have suffered an economic loss on their farm due to natural disaster. They have been approved for credit at 5-percent interest. This provision would require that before an applicant would be eligible for a loan, he must have been turned down elsewhere. If he had successful enterprises on the farm or had sufficient credit and collateral so he was bankable, he would not be eligible for this emergency 5-percent loan.

Mr. BEDELL. I have no objection to this section, Mr. Chairman, but I think the present law provides that after 2 years there is an effective credit elsewhere provision. It says that if the person who gets the loan can get credit elsewhere then the Secretary shall call it off. Is this correct?

Mr. BOR. I understand that they follow what is known as a graduation policy. If a person's circumstances improves so that he can repay the loan, then he has an obligation to repay the loan, even though the term of the loan may be for a longer period of time.

Mr. POAGE. That is true, as I understand it, not only for the disaster loans but of any of these low-interest loans paid by Farmers Home Administration, that they do apply this graduation policy. If the individual reaches the stage where he can get credit elsewhere, he has to take it.

Mr. BEDELL. After 2 years?

Mr. POAGE. Yes. That is to prevent a person from buying a farm of his own to pay a low rate of interest when he could get the money from the Farm Credit Administration or from any local banking institution. He is able to use that credit if he has reached a state in his economic development where it is available to him. That applies not only to disaster loans, but homeownership loans and all the rest of them as I understand it.

Mr. BEDELL. I presume it would still be in effect even with this section in it, would it not?

Mr. BERGLAND. Yes, it would. I do not think this would in anyway alter the graduation policy. It would have the effect of reducing the number of persons who apply for credit. We have had a number of instances brought to our attention where the Office of FHA has been flooded with applications, many of whom clearly would not be eligible under this new criteria. It would enable the Department to concentrate on those who have a genuine credit need.

Mr. POAGE. There are some who make profit on the credit situation. You actually make a profit by the disaster because you are able to borrow the money cheaper.

Mr. BERGLAND. Yes, sir. It is possible to get a substantial loan under this authority and deposit it with a savings association and draw a rate of interest higher than charged. Is there any other comment, question, or objection to section 3 as explained by counsel? If not, we will move on to section 4.

Mr. BOR. Section 4 enlarges the scope of the emergency loan program. As the law now reads, the loans can be only made to cover the actual losses that have been incurred. Section 4 would allow the loan to be made not only to cover the existing losses but for regular operating loan purposes, so the farmer can get back into business, and to cover changes that are deemed desirable as a result of changes in the market demand since the occurrence of the disaster. You almost have to read this in the context of section 5 because the more liberal provisions of the act apply to the loans that are made to cover the actual loss; whereas, the balance of the loan is subject to interest rates that are prevailing in the private market for similar type loans.

That is to say, in section 5, it is provided that the interest rate of not in excess of 5 percent would apply to the amount of the loan to cover the actual loss. The higher interest rate would be applicable to the balance of the loan.

Mr. BERGLAND. Mr. Bor, sections 4 and 5 refer to subtitles A and B of this title. What does that mean?

Mr. BOR. Subtitle A covers real estate loans and B the operating type loans. The operating type loans have a limit in terms of time for 7 years; whereas the real estate type loans can be as long as 20 years.

Mr. BERGLAND. The current emergency loan practice is to set up a loan for payment over how many years?

Mr. BOR. Seven years.

Mr. BERGLAND. The current law in the emergency title?

Mr. BOR. The emergency title makes reference back to the term that applies to a regular operating loan. If you would notice on page 3 of the bill, line 3, the term of these loans is, "but not later than provided for loans for similar purposes under subtitles A and B." So that for the term, they follow the regular procedures. If you would like, I could go on to describe some of the other ramifications of section 5. I just mentioned a few so you could understand a little better what the effect of section 4 is.

Mr. BERGLAND. Is there any comment on section 4?

Mr. KELLY. Mr. Chairman, I have a question.

Mr. BERGLAND. Mr. Kelly?

Mr. KELLY. Would you go by this in section 4, "As well as crop changes deemed desirable as a result of changes in market demand." What does that mean?

Mr. BOR. I understand that this would allow him to continue his operations as he would have in the absence of the disaster, or to change his operations to take account of changes that have occurred in market demand since occurrence of the disaster. He could get financing for either type of operation.

Mr. BERGLAND. In other words, if Mr. Kelly would yield on that point, let us assume that a county was stricken by a flood and farmers within the county were eligible for this disaster loan but it took them some time to get the loan processed. In the meantime, there was a

change in market demand. They might shift from livestock to grain. This would enable them to borrow money at 5 percent to accommodate that shift, if that shift were due to market demand; is that how you understand it?

Mr. BOR. That is my understanding; to allow them to shift from one crop to another as a result of market demand.

Mr. HOGAN. Mr. Chairman, I would think the disaster reflects the actual damage. Let us assume you had actual flood damage to buildings, to fences. Those are things for which the farmer or rancher could obtain a loan to bring those back into usable condition.

Presumably, in the course of that, he might, if it were that time of year where he had planted an early crop and that crop was destroyed and had to be replanted, this operating portion would give him the wherewithall—the credit and what have you—to go out and buy the fertilizer; the seed, to obtain the general money for all other outbreking costs to go out and replant, resell whatever has been destroyed in the course of the flood which would not normally be covered by this type of loan. That is the crop aspect.

The livestock aspect, presumably if you had the destruction of the cattle, the actual loss there would be covered. You might have some buildings destroyed, but if you decided to go on into a different kind of operation, you would be able to finance that particular portion to go into a different type of livestock, poultry, if you wish.

Mr. BERGLAND. Mr. Kelly.

Mr. KELLY. Then, as I understand it, the existing act or interpretations of it have limited the loans to financing in the area of farming that was in progress at the time of the disaster. If you wanted to switch from an emphasis on beef to an emphasis on grain, you would not be able to get loans for this purpose.

Mr. HOGAN. Under the current enactment. In other words, you wouldn't be able to get the financing for that portion. You would just get the disaster portion.

Mr. BOR. That is right. Under the current law, the only financing you could get would be to cover the actual losses that have been sustained. You could not obtain financing to carry your operations forward after you had restored the amount of the loss.

Mr. BERGLAND. Mr. Baldus.

Mr. BALDUS. On that same point, I can see some time in the future the word, "since" defining in a hard manner the changes in market demands since the occurrence of natural disasters. I know sometimes farmers will switch tactics not because of the market and how it is presently reflected, but because there is an overreaction in the market. They can see by the time they are in production they will need to be in a different kind of cycle. There are several ways, Mr. Chairman, it might be cured. For instance, put a period after "desirable" so it would read, "for loans under subtitle A or B of this title, as well as for crop or livestock changes deemed desirable." You are pinning it down two ways—market demand and "since," which is very narrow allowance for change. If we were to do that, I would think, then, we might want our report to show that it is not our intention to make it that narrow.

Mr. KELLY. Mr. Chairman, would the gentleman yield? Thank you. I think the reason for the "since" pretty clearly is that it is not the

intention of this legislation to finance a change of business unrelated to the disaster. If, as a result of the disaster, there is a need to change or a desire to change, then it is legitimately financed under this bill. If a farmer had the intention or the desire to make some change in direction of his operation, then it should not be financed under this bill because there happens to be an intervening disaster. I think the "since" is probably a good thing.

Mr. BALDUS. But you are complaining of the credit elsewhere and to the extent of the disaster.

Mr. KELLY. Right.

Mr. BALDUS. Given that, at the same time, if it is desirable to make a change, it would still be rather loose wording. It would be deemed desirable by the Secretary as well as the farmer. If you put a period there, I do not think it would be all that damaging.

Mr. BEDELL. It is my understanding that in the last storm, there were a number of cattle people who because of the serious loss which they faced, were told by the Department that loans were only available for them to replace the cattle they had lost. What they really needed was money to plant their crops rather than replace their cattle in order to stay in business. This was as a result of a storm that it all happened, but I do not believe it was really a result of change in market conditions since the storm.

It would seem to me that it would accomplish our purposes better if we did put a period after "demand." I don't think it is the end of the world. I think it would have been in the best interest of everyone to have given those farmers a leeway to take the money that they had lost and so they could plant crops rather than say they had to replace their livestock.

Mr. BERGLAND. Do you offer that as an amendment, Mr. Baldus?

Mr. BALDUS. I would offer an amendment for a period after, "deemed desirable."

Mr. BERGLAND. And striking the words——

Mr. BALDUS. "Changes in market demand since the occurrence of natural disaster."

Mr. BERGLAND. Those words would be stricken under the amendment offered by the gentleman from Wisconsin.

Mr. HIGHTOWER. He is not eliminating the balance?

Mr. BALDUS. Yes.

Mr. BERGLAND. He has offered an amendment to put the period in line 12 after the word, "desirable,"——

Mr. KELLY. Excuse me; you said "desirable" on line 12?

Mr. BERGLAND. Line 13, put a period after the word, "desirable" and strike the words, "as a result of changes in market demand since the occurrence of the natural disaster." Is there any other comment?

Mr. BOR. Would you retain the colon after the word, "desirable?"

Mr. BERGLAND. We would retain the colon in the Proviso.

Mr. BOR. So you would not have a period after those words.

Mr. KELLY. Mr. Chairman, I have one of the staff attorneys telling me that I have the wrong bill. There is some confusion here.

Mr. HOGAN. You should have the one referred to this committee in front of you.

Mr. BERGLAND. I am referring to S. 555; dated April 7. Confusion can be attributed to the fact that there are two S. 555's. One is dated April 7.

S. 555, April 5, is the proper one. We are working now from the bill dated April 5 that has passed the Senate.

The amendment offered by the gentleman from Wisconsin on line 12, page 2 would insert a colon and strike the words, "as a result of changes in market demand since the occurrence of the disaster," on line 14. Is there any other comment on the amendment?

All in favor say, "Aye;" all opposed, "No." The "Ayes" have it. The amendment is agreed to.

Mr. HOGAN. Mr. chairman, on that, do you want to start out a new sentence with the proviso or do you want to put a semicolon after it? You are putting a period in as I understand it.

Mr. BERGLAND. We are putting a colon in.

Mr. POAGE. May I raise a question? I do not mean to criticize. The only way we are going to proceed here and make any progress on any of the markups is for the staff to get the punctuation. We cannot sit here and argue whether we have a colon or a period. The semicolon changes the meaning of the constitution. That is what we are referring to. The opinions are not cited by any lawyer today. Unless we find there is something specifically important about punctuation, we have to let the staff write the punctuation rather than us take up every comma and period. I do not mean it at all critically but let the staff do it and get it done.

Mr. BERGLAND. I think the Chairman makes a good point. We will proceed with section 5.

Mr. BOR. Section 5 provides two categories of loans. One is the loan that will cover the actual loss. For this type of loan, there is an interest rate of not to exceed 5 percent. The balance of the loan that would enable the producer to go on with his operations and finances will be for a term of years that is comparable to the regular operating loans he could get under the program.

A question had been raised as to whether this provision of the bill is any different from what a producer can normally obtain from Farmer's Loan Administration in the way of operating loans. What this does is to enable loans to exceed \$50,000 for on-going operations. The regular operating loan provisions that govern Farmer's Loan Administration restrict maximum amount of a loan to \$50,000. This provision would lift that upper limit.

The other thing that is different is that the overall limitation on the amount of operating loans that can be provided, is provided in the Department's appropriation act. That comes to \$525 million which is used up usually early in the year, sometimes in the middle of the year.

The appropriation act provides no upper limit on the amount of loans that could be made available under the emergency loan provisions. You do have that distinction.

Another distinction that comes about here is that in the regular operating loan program, no loans are provided to corporations and partnerships whereas under this bill, under the emergency loan provisions, not only does Farmer's Loan make loans to individuals, but

also to corporations and partnerships that have as their principal activity livestock, farming operations, and oyster producing operations.

There is a proviso that has been added to section 5 to which the Department makes an objection and that is that certain types of disasters—those occurring between January 1, 1975 and July 1, 1976—the loan can be up to 20 years instead of the 7-year upper limit which is currently the case.

I might say under this bill, you would have a 7-year operating loan and could have it extended annually for another 5 years under a provision that comes a little later. It is under section 330A which is section 8 of the bill. Section 8 of the bill provides for an extension of the loan for another 5 years.

In essence, the way the bill is without the proviso, you could get a loan initially for a 7-year period. Under section 8, it could be extended annually for another 5 years. Under the proviso, the initial loan could be for a period of up to 20 years. The question the Department raised has to do with security. They say the term of the loans that are made is based upon the security that is provided by the producer. Normally, a loan would not exceed the life expectancy of the security, when you are dealing with normal operating loans. We had raised the question as to whether there is a security other than real estate that would have a life expectancy of as much as 20 years.

Mr. POAGE. Mr. Chairman, I raise a question on that right now. It says it may be extended for not more than 20 years if the Secretary determines the need for the loan application justifies such a long repayment period. In other words, it does not guarantee a farmer anything. It simply says the Secretary can extend it if he wants to. He doesn't have to extend it if he doesn't want to. I cannot see that it places any restrictions at all on the Secretary. He has to make that determination. It does not help the farmer because it does not give him anything he doesn't have anyhow. If the Secretary wants to give him a loan, he could give him a longer loan but it does not guarantee the farmer anything. It does not hurt the Department. I do not know why it is needed in there. I don't know why the Department should object to it, either. Does anybody feel that it is worth anything?

Mr. BEDELL. It is quite important to me that the Department indicated to us that if they could have given longer term loans they would have done so. The way the law was written, as you say, it restricted them and prevented them from doing so in those few cases where they felt it was adequate security.

Mr. KELLY. I think there is a difference between black and white. What has happened here is that there is a very narrow provision to cover a very narrow portion of the United States to give them a very special program. Everyone in Congress has the need—either present or future—to accept the program. I think this provision is skating on the thinnest kind of ice to start with. If everyone is in the same boat on this, it would seem this is the way the boat ought to go because it is probably not going to go at all if it is tinkered with. The Senate has passed it. If you want to live dangerously, rock the boat.

I am assisting Mr. Bedell. He has talked with me about this. I previously announced I had no objection to it if it could be put in the proper form, and I think this is it.

Mr. POAGE. Will the gentleman yield?

Mr. KELLY. Yes, sir.

Mr. POAGE. I think when it comes to whether you are rocking the boat, you will find that the Department has more leverage than any of the rest of us. If it is helpful, I do not want to disturb it. But if it is not helpful, if it leaves it up to the Secretary anyhow, I cannot see why they should object to it. If they do, it doesn't help anyone and I do not see why we should keep it in there. They don't have to have very much to come on the floor and object to it. If the Department objects to the bill, there will be 50 votes on your side and they will vote against it automatically without caring a thing in the world of what is in it. If, in my reading, it does not help the farmer, and, unless it does, then I do not see any reason why we should comply with what the Department wants.

Mr. KELLY. Will the gentleman yield?

Mr. POAGE. Yes.

Mr. KELLY. I want an opportunity to use this time. I think to suggest that it is not going to help the farmer is to suggest that the Secretary is not going to try and help the farmer.

Mr. POAGE. If the Department objects to having the right to help the farmer, I can't see how they are going to help them.

In other words, if the Department is afraid to have the privilege of helping them, then I wouldn't think it was going to help to give them the right when they say they don't want to use it. That is what I am getting at. The Department says they don't want it in there. How can you expect them to help the farmer if they are already on the record as saying, "No, this is bad."

Mr. KELLY. Mr. Chairman, I think the difference is being hit by a small rock or a big rock. The Department could very well feel that to have to take everything that comes through the tube is one thing but to have some discretion with regard to the areas covered in the situation is another thing. Under this language, the Department could be inundated with a claim from all over the United States. They would have no discretion and we could have a bunch of lawsuits. Putting this discretion in there enables the Department to deal with what is to be dealt with. I think just opening up what we don't know for sure what we are dealing with is a dangerous thing.

Mr. POAGE. Let's get this straight. I understood the counsel to say that the Department objected to this language.

Mr. BOR. That is right.

Mr. KELLY. To what language?

Mr. POAGE. The language that is in the bill now; the language that gives them this discretion.

Mr. BERGLAND. If you would yield to me, it might be useful if I would read briefly from the Department's testimony on that point.

The proposed 1-year period would extend beyond the useful life of security and since many times the family farmers do not have real property to offer, these special benefits would not be available to them if a severe disaster struck. The same dates within which eligibility occurs does not provide equal treatment to all disaster victims, including others who may have had a severe disruption of their operations as occurred in the specified 18-month period.

The objection raised by the Department, is to the terms of the bill and amendment as proposed, they can go up to 20 years if there is

adequate security. in the case of the tenant farmer who does not have equity in land, the Department feels this would not apply. They would have to deny the 20-year extension to those who did not have adequate security, namely, real estate, presumably, and could provide it only to those who had some kind of security that was of sufficient value to secure a loan for up to 20 years.

Mr. HIGHTOWER. Part of the objection is, as I understand it, the dates. I don't see any reason why we can't extend moving those dates and let it apply to any kind of disaster situation at any time.

Mr. BERGLAND. If the gentleman would yield on that point. Mr. Hightower, the objection is not to the limiting of dates. Their objection is that it would bring inequities. They could approve a 20-year payment for a farmer who had real estate. They could not approve a loan of that duration for one who operated a tenant farm.

Mr. HIGHTOWER. What you are saying is true. I think also they are saying that the inequity is as a result of these dates. It is still a discretion for the Secretary if we take out the date. It is just a matter, then, of his discretion. I do not see how he could object to it.

Mr. KELLY. Would the gentleman yield?

Mr. HIGHTOWER. Certainly.

Mr. KELLY. The reason why there is a compelling reason to assist the people in this arctic hurricane is, just by happenstance, that we have a serious natural disaster which settles down upon a serious market condition. It imposes a double-damage that is not normally existing. It was for this reason I have felt favorably disposed toward this provision rather than open up a whole new program that is possibly going to cost more money than can be afforded at the present time.

Mr. HIGHTOWER. Mr. Kelly, in response to that, I want to try to help these people too. If we remove the dangers, we could perhaps make it possible to help the victims of a gulf hurricane. Still, there would be a discretionary type of a law for the Secretary. I can't see how the Secretary could object to that. He won't have to use it if we take the dates out. It cannot be discriminatory.

Mr. BERGLAND. Are there amendments to section 5? If I might ask counsel, this is the section to which the Department recommended an amendment?

Mr. BOR. That is right. There is another matter that needs to be taken into account when you are dealing with section 5. That is, the Department wanted to put in a limit of \$100,000 on the 5-percent loan so it could be obtained under this section. They felt that that should be sufficient. That is for the loans for actual losses.

Mr. BERGLAND. The section provides that the 5-percent loan would be limited to the actual amount of loss. It authorizes the use of additional credit under this title for the subsequent years, subject to the rate of interest that bears the commercial market value.

Mr. BOR. The way the section is now worded. Mr. Chairman, the 5-percent loan would cover whatever the actual loss would be, even if it were in excess of \$100,000. The suggestion the Department had made is that the 5-percent loan would be limited to an amount not in excess of the \$100,000. The balance of financing to cover actual losses would

be under the other provision which requires that the interest rates be at the commercial market rates.

Mr. BERGLAND. Thank you, Mr. Bor. Are there amendments to section 5?

Mr. KELLY. Could I have one more question? Are there any recommended ceilings on the second portion of the loan?

Mr. BOR. No.

Mr. KELLY. So the \$100,000 limit just applies to the first portion?

Mr. BOR. Just the first portion; that was their recommendation.

Mr. BALDUS. The Department has asked for that. Very frankly, I see a need for the \$100,000 limitation. It would seem that the provision ought to be added in line 21, "caused by the disaster but not to exceed \$100,000." I offer that as an amendment.

Mr. BERGLAND. The gentleman from Wisconsin has moved an amendment on line 21, after the word, "disaster," to insert the words, "not to exceed \$100,000." Is there any comment or discussion on the amendment?

May I ask counsel a question? Is this the proper place for this?

Mr. BOR. I think it would be proper.

Mr. BERGLAND. All those in favor say, "aye;" all those opposed, "no." The ayes have it. The amendment is agreed to.

Are there any other amendments in section 5? If not, we will move on to section 6.

Mr. BOR. Do I understand, sir, that the second proviso would remain intact under the action the subcommittee has taken.

Mr. BERGLAND. No other amendments were offered.

Mr. POAGE. I think we have something that doesn't mean anything to anyone except that it may jeopardize your bill. Those of you who think the Department of Agriculture can't kill a bill, haven't been keeping up with the farm bill. We passed a bill here that most of you objected to because you thought it didn't go far enough. The Department is recommending a veto because they say it goes too far. You didn't believe it; you didn't believe they could do that. They have done it.

I hope to pass it over the veto, but it is not passed over as yet. You are jeopardizing your bill. All I want to say is you are going to come up here with a proposition of having the Department objecting to a bill. Unless there is a great deal of merit—of good to be obtained—it seems to me it is very foolish to run counter to their objections if you meet their objections without losing anything. If you feel it is important to keep it in, I have no objections to it.

Mr. BERGLAND. Mr. Chairman, I do not believe it would necessarily jeopardize passage of the bill. I think, on balance, it is more desirable than objectionable from the Department's point of view. Obviously, amendments will be offered in committee or on the floor to meet the Department's suggestions.

If there are no amendments to section 5, we will proceed to section 6.

Mr. BOR. Section 6 is a provision that would authorize the State directors of Farmers' Home Administration to make emergency loans in areas where there are relatively few people affected by the disaster. What that covers are areas that are contiguous to the areas where the major disaster has occurred or where the emergency is in effect and

those areas which may be in a separate county but are bordering on the areas where the disaster exists. In those areas, rather than requiring secretarial action, authority would be provided so that State directors of Farmers Home would enable the loans to be made to qualified people.

Mr. BERGLAND. Mr. Bor, it wouldn't necessarily only apply where you have some farms in a county contiguous to a county designated as eligible for the disaster loan. Would it not also be applied in an area where you may have a flash flood that destroyed a few farms? A State director could exercise his authority in this title and approve disaster loans for those fewer than 25?

Mr. BOR. That is right, sir. That type of area would also be covered.

Mr. BERGLAND. I think it is a very desirable amendment. Are there any amendments to section 6?

Mr. KELLY. Yes, Mr. Chairman, I have an amendment. My amendment is to strike the words in line 23 after the word, "ranching," and instead insert, "or aquaculture."

Mr. POAGE. Shouldn't you do that in every place this occurs? It occurs three times.

Mr. KELLY. I am planning to. The logic behind it is, that I know there are some shrimp operations and many others coming down the tube. It does not seem logical to consider just the oyster operation.

Mr. BERGLAND. The gentleman from Florida has offered to amend line 23 to strike the word, "oyster" and replace it with the word, "aquaculture." Is there any discussion?

Mr. BOR. Would there be a definition provided for "aquaculture" as to what is included in that term?

Mr. KELLY. I think the word itself is about as descriptive as oyster producing.

Mr. BERGLAND. If the gentleman would yield, may I ask counsel or the gentleman from Florida, does the word, "aquaculture" appear in the dictionary and carry a legal connotation?

Mr. BOR. We would have to look it up, sir.

Mr. BERGLAND. I wonder if in a court of law there would be any problem with it.

Mr. KELLY. Mr. Chairman, would there be any objection—if there is a problem—to affix a definition that would provide a coverage of the intent to define an operation which would produce food in the sea?

Mr. POAGE. Not only the sea, but in any water—fresh water.

Mr. BERGLAND. It has been suggested by the gentleman from Florida that the committee report ought to establish the term "aquaculture" and its implications.

Mr. HOGAN. It is not defined, Mr. Chairman, in the regular collegiate dictionary. I assume we could get a definition out of the special agriculture dictionary or something from the Library of Congress.

Mr. BERGLAND. It is the gentleman's invention, however, the word aquaculture would include oysters and shrimp.

Mr. KELLY. It would include production of any kind of food.

Mr. BERGLAND. Fresh water fish, such as cultured catfish, as is community found in some regions of the country.

Mr. HOGAN. It would be fish farms?

Mr. KELLY. It would include plant life as well as animal life; any food that is cultured or grown in the sea or water. This would not

include fishing in the open sea or anything done in the open sea. It would only include that which is cultured and grown.

Mr. BERGLAND. I think the gentleman makes a very good point. The committee report can reflect the term. Is there any comment on the amendment offered by the gentleman from Florida?

If not, all in favor, say "aye;" those opposed say, "no." The "ayes" have it; the amendment is agreed to.

Mr. BOR. If this amendment is adopted, it becomes necessary to make similar amendments in different provisions of the bill. For example, section 2 of the bill has a reference only to oyster-producing operations. I would presume that it is the committee's intention that we would change the language in section 2 to use the same terminology.

Mr. POAGE. I ask unanimous consent that the term be applied wherever it appears.

Mr. BERGLAND. Is there any objection? The Chair hears none. The amendment will be applied to every section of the bill where proper.

Mr. HOGAN. It is in section 7 and 8 subsequently.

Mr. KELLY. If there is no objection, Mr. Chairman, that was my intention.

Mr. BERGLAND. We will proceed with section 7.

Mr. BOR. Section 7 is a qualification on those applicants who are eligible to receive assistance. In the language of the bill, they have to establish that they sustain at least a 20 percent loss of normal per acre or per animal protection as a result of the disaster.

The Department has suggested an amendment to this particular section. They have given us the language that would accomplish their desires. What they would like to see is that the loss not be applicable to the entire farming operation but rather to any single enterprise which constitutes a basic part of the farming operation.

If you can show that any basic part that constitutes a part of the farming, ranching, or oyster producing operation has sustained at least a 20-percent loss, those farmers would qualify for assistance. It would not be necessary, as stated in section 7 now, that the entire farming, ranching, or oyster producing operation must have sustained at least a 20-percent loss.

Mr. BERGLAND. I think it is a very desirable amendment. Testimony was brought to the committee recording instances in which the farm had a devastating loss on grain and had other enterprises that were of some considerable import in terms of gross revenue, which lost as well economically—but not due to the disaster. Under the rules promulgated by the Department following current law, if they had a livestock enterprise, for example, that generated substantial revenues, the farmer was unable to obtain credit on the portion that did suffer a great loss. This would enable each enterprise to stand separately. With the credit elsewhere test, it would obviously not, in any way, allow persons to take advantage of the 5-percent loan.

Mr. POAGE. I move the adoption of the amendment.

Mr. BERGLAND. The amendment has been moved by the gentleman from Texas to insert the words, "that each enterprise should stand separately in the consideration of the emergency application." Is there any discussion?

Mr. KELLY. Where is that insertion made?

Mr. BOR. This would be a substitution for what is currently in section 7. I will read you the way the Department has suggested it.

As they would suggest, it would read, "An applicant seeking financial assistance based on production losses must show that a single enterprise which constitutes a basic part of farming, ranching, or oyster-producing operations—and we would substitute aquaculture—has sustained at least a 20-percent loss of normal per acre or per animal production as a result of the disaster."

Mr. BERGLAND. The amendment has been offered by the gentleman from Texas. Is there any discussion?

Mr. BALDUS. Mr. Chairman, the way it reads now, it does not say that an applicant would have to show on his whole operation, rather, it is restricted to say, "An applicant seeking financial assistance based on production losses must show that farming, ranching, or oyster-producing operation has sustained at least a 20-percent loss of normal per acre or per animal."

It seems to me that is adequate. I have no objection to the amendment but I would think it would be a matter that would probably enlarge the burden on the person making the application. With the present wording, you would have to show that he has a 20-percent loss per acre or per animal, and, on as many acres and animals as he had. We would also have to show that an operation that he had also showed a loss. In other words, a soybean operation or a hay operation or bean operation would have to reflect that loss. He might have had a hundred acres and forty acres that did not do so well. He might still meet the credit tests. It would seem this would be a restricting amendment.

Mr. BERGLAND. If the gentleman would yield, I think it is a clarifying amendment. The difficulty we are having and have had with the emergency program is that you may have a farmer who has a very devastating loss on corn compared with the preceeding years. Then they have a substantial cattle feeding operation. The compared gross with the preceeding 3 years shows no loss. When you average it all out, he found himself ineligible for a loan even though he lost heavily on the cattle enterprises monetarily, not due to the disaster but due to the sliding market conditions. This would permit each enterprise to be considered on its own merits. I think it is a much desirable amendment to clear up an area that is rather murky.

Mr. BEDELL. Does this "per acre or per animal" have any difficulty for Mr. Kelly with his amendment on aquaculture?

Mr. KELLY. No. Mr. Chairman, may I respond?

Mr. BERGLAND. Mr. Kelly.

Mr. KELLY. In the sea, they are either grown animals or plants. They have to be doing it on a per-acre basis or some sort of designation.

Mr. BEDELL. You think animals would cover catfish?

Mr. KELLY. Yes.

Mr. BERGLAND. Is there any other comment on the amendment. If not, all in favor say, "aye;" all opposed say, "no." The amendment is carried. Section 8?

Mr. BOR. Section 8 is a provision which would allow extension of emergency loans that have been made under the other provisions of the bill for a period of not to exceed 5 years.

One thing that came up in the course of the testimony, was a suggested amendment raised by Congressman Gilman. When he looked at

this provision, he was under the impression that the extension would only apply to individuals and would not apply to corporations or partnerships. I have called over just before coming here to the Department to find whether they were aware of that type of distinction being drawn. I also spoke with a member of the staff of the Senate Agriculture Committee to find out from him whether there was an intention there in the Senate to draw this kind of a distinction for extended loans. In both cases I have been advised that it was their intention that the applicants who could qualify for the original loans apparently were also intended to be covered by the extended loans.

It may be desirable to add some clarifying language here so the subsequent loans would be made to persons who qualified for the original loans under the earlier provisions of the bill. If the committee agrees to this suggestion, perhaps they might give the staff a little freedom to formulate the correct terminology.

Mr. KELLY. May I ask a question?

Mr. BERGLAND. Mr. Kelly.

Mr. KELLY. Previously, where the bill here provides that a corporation may make these loans, what section is that?

Mr. BOR. You won't find that in S. 555. What you have to do is turn to page 8 of the Senate Committee Report. There it shows the persons who are eligible for loans in first instance.

On page 8, you will notice a paragraph, section 321(b) about two-thirds of the way down. There are two categories in (b). One is applicants who are established farmers and oyster planters and who are citizens of the United States and the other category is to private domestic corporations or partnerships engaged primarily in farming, ranching or oyster planting.

Mr. KELLY. You are saying that that language would not cover the situation in section 8?

Mr. BOR. There was a question raised by Mr. Gilman about the way section 8 was worded, where they talk of loans to continue farming, ranching or oyster-producing operations. It may be implied that it was designed to be applicable only to the first category that is listed on page 8, namely, farmers, ranchers or oyster planters who are citizens of the United States, and not the second category, private domestic corporations or partnerships.

Mr. BERGLAND. That is the way I read it. In other words, the 5-year extension would be authorized only for the established farmer, rancher or oyster planter and would not be available to the private corporations or partnerships.

Mr. BOR. Apparently, there is nothing in the Senate Committee Report that would indicate that that was the intention of the Senate. I talked with a member of the staff. I do not know whether he correctly reflects the intent of the Senate committee. He said they did not intend to draw any distinctions there. It is a matter the committee ought to consider in reviewing this particular provision; whether the committee would want to make these extensions applicable only to individuals and not to corporations and partnerships, or, whether on the other hand, they would want the extension to be made available to both these categories.

Mr. BERGLAND. Would it be appropriate on line 11 to strike the words, "farmers, ranchers and oyster producers", and insert the words, "eligible borrowers"?

Mr. BOR. Yes.

Mr. KELLY. Is the word in this bill, "applicants", Mr. Chairman? What do they call these people all through the bill?

Mr. HOGAN. Persons eligible for loans.

Mr. KELLY. I would suggest that we insert there whichever description they are using to refer to it.

Mr. BERGLAND. The gentleman from Florida has offered an amendment that we insert the appropriate language to authorize the 5-year extension to all eligible applicants. The staff will have the power to insert the appropriate legal terminology. Is there any discussion?

All in favor say, "aye"; all opposed say, "no." The "ayes" have it; it is agreed to, Section 9?

Mr. BOR. Section 9 is a provision which would allow the administrative expenses to come out of a revolving fund—the Agricultural Credit Insurance Fund. This would mean they would not need to have annual appropriations for this purpose but they could tap the revolving fund for administrative expenses just as the revolving fund is used to generate the funds that are made available to eligible applicants.

Mr. POAGE. When we get on the floor, the Appropriations and Budget Committee is certain to object to that. I know the Department likes having it. It is one of those things they have to have in order to get support. But you are buying the opposition of some rather influential sections on the floor when you put that in there. Personally, I have no objection to using this but you are jeopardizing the bill. I keep trying to tell you but you people seem to think you can pass anything. You think it is good. We can't do it. We can only pass that which we can get the votes for. There is a lot of strength in the House which is not going to vote for a bill which has financing in it. You are wasting the bill when you come out there and let them get on the floor and say this bill has back-door financing in it. There will be 150 others.

Mr. BERGLAND. This section 9 would be subject to a point of order under rules of the Budget Control Act?

Mr. HOGAN. Yes, sir.

Mr. DE LA GARZA. There is something which might enter into the discussion here, Mr. Chairman. We would offer it not for that reason, but for something that I started quite a while back.

I would like to offer an amendment, but let me preface it. The Agriculture Committee has very little oversight over the Department of Agriculture. We do not have authorizing authority. I have taken this as my chore in the Congress that nobody cares about what we say. We pass legislation for 2, 3, 5 years—whatever we can get away with. That is it. Anytime we pass any legislation, I am going to offer an amendment. I hope the members will agree with me. Before the money is appropriated, this committee must authorize it. This is the amendment I would like to offer; that all funds to be appropriated for the purposes of this act and the Consolidated Farm and Rural Development Act, shall be authorized annually after the passage of this act. That means they have to come here every year to tell us what they are doing—how much money they need to implement the act

which we passed, which we have jurisdiction of, rather than forget us completely and go to Appropriations every year. They have to go to Appropriations anyway, so we are not imposing any burden. Many times they come the same day to the authorizing committee. I am sitting on another committee who authorize how many chairs they put in a room. They authorize for the Coast Guard, for Transportation, for Maritime, for everyone. This committee authorizes for no one.

Mr. BERGLAND. Are you offering that as an amendment? It has been pointed out that section 9 will be subject to point of order on the floor, pursuant to the Budget Control Impoundment Act of 1974. It no way can survive that point of order. Mr. Madigan?

Mr. MADIGAN. I move to strike section 9.

Mr. BERGLAND. The motion has been offered to strike section 9. Is there any comment?

Mr. BALDUS. I am concerned about that. Mr. Elliott was here the other day and I asked him how they were doing on their current law. The following day, we heard Congressman Oberstar here before the committee saying that they were not doing anything under the current law. I have letters in my file from the State Administrator in Wisconsin saying the reason he can't do anything is because he doesn't have any money. Part of that blame was because the appropriation for mileage was cut by 10 percent. A single office, instead of having \$44.00 had \$40.00. I can't imagine that that was the limiting factor but in addition, they have hired emergency help; extra, additional help. It appears that they are not going to get the job done which is the opposite of what Mr. Elliott said when he was here. That did not seem to be an adequate amount of response to this question of financing administrative expenses for the bill. Certainly if the Department does not like the particular function of this whole act, they can fund one part and not another because it is emergency moneys. They have emergencies, and, in some places they don't. If they fail to reappropriate from areas that do not have emergencies to those that do, then they administratively subvert the intention of the bill. I feel it is necessary for the committee to get some hold on how that is done, since we are the ones who say it ought to happen. It is not happening properly, currently. I think it is a pregnant question.

Mr. BERGLAND. Is there any other discussion on the amendment? If not, all those in favor say, "aye;" those opposed say, "no." The "ayes" have it. Section 9 is stricken.

Mr. DE LA GARZA. I would like to offer a new section 9. All funds to be appropriated for the purposes of this act and in the Consolidated Farm and Rule Development Act, shall be authorized annually after the passage of this act.

Mr. BERGLAND. The gentleman is recognized to support his amendment.

Mr. DE LA GARZA. Let me add one other thing. The only objection to this heretofore has been from Mr. Whitten, who has stated, and sometimes corrected, that the authorizing committee delayed the appropriation process. They delayed it too much in passing authorization legislation. This cannot happen now under the new budget procedure. It could happen, but the budget procedures sets dates for when the authorization process is to be concluded. That argument is gone. The only thing that is left is, who is going to have authority to authorize, the Subcommittee for Conservation and Credit, or solely Appro-

priations, without any consultation with this committee? That is the reason why I offer this amendment.

Mr. POAGE. I am thoroughly in favor for what the gentleman in Texas wants to do. I think it is exactly right. This committee ought to exercise some control over the actions of the Department. There is no way you can control the Department except to control the money.

The Appropriations Committee has, for practical purposes—and I don't say this unkindly because they have done it very properly, but they have in past years exercised a degree of control on the Department. This committee has not exercised it because they did control these appropriations. I would like to suggest on this amendment, it seems to me, beginning with the fiscal year 1976—we do not want to try to make this applicable during these last two months. Fiscal year 1976 begins the first day of July. It would seem to me that that would take care of this. With that kind of a change, I would certainly be strongly in favor of the amendment.

Mr. DE LA GARZA. I think the chairman is correct in that respect. I would be happy to amend it—to strike out, “after the passage of this act,” and insert, “beginning with fiscal year 1976.”

Mr. BERGLAND. Is there any objection to the amendment to the amendment? The Chair hears none. It is agreed to. Would you read the amendment again?

Mr. DE LA GARZA. That all funds to be appropriated for the purposes of this act and the Consolidated Farm and Rule Development Act shall be authorized annually beginning with the fiscal year 1976.

Mr. BEDELL. Doesn't that mean to say “authorized by this committee?”

Mr. POAGE. Authorized by Congress.

Mr. DE LA GARZA. When you say authorized, it carries with it the appropriate jurisdiction committee.

Mr. POAGE. The Congress has authorized; we are the committee which would have jurisdiction.

Mr. BERGLAND. Is there any other discussion on the amendment offered by the gentleman from Texas?

Mr. BOR. Is it the intent for this amendment to cover not only the Emergency Loan Act but also the regular operating and real estate loan programs?

Mr. BERGLAND. As I read the gentleman's amendment, it covers the Consolidated Farm and Rural Development Act.

Your amendment is not just limited to the application of the emergency loan program but rather extended it?

Mr. DE LA GARZA. Right. I am covering another one if I can. This is an amendment to the rule also to the Consolidated Farm Rural Development Act. I am taking two steps and including the other one.

Mr. BERGLAND. Are you satisfied, counsel?

Mr. BOR. I have your answer, sir. I think we may want to check this out with the parliamentarian to make sure we do not run into a point of order problem. If we do, we can always obtain a waiver.

Mr. DE LA GARZA. This bill does amend the Consolidated Farm and Rural Development Act?

Mr. BOR. It does.

Mr. DE LA GARZA. That is what I am doing.

Mr. HOGAN. Your language amends just this act, and the Consolidated Farm and Rule Development Act, so it amends them both. If we could have the discretion to look at how it might best be stated.

Mr. DE LA GARZA. I would ask that counsel be given the authority to use the appropriate wording to make it abide by the rules.

Mr. BERGLAND. Is there any objection? The Chair hears none.

A question occurs on the amendment offered by the gentleman from Texas. All those in favor say, "Aye;" all those opposed say, "No." The "ayes" have it; the amendment is agreed to.

Senator Eastland has written me a letter that Congressman Bowen testified in support of a section 10. It reads as follows:

Insofar as practical, the provisions of this act shall be effective from the date of enactment and shall be put to all disasters occurring on, or after April 1, 1974.

The genesis of that is from the regions of the South which were stricken by a major disaster last fall. It is their intention that the provisions of this bill as amended would apply to all applicants who are eligible under the previous program. Is there any comment on the amendment?

Mr. DE LA GARZA. May I follow the chairman's words of caution? Once you go back and set a date, you are opening yourself to 3, 6 more months—1 year—

Mr. POAGE. On August 24, 1974, we suffered a disaster. I do not believe we can go back. As Mr. de la Garza says, if we go back to that 30 days to catch up, somebody else will have 45 days; somebody else had 60 days ago. They still have the disaster in Mississippi. They have the water in their fields now. They come in under the terms of this. We do not have to go back. We have a continuing disaster. I am not unsympathetic with those folks that are flooding, if they are flooding.

Mr. BERGLAND. I should point out to the committee that a letter dated April 29 addressed to me from the Department is signed by James E. Bostic, Acting Assistant Secretary. I will read part of it.

Mr. HOGAN. I think they each have a copy of it.

Mr. BERGLAND. I call your attention to the Department's objection to this proposal on the grounds that it raises serious constitutional questions. They are not prepared to have a ruling on them but they do object to the inclusion of that amendment.

Mr. HOGAN. I think the constitutional problem would involve whether, in fact, the Department would have the authority to go back and put a credit elsewhere test on previously committed loans. That is the constitutional aspect.

Mr. BERGLAND. That is correct.

Mr. BOR. If you wish to have an amendment like this, or something similar, the problem could be overcome by some language that would make it clear that this bill would not have any effect on loans that have already been made. The problem that the Department had when they looked at this language, was that they had the impression that you would have to provide the provisions of this act across the board to whatever happened from the time of the disaster in 1974. If you had a loan that had been made under the old law without the credit elsewhere test, there would be an obligation to look over that loan

if the man did not satisfy the credit elsewhere test. I think that problem could easily be overcome by language in a bill that would say this would have no effect on any loans that have been made.

Mr. BERGLAND. Are there any further amendments to the bill?

Mr. DE LA GARZA. Let me just say something in addition. This worries me. Before most of my colleagues were here, we had a series of disasters to such an extent that in my congressional district, I had three disaster designations going at the same time with different interests, with different criteria for participation. Everybody was upset. One got 3 percent, I think \$1,900. We passed another bill that made it 1 percent and gave \$5,000. That is what we are trying to clear up with this legislation to start all over again and get some good legislation that will work from now on. I say if we go back one day we are getting into trouble. I would hope that we don't go back at all and vote for this legislation. It is too bad that we couldn't help the people in the past but it will allow some good for those in the future.

Mr. BERGLAND. The gentleman has made the recommendation that we pass the amendments adopted. All those in favor say, "Aye"; those opposed, "No." The amendment is adopted unanimously. Is there any other business to be brought before the subcommittee?

Mr. BALDUS. Mr. de la Garza raised the question of oversight on the part of the committee. If that amendment would pass, it would become some other responsibility. There have been questions by Mr. Oberstar and myself. I do not know what the chairman might deem appropriate but a review of how the present program is carried out might be useful to the committee. I think there might be some problems the committee would be interested in.

Mr. BERGLAND. The Department told me they are considering some amendments to the operating loan authorities and to the real estate section. They are not prepared yet to come down and testify. But they will be ready sometime perhaps in July. They want to introduce the question of lending limits and other matters. I am certain it would be an appropriate time to undertake a broad-gage review of those and other titles.

Mr. BALDUS. The difficulty I have is they are now making loans on the crops of the last year so the Department can replant this year. The time has come but the loans are not here. I think from a review of it, only about 15 percent of the loans are made. I think the authority runs out in August. My question is—

Mr. BERGLAND. If the gentleman would yield, I would bring out that the Department has been admonished not only by the subcommittee but by the Appropriations Committee to take such action as is necessary to expedite these loans.

Mr. BALDUS. They do not have the money.

Mr. BERGLAND. They have apparently worked out some sort of an arrangement with the Committee on Appropriations. There is a matter pending that would give them what they need to accommodate the needs. I do not know what process exactly is happening—I think it is still pending in the Senate but it is moving through the system.

Mr. JEFFORDS. It is \$150 million net supplemental.

Mr. BERGLAND. It is about that.

Mr. JEFFORDS. I have one other report to make with respect to section 2 of S. 1236. Language has been agreed upon between the House Appropriations staff people and the Department.

With respect to that section, I will be introducing an amendment on the floor to accomplish the needed changes. It is substantially the same wording which was reviewed by this committee.

Mr. BERGLAND. Thank you very much. The subcommittee will stand adjourned.

[Whereupon at 11:45 a.m., the subcommittee was adjourned.]

Mr. Thompson. I have one other report to make with respect to section 2 of S. 1332. Language has been agreed upon between the House and the Senate. I will be introducing an amendment on the floor to accomplish the needed changes. It is substantially the same wording which was reviewed by the committee. The committee will stand adjourned.

[Whereupon at 11:45 a.m. the subcommittee was adjourned.]

BUSINESS MEETING

WEDNESDAY, MAY 7, 1975

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, D.C.

The committee met at 10:10 a.m., pursuant to call, in room 1301, Longworth House Office Building, Hon. Thomas S. Foley (chairman) presiding.

Present: Representatives Foley, Poage, Vigorito, Jones of Tennessee, Bergland, Brown, Bowen, Litton, Breckinridge, Richmond, Nolan, Weaver, Baldus, Krebs, Harkin, Hightower, Bedell, McHugh, English, Fithian, Jenrette, D'Amours, Wampler, Sebelius, Findley, Thone, Symms, Johnson, Madigan, Peyser, Jeffords, Grassley, and Moore.

Staff present: Robert M. Bor, counsel; Hyde H. Murray, counsel; John E. Hogan, associate counsel; and Steve Allen and Nick Ashmore, staff consultants.

(At the conclusion of previously scheduled business, the committee proceeded to consider S. 555.)

The CHAIRMAN. I would like to move now to consideration of the bill S. 555. The Chair recognizes Mr. Bergland for a report.

Mr. BERGLAND. The bill S. 555 has passed the Senate. Our subcommittee has held public hearings. We received testimony from the Department of Agriculture, members of Congress, and others. The Department came with recommendations to be considered by the subcommittee which were carefully considered and for the most part accepted as amendments to S. 555.

I don't have a statement from the Department, but I think they are generally favorable to the bill as amended.

Section 2 eliminates much of the redtape which is currently involved with the designation of the disaster counties. May I point out that this bill only amends the disaster loan program. It does not deal with the regular operating loan program or the ownership program, but rather it is intended to simplify and make the emergency loan program more effective.

One of the problems, which had arisen, was in the very complicated provisions and procedures which the Department was obliged to use to determine whether or not a county was eligible for the emergency loans by having a very extensive credit survey.

In this section 2 we find:

The Secretary shall designate any area in the United States . . . if he finds that a natural disaster has occurred . . . substantially affected farming, ranching, or aquaculture operations.

Mr. Chairman, this was recommended by the Department, and it will simplify the entire procedure. The substitution of "aquaculture"

in lieu of "oyster producing" operations would accommodate persons involved in the production of fresh fish or the harvesting of salt water sea life. It comes under the general definition as described on line 10 of page 1.

On page 2 we have inserted a very important provision on line three. That is the installation of a credit elsewhere test. Under the current program it has been possible for farmers, who had a crop loss of 10 percent or more from their normal production as a result of the disaster, to get the 5-percent direct loans even though they had considerable resources elsewhere.

I know of examples where people who own farms had ample resources and were able to get an FHA loan only because the rate of interest was attractive to them.

Under our amendment the only producers who would be eligible for this 5-percent credit will be those who cannot get credit anywhere else. This has the effect of tightening up the program and the effect of limiting these loans to those who really need them. I think it is a very important change and one that can be recommended and was strongly recommended by the Department.

Section 5 of the bill on line 17 also has substantive changes. We have limited the amount of the 5-percent loans to not more than \$100,000. Currently, there is no ceiling and there have been loans made well over \$100,000. We thought it was appropriate to install this limit.

Mr. POAGE. It seems to me that you should add "per loan" following "exceed \$100,000." Some will say that you are putting a \$100,000 limit on the program. Would there be any objection to that addition?

Mr. BERGLAND. That is what the subcommittee intended. If you so move, I would support the addition.

Mr. PEYSER. Could I ask for clarification?

Mr. POAGE. I would simply add on line 21, page 2 where they add the amendment "but not to exceed \$100,000" the words "per loan."

When we wrote it up, I guess none of us thought of it. I think this is merely a caution. Then, there cannot be any question.

Mr. PEYSER. What I want to be sure of here is that the \$100,000 limitation applies only to the subsidized interest, not to the total amount that can be borrowed under this program.

Mr. BERGLAND. The answer is yes, the \$100,000 limitation applies only to the 5-percent portion.

There is another section which we have added dealing with forward funding and which carries the commercial rate of interest which we don't intend to limit.

The CHAIRMAN. If the gentleman will withhold his amendment until we get into the amendment process, I would appreciate it.

Mr. BERGLAND. The second part of section 5 provides for the authority to enter into forward funding. We found in testimony that many complications arise out of having a loan to pay off last year's losses with no convenient way of authorizing credit for the succeeding year. This provision authorizes an eligible borrower to borrow up to \$100,000 at 5 percent, if need be, but not to exceed the actual amount of loss sustained as a result of the disaster.

In the same operation he can borrow money to finance the credit needs of the next year and do it under one authority.

On page 3 we have amended the title that currently limits the repayment of these emergency loans to 1, 2, or 3 years. The law is vague on this point. We specify that these loans can be paid up to 7 years plus 5 years extension; or if there has been severe damage done to the real estate on the farm, they can have up to 40 years to repay this emergency loan.

On page 3, line 8, the subcommittee retained the amendment in S. 555. It generated some controversy when it was brought to the full committee some 4 weeks ago in the form of a separate bill.

This is a proposition that allows the consideration of those loans that were made in parts of the Midwest to farmers who suffered losses as a consequence of the Arctic hurricane. It authorizes the Department to make those loans repayable at the end of a period of 7 years but not more than 20, if the Secretary finds that the loan applicants justify a longer repayment period.

Section 6 is one that would eliminate many of the difficulties which have arisen in instances where a disaster may strike part of a county and where 25 or fewer are affected adversely. The county could not be considered as eligible for disaster aid per se by the Secretary because a small area has been affected.

There are instances where a county was designated as eligible for emergency loans and the counties contiguous were not damaged enough to qualify. This would allow the State director to authorize emergency loans in those areas where there has been substantial loss suffered by 25 or fewer farmers.

On page 4, section 7 is a meaningful change from the current law. Currently the farmer has to show that he has lost at least 10 percent of his crop from his normal production average. We felt that the 10-percent variation from year to year was kind of normal. So, we increased that to 20-percent loss from normal.

The single enterprises, which constitute the whole farm is what we are addressing here. Currently the law is written in such a way that the farmer may end up with a devastating loss on his corn as a consequence of frost, for example. At the same time, if he has a substantial livestock operation, the current law requires that the entire farm operation had to be taken into consideration in order to determine eligibility.

You may have a devastating crop loss which did not affect other operations on the farm. Farmers were effectively denied access to this lending authority because their whole operation did not put them in a 10 percent or more loss category.

We have made each enterprise on the farm stand separately. Keep in mind that we still have the credit elsewhere test.

If the crop losses elsewhere are substantial, and the banks can carry that enterprise in the usual fashion, he will not be eligible for this 5-percent credit.

Section 8 provides that there can be subsequent loans made at prevailing market rates of interest 1 year at a time up to 5 years; that is, in those instances where that particular kind of a loan would appear to be more appropriate.

Section 9 on page 5 is an amendment offered by the gentleman from Texas, Mr. de la Garza. It provides that the Department of Agriculture will make a request authorizing money to be appropriated for consolidated farm and rural development for each fiscal year.

Under current practices the Department has ongoing authority, and the committees to which they turn for counsel on many of these matters is the House Committee on Appropriations.

It had been suggested, and subsequently recommended, that the Department's authority be from one year to the next and that the authorizing committee be obliged to hold annual, authorized hearings to authorize the expenditures of money, not only for lending purposes but for administrative purposes.

The intention is to provide the committee with better control over the operations of the Department of Agriculture.

Mr. Chairman, I think that essentially concludes my summary. You have before you a staff explanation of these various provisions. Counsel, have you provided both summaries for the members?

Mr. BOR. There are two separate summaries. One is a summary that consists of comments that were provided by the Department of Agriculture on various amendments contained in S. 555. The other is a summary which Mr. Hogan has prepared. It provides a brief explanation of these provisions.

Mr. BERGLAND. That concludes my report.

The CHAIRMAN. Are there any questions?

Mr. PEYSER. There are some things not completely clear to me. One of our colleagues in the House, Mr. Gilman, had a problem which he discussed with the committee. It dealt with the problems of some farmers in his area. Their particular problem was finding if they were covered. Perhaps they are covered in this legislation.

These people suffered in Hurricane Agnes in 1972. They went into borrowing for production. They thought repayment would be extended over a period of years. That was the understanding, and that was the way it was operating. Then, the regulations were evidently changed or a new decision was made so that these loans had to be repaid immediately.

The question is can these farmers who are so involved in a particular situation make loans under this legislation. Would they become eligible for current loans under this legislation?

Mr. BERGLAND. The gentleman from New York, Mr. Gilman, and others appeared before the subcommittee recommending that we install a retroactive date so that all farmers who sustain a loss as a consequence of a disaster from that date hence should be eligible for these new terms.

The subcommittee did not accept that proposition because it was felt that it would create complications on the floor of the House. Also, there were questions raised about the constitutionality of having a change in the law at this time when we have loans currently in existence.

We have loans which have been approved. Whether or not those loans must be reviewed to apply the new provisions was a question. For example, the credit elsewhere test might apply.

So, for a variety of reasons we did not recommend that we approve those loans retroactively, except in the case of the Midwest farmers who were affected by the storm in January of this year.

It is narrowly defined in the bill.

Mr. PEYSER. To continue further on that, let me say this. You are saying that these particular farmers who have suffered this problem back in 1972—and I am not asking for a retroactive question here—and because they have received subsequent emergency loans, does that preclude them from applying for any loans under this program as outlined in this bill?

Mr. BERGLAND. These provisions would go into effect upon the effective date of the act and would be applied only to those farmers who suffered disaster from that date hence.

In other words, if those producers in New York had a disaster this year, they would be eligible under these terms.

Mr. PEYSER. Under this bill there would be no money or guaranteed loans available for what would be known as production loans that were made because of a previous disaster.

Mr. BERGLAND. Those producers have access to the ongoing FHA operating loan program. The FHA program carries a maximum \$50,000 per loan. Mr. Gilman's constituents were concerned about that loan limitation because they are in a very intensive type of vegetable agriculture in which the credit needs are extremely high. They found that the \$50,000 figure effectively precluded them from credit.

Mr. PEYSER. The section speaks of subsequent emergency loans. I understood you to say that only means that if there is another disaster that they would be eligible, or does it mean that if there were not sufficient loans made, due to the original emergency, that they would be eligible for further loans?

Mr. BOR. I would think that if somebody had an emergency loan, currently outstanding, and if this bill is adopted and if that person wants to qualify for a subsequent loan under section eight, then he could do so provided he meets the criteria of this new act, one of which is that he satisfy the credit-elsewhere test.

Mr. PEYSER. That is exactly the point I was trying to make. In order to get clear on that, let's continue.

Counsel is saying that original loans, made under the emergency, needing additional loans under the subsequent section of the bill: that if those same people can meet the eligibility requirements of no other credit available, and so forth, then they would be eligible.

Mr. BERGLAND. The answer is yes; they would, however, bear the commercial rate of interest and it is a 1-year loan.

Mr. PEYSER. That is the next question. Is that subsequent loan, made under the emergency, to be treated as any current emergency loan? If they don't have enough money under the original loan and if they need the subsequent loan, the 1 year may really not answer their problem. Why wouldn't they be eligible, if they qualify for all the terms on the same basis of 7 years?

Mr. BERGLAND. These loans are made for 1 year at a time and can be made for 5 consecutive years.

Mr. PEYSER. Is that subject to a yearly approval?

Mr. BOR. That is correct.

Mr. PEYSER. They can be made for 5 years.

Mr. BOR. They would have to come in five separate times and each time satisfy the criteria of the act.

The CHAIRMAN. Are there any other questions of general nature?

Mr. JOHNSON. When we were talking about this earlier, I think the gentleman from Iowa offered the amendment which has become a further proviso on page 3 relating to emergency from January 1, 1975, to July 1, 1976. At that time I pointed out that any amendments that were made in the act should be made generally because we have different kinds of emergencies and different kinds of disasters all over the country.

It seemed to me to be inequitable to legislate on behalf of this specific storm. Now the gentleman says that that provision is in there. I would like to have justification for providing special emergency legislation for a particular storm.

It seemed to me that when we discussed it before that the committee was in general agreement that there was no need for a special type of proviso and that the act itself would take care of all types of emergencies.

Mr. BERGLAND. The difficulty in the regions of northwest Iowa and parts of Minnesota and South Dakota arose out of that devastating storm in January of this year. Thousands of cattle died. The problem out there is that the credit needs are very heavy, and the producers are unable to repay within the law because of the volume of money which is needed. This would authorize those loans to be repaid up to 20 years.

It is a unique amendment and deals only with that one situation. I will yield to Mr. Nolan or Mr. Bedell or others who are from that area.

Mr. JOHNSON. I don't argue the extent of the disaster. I am familiar with it. But I remember last year when we had the floods in the Mississippi Valley. I remember other times in the Midwest and in the Plains area where there were tremendous droughts. You have tornadoes like they had in Omaha. They cause just as much of a problem. I frankly cannot justify specific legislation for a specific storm.

Either the act is adequate to cover farm emergencies or it isn't and we ought to make it that way.

Mr. BEDELL. You understand that this does apply to any similar storm that would occur from July 1976. It seems to me that this gives us an opportunity to see how well this section functions and whether there is any problem. This is a new addition to the program. It is not mandated; it is at the discretion of the Secretary. He has the freedom to use it to see whether indeed we need to go on with it.

Mr. JOHNSON. What is the length of time of these loans, 7 years for these emergency funds?

Mr. BERGLAND. I think it is 3 years, but it is discretionary with the Secretary.

Mr. BOR. It is up to 7 years on the operating-type loans.

Mr. BERGLAND. On the emergency loan authority?

Mr. BOR. With the possibility of an extension for an extra 5 years.

Mr. JOHNSON. Then, the only difference that we are making for this particular storm is to say that the normal loan is for 7 years with the possibility of an extension to 5; and here we are saying there is the possibility of an extension to 13. If that is sound for this storm, why isn't it sound for all? If 5-years extension is enough for other storms, why is 13 necessary for this one? I don't think the case has been made.

Mr. NOLAN. I would like to make two points. There is a precedent in the actions of this committee in recognizing certain disasters for special relief. The flood in South Dakota was one example. I think the reason why the committee did that was that it was felt that this disaster was an extreme one and of an unusual nature requiring some kind of special action.

I think that one of the reasons the committee chose to have some special legislation with regard to this disaster was the fact that it came on the heels of a series of disasters which occurred within that 1 year. Heavy rains in the spring made it difficult to get the crops in that summer. This was felt to be the straw that broke the camel's back.

When added all up together this disaster was different then other disasters around the country. Its severity was such that, without some kind of a special attention and some kind of special help, many farmers would be faced with financial bankruptcy unless this committee and the Congress took some special action to remedy the problem. That is the only rationale that I can offer; that seems to me to be valid.

Mr. JOHNSON. Mr. Bergland, would you recommend that the whole act be amended to allow for 20-year loans at the discretion of the Secretary?

Mr. BERGLAND. I think it would depend upon the purposes for which the loan was obtained. There are circumstances in which those terms may not be necessary. I have no strong objection to it personally; no.

May I make one comment here? I was mistaken when I said it was narrowly defined and confined to the Arctic hurricane. It is not. It applies to all disasters which occur between the dates July 1, 1975, and July 1, 1976; I was wrong in that respect.

Mr. JOHNSON. So, we are saying that anything that comes along up until July 1, 1976, will qualify. Why not make it a permanent proviso or forget it?

Mr. BERGLAND. It is essentially characterized as an experimental provision to see if it works.

Mr. JOHNSON. How do we know if that works until we get to the end of the 20-year period?

You are, in effect, giving the Secretary an extended authority to extend it to 20 years. Why not make it a permanent proviso?

Mr. BERGLAND. You think it would be worthwhile?

Mr. JEFFORDS. I was sold on this provision partially because of the severity of the storm in the region stated but primarily because of the economic situation which was prevalent then and is prevalent now, and which will prevail through the rest of the year. The combination of the two factors—the natural disaster plus the economic situation—

creates a special situation for now and probably through the middle of next year which makes it advantageous and wise to allow special provisions during this period.

The CHAIRMAN. Are there any other general questions? If not, the bill will now be considered and is open to amendment at any point.

The gentleman from Texas is recognized for an amendment.

Mr. POAGE. On page 2, line 21, I would like to add the words "per loan" after the figure 100,000.

The CHAIRMAN. If there are no objections on page 2, line 21, add the insertion "not to exceed \$100,000" followed by the words "per loan".

Is there any discussion? If not, all in favor of the amendment say, aye. Opposed, no. The ayes have it and the amendment is adopted.

Mr. BERGLAND. I have an amendment on page 5, section 9. The gentleman from Texas was not able to be here today. He and I talked about this provision.

I move that the words "June 30, 1976" be stricken and that in lieu thereof the words "October 1, 1976" be inserted.

Mr. BOWEN. Would you prefer September 30, 1976?

Mr. BERGLAND. Yes; September 30, 1976.

The purpose of that amendment is to conform to the change in the fiscal year which commences that year.

The CHAIRMAN. This general section requires authorization for appropriation purposes.

Mr. BERGLAND. That is correct.

The CHAIRMAN. It is at the end of the fiscal year 1977.

Mr. HOGAN. It would be the end of the transitional period which now comes after fiscal year 1976. It is that 3-month period, in effect, Mr. Chairman.

The CHAIRMAN. Then it would be the beginning of the fiscal year 1977?

Mr. HOGAN. Yes, Mr. Chairman.

The CHAIRMAN. You have heard the amendment by the gentleman from Minnesota.

All in favor of this amendment please say, aye. Opposed, no. The amendment is accepted.

Mr. JOHNSON. I have an amendment on page 3, lines 8 and 9.

I move that we change the word "between" to the word "after January 1st, 1975." I move to strike the words "and July 1, 1976," so that this will render the proviso giving the Secretary authority if he deems it necessary to make a 20-year loan and it would apply uniformly after this date of January 1, 1975.

The CHAIRMAN. Is there any discussion of this amendment?

Mr. THONE. I represent the northeast Nebraska area which is contiguous to this area that we have been talking about.

Frankly, I have not had a single producer suggesting to me that there was any need for this kind of provision.

I remember the storm well. We were not hit as hard as northwest Iowa was, but we were hit pretty hard.

I would like to have some more discussion from Mr. Nolan and Mr. Bedell as to the gravity of the situation and the urgency for this provision.

Mr. BEDELL. The problem is that there were a number of people who simply could not get their bank financing because they were stricken sufficiently hard by the storm so that their cash loan problem, if they had to go by a 7-year loan, would not enable them to get the money they needed in order to get out of it. All this provision does is to give the Secretary discretion if he deems it advisable to extend the period of a loan and he is required to have security in order to do so.

So, it appears that any discretion that we give the Secretary is certainly to the benefit of everyone concerned.

Mr. THONE. I agree that that would be of help to a small percentage, but are not the reasons Mr. Nolan just mentioned the basic course rather than the disaster aspect of January 1975.

Mr. BEDELL. All right. It is both absolutely. If we had not had the other problems.

Mr. THONE. I agree.

Mr. NOLAN. The members of the committee might be interested to know that, on the light side of this thing, the storm was so severe that just last week a Minnesota farmer heard a noise in one of the snowdrifts in his yard and he found a hog in the snowdrift from the storm. Believe it or not, the hog was still alive. It was as skinny as a rail. The snow was so heavy and so severe that this hog had burrowed out a hole in the snowdrift and had been able to eat sufficient food from the ground but lost about 250 pounds.

For those of you from more temperate regions that is just how severe a Minnesota blizzard can be sometimes.

Mr. THONE. What is the Department's position on this change?

Mr. BERGLAND. I do not know what the Department's position would be on this. I would also like to ask them.

Mr. BOSTIC. As Assistant Secretary William Erwin testified before this committee, the Department opposed this proviso because it gave what we considered a special privilege to a group of disaster victims who had security. If two farms were adjacent one of the fellows had security by owning his land that would allow him to amortize a loan in 20 years; if the other man was renting, he would not have the security, and he would be denied the benefit.

We think that taking out a time period for which this benefit would expire, would affect all operating loans that we have to make. And we could make those up to 20 years. The lifetime of a security would certainly not be for operating purposes of 20 years.

Mr. BERGLAND. If I may inquire of the Department, this bill only represents a change in the emergency loan authority. It does not deal with the operating loan authority, which is subtitle A, I think it is.

Mr. BOR. Mr. Bergland, I would respectfully disagree with Mr. Bostic's position as to the language's construction. I don't think this language would change the operating loan period to make it now available for 20 years. All it would do in my estimation would be to change operating type loans which are made in connection with an emergency under this bill so that these special kinds of loans could be for a period up to 20 years.

Mr. BERGLAND. That is the way I would understand the application of the provision. Mr. Bostic, would you comment on the amendment offered by Mr. Johnson which would remove the July 1, 1976, cutoff date for the 20-year repayment schedules?

Mr. BOSTIC. If that section is going to be kept, we would like to see a time period under which it would expire. We would like to see it expire on July 1, 1976, as being preferable to applying it for ever and ever.

The CHAIRMAN. Is there any additional discussion?

If not, all in favor of the amendment of the gentleman from Colorado, Mr. Johnson, to strike the words "and July 1, 1976" from page 9 and line 9, and on page 3 to insert the word "after" before the word "January" on line 9, signify it by saying "aye." Opposed, "no."

All those in favor of the amendment signify by raising your right hand. There are 17 in favor and 8 opposed.

The amendment is, therefore, agreed to.

Mr. THONE. Mr. Chairman, I move that the proviso beginning on line 8 on page 3 and ending on line 14 be deleted.

The CHAIRMAN. The gentleman from Nebraska moves to strike all the language between line 8 and line 14 on page 3, beginning with "Providing further."

Is there any discussion on this?

All those in favor signify by saying "aye." The "noes" appear to have it.

The amendment is not agreed to.

Are there other amendments to the bill?

Mr. BOR. There are several matters which might need clarification as a result of conversations that we have had with representatives of the Department of Agriculture since the subcommittee had taken action on the bill.

I wonder if I might be given an opportunity to bring these to the attention of the committee?

The CHAIRMAN. Yes, proceed, please.

Mr. BOR. On page 2, line 12, the issue had come up as to the meaning of the words "deemed desirable."

Does that mean "deemed desirable" in the mind of the Secretary of Agriculture or in the mind of the applicant?

We received comments from the Department of Agriculture which the members have in their hands now.

Their proposal is to introduce the words "deemed desirable 'by the Secretary'".

For the purpose of clarification the committee might want to consider whether to add the words "by the Secretary" or "by the applicant" whichever the committee feels in its wisdom is the proper construction to be placed on these words.

Mr. BERGLAND. It would be this member's intention that the construction of this would be in such a way that the termination would be at the discretion of the applicant.

For example, there may be a tornado moving through a territory which may wipe out a dairy barn. In the judgment of the applicant, he did not wish to continue in the dairy business and did not want to rebuild the barn for his own reasons. However, he wished to have an emergency loan in order to enable him to continue in business and change his enterprise. He may be going out of the dairy business and into poultry.

If this were at the discretion of the producer, it would be his option whether to decide to rebuild the barn or get out of the dairy business and use the credit for other purposes.

It seems to me more appropriate that that judgment be made by the applicant, not by the Secretary.

The Secretary, of course, would have the choice as to whether or not to approve the loan subsequent to the conditions of the program.

Would it be appropriate to include language in the bill to apply that interpretation? I think we ought to. It is obviously a nebulous area.

Mr. BOR. We might just add the words "by the applicant" after the words "deemed desirable."

Mr. BERGLAND. I move that, following the words "deemed desirable" appearing on line 12 of page 2, we add the words "by the applicant."

The CHAIRMAN. Is there any further discussion?

If not, will all those in favor so signify by saying aye. The ayes have it, and the amendment is agreed to.

Mr. BOR. Another issue has come up on the same page, section 5.

The interest rate for loans to which the 5-percent rate does not apply is the rate that will be prevailing in the private market for similar loans.

The Department of Agriculture has provided us with the manner in which they would interpret this provision of section 5. Essentially, the way they would apply section 5 is to provide for a single rate on a national basis rather than have prevailing rates that would differ for each region or different areas of the country.

As I understand it, administratively it is much easier to handle the program in that manner, but the question does come up as to whether in the view of the committee, this is the proper way of applying the term "prevailing market rate."

Mr. BALDUS. As I recall, I raised this question when it was discussed before. Because of the great amount of difference that prevailing rates for similar type loans might give, I asked for clarification from the Department on how it might be handled.

I would think that that would be a satisfactory way, if it is an understanding that we have here; that would be adequate.

Mr. BERGLAND. I would have no objection to establishing a national rate. I really don't know how else it could be run.

The CHAIRMAN. Do you suggest that the Secretary establish the average prevailing rates based on regions?

Mr. BOR. That is another possibility.

The CHAIRMAN. The present section would give the Secretary discretion to do either.

Mr. BOR. That is correct.

The CHAIRMAN. It says "he determines what the prevailing rates should be."

Unless there is some expression of strong opposition on the part of the committee as to how the Secretary should proceed, I suppose this should remain.

Mr. BOR. Another matter relates to the interpretation of section 7 which appears on page 4 of the bill.

The issue involved here is what would be considered an enterprise which constitutes a basic part of farm and ranching or agricultural operation? How big must it be before it is a basic part? How would you determine what is a single enterprise?

The Department has provided some comments on the manner in which it would interpret this section which the committee might want to consider.

For example, if a producer had produced several types of vegetable crops, they would consider that all vegetables crops taken together would be a single enterprise and would not take a count of potatoes as distinguished from some other type of vegetable. However, vegetables would be considered separately from a dairy operation that might be carried out on the farm.

The Department would also say that, if a dairy farmer were producing feed grains that were used in connection with the maintenance of the dairy cattle, the feed grain and dairy operations would together be constituted as a single enterprise. Similarly, if he had cash crops on the farm, the cash crops would be considered as a single enterprise. Take a man who is producing several types of crops—wheat, corn, and perhaps some other crops; apparently taken together, the cash crops would be considered a single enterprise.

Then, the issue comes up of what is basic. How big must these be before you consider that it is a basic enterprise? As a rule of thumb, the Department has indicated the 25-percent figure. I call this to the attention of the committee because they may want to give it consideration in their deliberations.

Mr. BALDUS. It seems to me that the sense of this legislation which provides the "credit elsewhere" test and the fact that a disaster must have occurred, is pretty restrictive language. For the Department to pursue a course of continuing to restrict and to limit the intent and the meaning of it and for us to have may later—and the committee may later—prefer to have that flexibility there so that, when the Department can respond to a real need that is apparent, there be no such confinement to such restrictive understanding. That would be much better.

The rather general language that the committee wrote here is what we intended so that the Department be able to accomplish the purpose of this act unencumbered. So, I would prefer to have that understanding here that we do not intend to restrict them with a lot of confining covenants.

The CHAIRMAN. Has the subcommittee added this or does it exist in the present legislation?

Mr. HOGAN. This was recommended language. The new language is recommended by the Department.

The CHAIRMAN. The Department suggests this language?

Mr. HOGAN. Yes. That is the new language.

The CHAIRMAN. And the subcommittee adopted it?

Mr. HOGAN. Yes, Mr. Chairman.

The CHAIRMAN. Mr. Bor, are you raising the questions on your own behalf or for the Department?

Mr. HOGAN. Mr. Chairman, if I may respond, we need guidance for writing the report as to exactly what the committee intends. These are questions that we raised in our own discussions with the Department representatives. The responses to these questions, will, I think, help in the administration of the amendments to this act, and also will give us guidance in putting together the report as to what the committee has in mind in adopting this language.

The CHAIRMAN. As I see it, we must ascertain the question here of whether the committee recognizes the Department's intent in recommending the language for this amendment.

Mr. BOR. The question goes further than that. The question is really what does the committee have in mind in its own judgment as to the meaning of these terms?

Mr. BERGLAND. I think the gentleman from Wisconsin has a good point. I think it would be unwise to put in the committee report or elsewhere some percentage defining the basic enterprise because we do have a credit-elsewhere test.

Let us take the instance of a cattle feeder who has a relatively minor grain enterprise. The grain enterprise is devastated by a storm. Yet, it does not constitute 25 percent of that farming enterprise. He may be eligible for a loan, meet the credit-elsewhere provision and I think he ought to be entitled to it.

I therefore think that the gentleman from Wisconsin makes a valid point that we ought not to encumber the report with any precise percentage because I believe we have other safeguards that will protect the integrity of the program and will prevent persons from getting credit who do not need it.

Mr. HIGHTOWER. Would it remove the element of doubt if we just amended this to say "and after seeking financial assistance based on production losses, must have sustained at least a 20-percent loss, et cetera," and cut out that doubtful language there in the middle?

Mr. BERGLAND. Would your proposal eliminate the single enterprise definition we have?

Mr. HIGHTOWER. Right.

Mr. BERGLAND. Mr. Chairman, I would not support such proposition. I think the definition of a single enterprise would make the program far more effective.

For example, we had reported instances in which a farmer suffered a devastating loss in his grain crops. He had a large turkey operation in which there was no loss sustained as a consequence of the disaster, but there was a heavy economic loss. In computing the eligibility under the current laws they had to take the entire farm enterprise—the turkey revenues, the grain revenues—and compare that to the preceding years.

In many cases these producers were ineligible for a loan to pay off the losses of the grain enterprise. This is only because of the weighing in of the turkey enterprise which was dominant in that particular situation.

The inclusion of this single enterprise definition would allow the grain to be considered on its merits. If the turkey enterprise produces profits, obviously the producer will not be eligible for a loan anyhow because of the credit-elsewhere test, but the turkey enterprise may have sustained an economic loss because of the market conditions. Under the current law he is frequently ineligible for a loan.

Mr. HIGHTOWER. Mr. Bergland, I see what you are saying, but if we are going to leave that language in there, I quite agree with counsel that we are going to have in some way to modify this "basic" clause—the basic part of this farming—to clarify what we are talking about when we say "basic."

Mr. BERGLAND. Are you talking about minor sidelines like having 20 laying hens for example?

Mr. HIGHTOWER. I am just saying that, to meet the objections, the questions that counsel raised are valid and we ought to modify that "basic" to say just exactly what we are doing.

The CHAIRMAN. I would like to attempt to clarify this.

This as, I understand it, is language that was recommended by the Department of Agriculture and included by the subcommittee in the amended language of the bill. According to counsel, the words "a basic part of the farming, ranching, or aquaculture operation" have traditionally been interpreted by the Department to mean 25 percent of the revenue-producing aspect of the operation.

Given this background, it seems to me that, unless we take some action to the contrary, in a report or otherwise, to disapprove such interpretation, the Department will undoubtedly be inclined to feel that the committee agrees with that interpretation.

Mr. BOR. That is correct.

The CHAIRMAN. I want to reply to Mr. Baldus that I do not think that by remaining silent on the subject we will necessarily lead the Department away from its interpretation of 25 percent.

This is their language, and this is what they tell us they mean by it. I can only assume they will follow this interpretation.

The question is, then, do you want to include something in the report or the bill itself saying "shall be construed at some lesser percentage or shall not necessarily be 25 percent," or whatever.

Mr. BALDUS. Did you mean 20 percent?

The CHAIRMAN. The USDA apparently interprets the words "basic part of the farming" to mean at least 25 percent of the farming operation.

Mr. BALDUS. I see. A 20-percent loss with respect to a basic part would be 25 percent of the operation. Is that where we are? You have to have a 20-percent loss and a 25-percent segment.

Mr. JEFFORDS. You have to have at least a 5-percent loss of your overall operation which, I think, is perfectly reasonable.

The CHAIRMAN. I am not trying to argue with the language here. I just want to make clear my impression that, unless we do something, we are accepting the departmental interpretation.

Mr. BALDUS. If you are talking about a 5 percent of the total operation, the credit elsewhere test would probably govern it anyway. He would probably be able to get credit elsewhere. So, I think it is unnecessary but I don't have any strong feeling about it.

The CHAIRMAN. Are there any further comments?

Mr. BOR. There is another issue that you might want to consider in connection with section 9.

As section 9 was proposed by Mr. de la Garza, it says that, before you can have an appropriation, you have to get an authorization.

We discussed the matter of financing with the budget and fiscal people in the Department. It turns out that there are two revolving funds under the consolidated act which are used to finance the ongoing operations of the consolidated act. There is no appropriation provided for the use of those loan funds. The reason for it is that the money essentially comes out of the private market. What the Appropriation

Committee has been doing in the last year or so is to put limitations in their Appropriation Act as to the amount that they can use from the revolving fund for particular purposes.

For example, in the Appropriation Act they have a limitation as to the amount of money that can be taken out of the agricultural credit insurance fund for operating loan purposes. I think it is somewhere in the neighborhood of \$450 million for the current fiscal year. That does not require an appropriation. All it is is a limitation on the use of those loan funds.

Appropriations are made for the Farmers Home Administration under the Consolidated Act. The appropriations are for the following purposes:

(1) When the revolving funds incur losses, then the Department comes back to Congress and asks to have those losses restored by appropriations. This is one instance where they get appropriations.

(2) When they come to Congress asking for appropriations for salary and expense money—the administrative staff in Washington for example.

(3) The amount of money they need for direct loans. Currently, direct loans are a relatively small portion of the lending authority that is used by the Farmers Home Administration.

What I am really saying is that the way the language is now tailored it applies only to the case where appropriations are required but it would not apply to the use of the loan fund in the first instance from these two revolving funds. I have drafted some language that would require before money can be used from the loan funds for any of the purposes of the Consolidated Act that they would have to get an annual authorization from Congress.

The committee may want to look at that. However, the question is whether the committee in its wisdom wants to broaden the application of this section to cover the matter that I just referred to.

The CHAIRMAN. Unfortunately, Mr. de la Garza, the author of this particular section, is not here. However, I think it was his intention to have a periodic opportunity for this committee to review the general operations of the resulting Farm and Rural Development Act through an authorization process.

Counsel is just telling us that, as far as it is attached to this bill, it would not operate to prevent the loans being made. It would only operate in certain direct loans for the administrative costs of the act which reflect salaries and expenses.

Mr. POAGE. May I comment on that? I know what Mr. de la Garza's purpose is. Frankly, I am thoroughly in accord with his purpose. And that is to tell the Department that it must deal with this committee more directly. Most of the committees of the Congress put limitations on expenditures so that it becomes necessary for the Department in question to come back to the legislative committee each year and secure authorization to do the things that they want to continue to do.

It has long been the custom in this committee—and I think we have been getting away from it a little bit in the last few years—to not place the requirements on the Department to come before this committee.

The result is—I am not saying this critically of the present Department of Agriculture as being any different from any other departments or any other Secretaries with whom I have dealt—that they seem to come to the conclusion that it is perfectly safe to thumb their noses at the Committee on Agriculture and to pull in the Appropriation Committee and discuss anything with them.

You will find that it is done. I don't think that Mr. Butz is any worse or any better than his predecessors in this regard. The situation has grown and grown to where the Department feels; "Why bother with that Committee on Agriculture? They have given us the authority. They have given it to us without restrictions and without limitations. We don't have to go back and bother with them."

I know that, if we ask them to be here every year to seek authority, then we would soon cover ourselves with the burden of detail that we don't want to undertake. On the other hand, if we simply tell the Department to go their way and that we have no further interest on how they handle this, any department is going to do that sort of thing.

What Mr. de la Garza is trying to do here is to make sure that the Department feels that they must consult with this committee in order to get guidance as to how they should proceed. I don't think he is trying to take from the Appropriation Committee the right to pass on the magnitude of any of these programs. I certainly would not want to take from them. I must say that I think that the Appropriation Committee has done a very creditable job over the years.

It is not a matter of finding fault with the way the Appropriation Committee has been run. The whole idea of who is going to direct agriculture in the U.S. Congress has shifted into the hands of the Appropriation Committee. Whoever controls the purse has a tremendous control over the policy.

Mr. de la Garza is simply trying to bring some policymaking factors back to this committee.

The CHAIRMAN. I agree with your summation of Mr. de la Garza's purpose. I hope we will exercise some oversight and reauthorization responsibilities with respect to these programs. As Counsel has suggested the language here would directly proscribe the use of these two revolving funds, unless authorized by this committee, in fiscal years ending after June 30, 1976. Although under the original language of the bill the Department would probably seek continued authorization for this program, this is certainly a more direct means of having the Department representatives return from time to time to discuss its actions.

The question is not whether the Department wishes to be authorized or not, but rather, would the language suggested here present any problems in the administration of the program.

Mr. MILES. I don't see that the Department would be unduly restricted. It would simply require an annual authorization which is commonly required from other departments as well.

Mr. BERGLAND. I think the amendment will certainly meet what Mr. de la Garza intended. I move its adoption.

The CHAIRMAN. Mr. Bergland moves to adopt this amendment. Do you want me to add this as an additional requirement?

Mr. BOR. That is right, sir. The other provision would cover the appropriations and this covers the use of the loan funds. I guess the data would be September 30, 1976.

The CHAIRMAN. The gentleman from Minnesota, Mr. Bergland, moves to add section 10, which is before you, and to include the date of September 30, 1976.

Is there any discussion?

All those in favor signify this by saying "Aye".

The amendment is accepted.

Are there any other amendments?

Mr. BERGLAND. I move the bill as amended do pass.

The CHAIRMAN. The gentleman from Minnesota moves that the bill S. 555 as amended be reported to the House with recommendation that it pass.

All those in favor of the motion signify this by saying "Aye." Opposed "No".

The ayes appear to have it. The motion is adopted. The bill will be favorably reported with the record showing a quorum present. The record will also show that a quorum was present upon the adoption of the reporting motion on the bill S. 441.

Mr. HOGAN. I assume that the committee wishes to treat this as a single amendment to S. 555, Mr. Chairman?

The CHAIRMAN. Yes, that is correct.

Are there any further matters to come before the full committee?

If not, I want to thank the members for their attendance. We stand adjourned.

[Whereupon, the full committee adjourned at 11:40 a.m.]



