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MISCELLANEOUS CONSERVATION AND CREDIT

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KANSAS STATE UNIVERSITY

HEARINGS

BEFORE THE

SUBCOMMITTEE ON

CONSERVATION AND CREDIT

OF THE

COMMITTEE ON AGRICULTURE

HOUSE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

SECOND SESSION

ON

H.R. 12207 and H.R. 12195

INTEREST RATE CRITERIA FOR REA BORROWERS

MARCH 17, 1976

PBB POISONING OF LIVESTOCK

JUNE 3, 1976

H.R. 14641

REAL ESTATE AND OPERATING LOANS

JULY 28, 1976

H.R. 12571 and S. 3051

AMEND COMMODITY FUTURES TRADING COMMISSION ACT

AUGUST 19, 1976

H.R. 15059

EXTEND EMERGENCY LIVESTOCK CREDIT ACT OF 1974

AUGUST 25, 1976

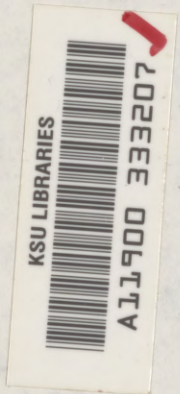
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INTEREST RATE CRITERIA FOR REA BORROWERS

WEDNESDAY, MARCH 17, 1976

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

The subcommittee met, pursuant to notice, in room 1302, Longworth House Office Building, at 2 p.m., Hon. Bob Bergland (chairman of the subcommittee) presiding.

Present: Representatives Baldus, English, Richmond, Hightower, Madigan, and Jeffords.

Staff present: Fowler C. West, staff director; Robert M. Bor, counsel; Steve Pringle and Perry Shaw, staff assistants.

Mr. BERGLAND. The Subcommittee on Conservation and Credit will come to order.

We are meeting today to consider a number of bills, among them H.R. 12207 and H.R. 12195 which are designed to correct unintended inequities in the interest rate criteria for REA borrowers and for the purpose to visit briefly with the administration about the budget of the REA.

[H.R. 12207 and the report from the U.S. Department of Agriculture and H.R. 12195 follow:]

94TH CONGRESS
2D SESSION

H. R. 12207

IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 1976

Mr. BERGLAND (for himself, Mr. MADIGAN, Mr. POAGE, and Mr. WAMPLER) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Rural Electrification Act of 1936, as amended, to correct unintended inequities in the interstate rate criteria for borrowers from the Rural Electrification Administration, and to make other technical amendments.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Rural Electrification
4 Administration Technical Amendments Act of 1976".

5 SEC. 2. Section 301 (a) (4) of the Rural Electrification
6 Act of 1936, as amended, is amended to strike the semicolon
7 at the end thereof, and add the following: "and the unobli-
8 gated balances of any funds made available for loans under
9 the item 'Rural Electrification Administration' in the Depart-

1 ment of Agriculture and Agriculture-Environmental and Con-
2 sumer Protection Appropriations Acts;”.

3 SEC. 3. Section 305 (b) of the Rural Electrification Act
4 of 1936, as amended, is amended—

5 (1) by striking the words “meets either of the fol-
6 lowing conditions”;

7 (2) by striking out all of paragraph (1) thereof
8 and inserting in lieu thereof the following:

9 “(1) in the case of a telephone borrower, has an
10 average subscriber density of three or fewer per mile;”;

11 (3) by striking out all of paragraph (2) thereof
12 through and including the words “telephone borrowers”
13 and inserting in lieu thereof the following:

14 “(2) in the case of an electric borrower, has an
15 average consumer density of two or fewer per mile or
16 for which the ratio obtained by dividing the sum of its
17 distribution plant and general plant by its annual gross
18 revenue less cost of power exceeds 9.0 for the most
19 recent calendar year for which all such information is
20 available. As used in this subsection the sum of distribu-
21 tion plant and general plant shall be the total of the
22 amounts shown in accounts numbered 360 through and
23 including 399 of the uniform system of accounts ap-
24 proved, as of the effective date of this amendment, by
25 the Administrator, for use by Rural Electrification Ad-

1 ministration borrowers; gross revenue shall be the
2 amount shown in account numbered 400 of said system
3 of accounts; and the cost of power shall be the total of
4 amounts shown in accounts numbered 500 through and
5 including 573 of said system of accounts as the same
6 is constituted”;

7 (4) by inserting the words “to a telephone or
8 electric borrower” following the words “make a loan”
9 in the proviso to paragraph (2) thereof.



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

March 17, 1976

Honorable Thomas S. Foley
Chairman, Committee on Agriculture
House of Representatives

Dear Mr. Chairman:

This is in reply to your request for a report on H.R. 12206 and H.R. 12207, bills to correct unintended inequities in the interest rate criteria for borrowers from the Rural Electrification Administration and to make other technical amendments. These bills are identical except for minor differences in the titles and in the preambles.

This Department recommends such legislation be enacted, preferably with an additional modification as discussed herein. These bills represent modifications of the legislation submitted by the Administration in September 1975 and introduced as H.R. 12195.

All three bills provide for the transfer of the unobligated balance of the Rural Electrification Administration Appropriation for fiscal year 1973 to the Rural Electrification and Telephone Revolving Fund. Using the Revolving Fund, an off-budget entity, for loans and advances instead of making such loans and advances under Sec. 4 and Sec. 201 of the Rural Electrification Act would prevent a corresponding increase in the Federal budgetary deficit without depriving REA electric and telephone borrowers of the use of these funds, subject to any limitations imposed by the Congress for loans to be made in any one year.

All three bills also eliminate the revenue per mile criteria for determining eligibility for 2 percent financing. These criteria were largely instrumental in increasing the number of electric borrowers eligible for 2 percent loans from 181, or 19.5 percent of the total in fiscal year 1973, to 300, or 32.3 percent in fiscal year 1976; and the number of telephone borrowers so eligible from 191, or 23.4 percent of the total in fiscal year 1973, to 350, or 41.2 percent in fiscal year 1976. In addition, H.R. 12206 and H.R. 12207 propose other changes in the criteria for 2 percent loans not considered in the Administration bill.

Under these bills, telephone borrowers with three or fewer subscribers per mile, instead of two or fewer per mile, would become eligible for 2 percent financing. This change would make 177 of the present borrowers eligible for such financing, a decrease of 14 from the number eligible in fiscal year 1973 and of 173 from the 350 currently eligible.

Honorable Thomas S. Foley

2

For electric borrowers, the change is in the form of an additional alternate test - the ratio of general and distribution plant investment to revenue less cost of power. A borrower would be eligible for the special rate if the ratio of this plant to revenue was greater than nine. Under either the density test, which remains at two or fewer, or the plant to revenue test, 196 electric borrowers would be eligible for 2 percent loans. This number of borrowers is very near the 19.5 percent of all borrowers eligible for the special rate at the time Congress passed the legislation creating the Revolving Fund. It represents a decrease of 104 from the 300 currently eligible.

If the plant to revenue test is enacted, we strongly recommend using a simple average of the ratio for the three preceding years to determine eligibility. We believe that this would provide a more stable test by reducing the effects of delaying rate increases.

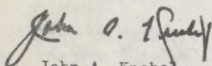
We also believe it would be desirable to clarify the phrase "for which all such information is available." To provide adequate time for the receipt of accurate reports and at the same time avoid delays in completing the processing of applications on hand, a uniform date about six months after the close of the calendar year should be established for determining eligibility based on new annual data. Sec. 305 of the Rural Electrification Act could be further modified as indicated in the attachment to achieve this result.

Set forth below for five fiscal years is a projection of savings resulting from enactment of the proposed legislation, in millions of dollars:

	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>Total</u>
Electric	1.5	4.7	9.5	14.3	19.0	49.0
Telephone	1.2	3.6	6.6	9.6	10.5	31.5
Total	2.7	8.3	16.1	23.9	29.5	80.5

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,



John A. Knebel
Acting Secretary

Attachment

UNITED STATES DEPARTMENT OF AGRICULTURE

Proposed Modification of Sec. 3 in
H.R. 12206 and H.R. 12207

SEC. 3. Section 305(b) of the Rural Electrification Act of 1936, as amended, is amended--

(1) by striking the words "an electric or telephone borrower which meets either of the following conditions:"

(2) by striking out all of paragraph (1) thereof and inserting in lieu thereof the following:

"(1) a telephone borrower which had, at the end of the most recent calendar year ending at least six months before approval of the loan, an average subscriber density of three or fewer per mile."

(3) by striking out all of paragraph (2) thereof and including in lieu thereof the following:

"(2) an electric borrower which had at the end of the most recent calendar year ending at least six months before approval of the loan an average consumer density of two or fewer per mile or an average adjusted plant revenue ratio of over 9.0, such ratio being a simple average of the ratios obtained by dividing the sum of its distribution plant and general plant by its annual gross revenue less cost of power for that calendar year and the two immediately preceding calendar years. As used in this subsection the sum of distribution plant and general plant shall be the total of the amounts shown in accounts numbered 360 through and including 399 of the Uniform System of Accounts approved, as of the effective date of this amendment, by the Administrator, for use by Rural Electrification Administration borrowers; gross revenue shall

- 2 -

be the amount shown in account numbered 400 of said system of accounts; and the cost of power shall be the total of amounts shown in accounts numbered 500 through and including 573 of said system of accounts as the same is constituted."

(4) by adding a new paragraph (3) as follows:

"(3) a telephone or electric borrower, when the Administrator, in his sole discretion, finds that the borrower:

(A) has experienced extenuating circumstances or extreme hardship; or

(B) cannot, in accordance with generally accepted management and accounting principles, produce net income or margins before interest at least equal to 150 per centum of its total interest requirements on all outstanding and proposed loans with an interest rate greater than 2 per centum per annum on the entire current loan, and still meet the objectives of the Act, or

(C) cannot, in accordance with generally accepted management and accounting principles and without an excessive increase in the rates charged by such borrowers to their consumers or subscribers, provide service consistent with the objectives of the Act."

[The subsequent letter from the U.S. Department of Agriculture follows:]

U.S. DEPARTMENT OF AGRICULTURE,
RURAL ELECTRIFICATION ADMINISTRATION,
Washington, D.C., April 6, 1976.

HON. THOMAS S. FOLEY,
Chairman, Committee on Agriculture,
House of Representatives

DEAR MR. CHAIRMAN: In our March 17 letter from Acting Secretary John A. Knebel we estimated savings due to the proposed legislation discussed in that letter totaling \$80.5 million over the 5-year period required. Due to an error in our calculating, which caused some duplication in the estimate, the amounts shown in that letter should be changed as follows:

	1977	1978	1979	1980	1981	Total
Electric program.....	\$1.3	\$4.2	\$9.4	\$16.3	\$24.7	\$55.9
Telephone program.....	.5	1.5	3.0	4.5	6.0	15.5
Total.....	1.8	5.7	12.4	20.8	30.7	71.4

We deeply regret this miscalculation and feel that you need the correct figures for your analysis.

Sincerely,

DAVID H. ASKEGAARD,
Acting Administrator.

[H.R. 12195, 94th Cong., 2d sess.]

A BILL To amend the Rural Electrification Act of 1936, as amended, to correct unintended inequities in the determination of interest rates for borrowers from the Rural Electrification Administration and the Rural Telephone Bank, to make other technical amendments, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is hereby declared to be the policy of the Congress that unintended inequities in the determination of interest rates for borrowers from the Rural Electrification Administration and the Rural Telephone Bank should be corrected. In order to effectuate this policy, and to make other technical amendments, the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), is therefore further amended as hereinafter provided. This Act may be cited as the "Rural Electrification Administration Technical Amendments of 1976".

SEC. 2. Section 301(a) (4), as amended, is amended to read as follows:

"(4) the unobligated balances of any funds made available for loans under the item 'Rural Electrification Administration' in the Department of Agriculture and Agriculture-Environmental and Consumer Protection Appropriation Acts, and all appropriations for interest subsidies and losses required under this title which may hereafter be made by the Congress;"

SEC. 3. Section 305(b), as amended, is amended to read as follows:

"(b) Insured loans made under this title shall bear interest at either 2 per centum per annum (hereinafter called the 'special rate'), or 5 per centum per annum (hereinafter called the 'standard rate'). Loans bearing the special rate shall be available only for an electric or telephone borrower which has an average consumer or subscribed density of two or fewer per mile: *Provided, however,* That the Administrator may, in his sole discretion, make a loan at the special rate if he finds that the borrower—

"(1) has experienced extenuating circumstances or extreme hardship; or

"(2) cannot, in accordance with generally accepted management and accounting principles, produce net income or margins before interest at least equal to 150 per centum of its total interest requirements on all outstanding and proposed loans with an interest rate greater than 2 per centum per annum on the entire current loans, and still meet the objectives of the Act, or

"(3) cannot, in accordance with generally accepted management and accounting principles and without an excessive increase in the rates charged by such borrowers to their consumers or subscribers, provide service consistent with the objectives of the Act."

SEC. 4. Section 408(b) (4) is amended to read as follows:

"(4) Loans shall not be made under this section unless the Governor of the telephone bank finds and certifies that in his judgment (i) the security therefor is reasonably adequate and such loan will be repaid within the time agreed, and (ii) the borrower has the capability of producing net income or margins before interest at least equal to 150 per centum of the interest requirements on all of its outstanding and proposed loans, or such higher or lower per centum as may be fixed from time to time by the Telephone Bank Board in order to allocate available funds equitably among borrowers or to improve the marketability of the telephone debentures: *Provided, however,* That the Governor of the telephone bank may waive the requirement of (ii) above in any case if he shall determine (and set forth his reasons therefor in writing) that this requirement would prevent emergency restoration of the borrower's system or otherwise result in severe hardship to the borrower."

Mr. BERGLAND. The proposed REA Technical Amendments Act of 1975, before us today, would amend the Rural Electrification Act, as amended, in two particulars.

It would, one, transfer certain previously appropriated funds from one account to another and, two, would reduce substantially the number of REA borrowers eligible for mandatory 2-percent loans.

Organizations representing REA borrowers support these changes as being in the public interest and, in my judgment, should be commended for the unselfish position they have taken with regard to the special rate criteria.

The funds to be transferred between accounts are those which remained unobligated December 29, 1972, when REA stopped making direct loans under authority of the Rural Electrification Act.

When the revolving fund was established, the act stipulated the assets that were to go into it—the amounts receivable on previously approved REA loans, funds then available to the Administrator on notes issued to the Treasury, shares of the Rural Telephone Bank, and other funds—but did not mention the unobligated portion, \$455,634,525, of the loan funds' appropriation for fiscal year 1973.

In 1974, the President proposed to rescind these funds but Congress did not agree. Hence, the funds remain available and will be put to use in the revolving fund upon enactment of the proposed amendment.

The second part of the bill would correct unintended inequities in the interest rate criteria for borrowers.

Under the act as it stands, there are two tests for determining whether a borrower is eligible for the special rate of interest.

One is the so-called density test; the number of electric consumers or telephone subscribers per mile of line. The other is a low-revenue test.

Under the proposed amendments, an electric system would continue to be eligible for the special rate if the number of consumers per mile is two or fewer but for telephone borrowers the eligibility level would be changed from two to three or fewer per mile.

The bill proposes to drop the low revenue criteria for both electric and telephone borrowers. For electric borrowers, the bill would provide a new eligibility test based on the principle that those requiring high investment to produce a dollar of revenue should qualify for the special rate.

REA now uses a plant-revenue ratio in determining the amount of outside capital that a borrower should obtain to supplement an REA loan. The PRR proposed in this legislation would be calculated somewhat differently but would follow the same general principle which is well established and useful.

The bill would not alter the present discretionary authority to make 2-percent loans which is vested in the Administrator.

In my opinion, the proposed legislation will meet the needs for change which have been expressed by both the borrowers and the administration.

We have with us today Assistant Secretary, Mr. Bill Walker, and the REA Administrator Dave Hamil. At this time, we would like to have you speak to the committee about the budget matters and whatever you care to say about the pending legislation.

Mr. Secretary, we are pleased that you have come.

We have just been notified that there is a quorum call on the floor to which we are obliged to respond.

The subcommittee accordingly will stand in recess for just 10 minutes.

[Recess taken.]

Mr. BERGLAND. We will now hear from Mr. Walker.

**STATEMENT OF WILLIAM H. WALKER III, ASSISTANT SECRETARY
FOR RURAL DEVELOPMENT, U.S. DEPARTMENT OF AGRICULTURE**

Mr. WALKER. Thank you, Mr. Chairman and members of the subcommittee.

It is a pleasure to appear before this committee today to discuss the administration's position on several bills that would amend the basic Rural Electrification Administration (REA) legislation.

The administration appreciates the interest and efforts of the chairman and this committee to improve the statute creating the rural electrification and telephone revolving fund.

H.R. 12195 is the legislation the administration proposed to correct unintended inequities in the determination of interest rates for borrowers from the Rural Electrification Administration and the Rural Telephone Bank, and to make other technical amendments. H.R. 12206 and H.R. 12207 are bills introduced by members of this committee which will achieve essentially the same results as H.R. 12195.

Enactment of legislation of this type would correct technical deficiencies in the 1973 amendments to the Rural Electrification Act and allow the Rural Electrification Administration to allocate total resources more equitably among eligible borrowers.

The administration proposal recommends amendments that would:

1. Transfer the unobligated balance of the appropriation for fiscal year 1973 to the rural electrification and telephone revolving fund;
2. Change the statutory criteria for 2-percent financing; and
3. Modify the principal eligibility test for Telephone Bank financing.

Let me begin by explaining the need for transferring the balance of the 1973 appropriation to the revolving fund.

When the rural electrification and telephone revolving fund was established in May 1973, the unobligated balance of the appropriation for electric and telephone loans in fiscal year 1973, amounting to \$455,634,525, was not merged into the fund. In 1974, the President proposed that the amount of this budget authority which was still available be rescinded. Since the Congress did not complete action on the proposed rescission bill within the prescribed 45-day period, the unobligated

balance of funds remaining from the fiscal year 1973 appropriations became available. However, the financial needs of REA electric and telephone borrowers are being met entirely through use of the revolving fund, outlays from which are not subject to general limitations imposed by statute on expenditures and net lending.

The transfer of the balance of the 1973 appropriations to the revolving fund would facilitate the use of these previously appropriated funds while reducing the need to replenish the revolving fund through borrowings or sales of insured notes or certificates of beneficial ownership therein.

The initial assets of the revolving fund amounted to \$7.8 billion, including about \$6.6 billion receivable on notes issued to the REA Administrator for previously approved REA loans, about \$882 million available to the Administrator for advances under his notes to the Treasury, about \$262 million collected as principal and interest after June 30, 1972, and \$60 million in class A shares of the Rural Telephone Bank. Because only \$1.1 billion of the \$7.8 billion in initial assets consisted of cash or cash equivalents, it was necessary in October of 1975 for the REA Administrator to find additional cash resources in order to continue making cash advances on electric and telephone loans already approved. This was accomplished under an interim financing arrangement with the Treasury, pending the sale of certificates of beneficial ownership in notes held by REA.

In order that these certificates of beneficial ownership will be salable to investors, they must bear interest at rates considerably higher than the 2 and 5 percent rates REA receives from its borrowers, and the fund will incur substantial interest subsidy costs. By transferring the balance of the 1973 appropriation to the fund, it will be possible to suspend for a time the sale of certificates of beneficial ownership by REA.

The second amendment we have proposed relates to eligibility for loans at the special 2-percent rate.

When the 1973 amendments to the Rural Electrification Act were enacted, it was contemplated that approximately one-fifth of the electric and telephone borrowers would be eligible for 2-percent financing under either the density or the gross revenue per mile criteria set forth in section 305 of the amended Rural Electrification Act. Chairman Poage made it clear during the hearings on the 1973 amendments that the density or gross revenue per mile test was expected to make eligible for 2-percent money 178 electric borrowers, or 19.2 percent of all electric borrowers, and 186 telephone borrowers, or 22.9 percent of all telephone borrowers. He stated that the total of 364 borrowers appeared to him to be extremely liberal as it meant that one out of every five would be eligible for 2-percent money.

Operating experience under the 2-percent criteria set forth in the May 1973 amendments to the Rural Electrification Act has established that the number of borrowers eligible for 2-percent insured loans based on a density of two or fewer per mile (and therefore ineligible for 5-percent loans) has remained approximately the same. However, there has been a substantial increase in the number of borrowers eligible for 2-percent loans and ineligible for 5-percent loans based on the gross revenue per mile of line criteria of at least \$450 less than the national average in the electric program and at least \$300 less than the national

average in the telephone program. The number of electric borrowers eligible for 2-percent loans has increased from 181, or 19.5 percent of the total, in fiscal year 1973 to 300, or 32.3 percent, in fiscal year 1976. The increase in the number of telephone borrowers is even more striking, going from 191, or 23.4 percent of the total, in fiscal year 1973, to 350, or 41.2 percent, in fiscal year 1976.

We have found that this unexpected result is caused by borrowers with high gross revenues per mile of line experiencing a growth in revenue per mile nearly double the national average. The greater than average increase in revenues per mile of these borrowers has caused the national average to rise sharply, thereby increasing the cutoff point for borrowers eligible for 2-percent REA financing and ineligible for 5-percent loans. As a result, many borrowers which were above the national average in 1974 fell below the national average in 1975 and 1976, despite substantial increases in their gross revenues. If the gross revenue per mile of borrowers at the top of the scale continues to increase disproportionately, the number of borrowers eligible for 2-percent loans will also continue to increase.

The number of borrowers eligible for 2-percent interest rate financing in the electric and telephone programs will continue to increase, despite continued improvements in earnings, because the revenue per mile factor correlates poorly with accepted financial measures, such as times interest earned, and debt service coverage.

Elimination of the gross revenue per mile test is necessary to provide for a more equitable allocation of the special 2-percent rate financing. Some electric cooperatives have had to double electric rates because of the substantial increases in fuel costs while other electric cooperatives obtaining wholesale power from hydroelectric plants have had no need to increase their retail rates. As a result, many electric cooperatives with low wholesale power costs have suddenly become eligible for 2-percent financing because their gross revenue per mile is so much lower than the escalating national average revenue per mile of all systems.

In the telephone program a similar situation exists. Many systems which have increased their revenues consistently each year suddenly have become eligible for 2-percent financing because the national average has escalated as a result of a small number of systems in very rapid growth areas.

Eliminating the revenue per mile factor will reduce the number of borrowers automatically eligible for 2-percent financing. The Administrator, however, will still have the authority to make 2-percent financing available to borrowers which he determines need such financing under the discretionary criteria in the act. Current data indicate that under the two or fewer users per mile of line density criterion alone, 153, or 16.5 percent, of the electric borrowers and 81, or 9.5 percent, of the telephone borrowers would be eligible for 2-percent financing in fiscal year 1976.

Our third proposed amendment would modify the principal eligibility test for financing from the Rural Telephone Bank.

Section 408(b)(4) of the act now prohibits the Governor of the Telephone Bank from making a loan to a telephone system which does not have the "capability of producing net income or margins before interest at least equal to 150 per centum of the interest requirements

on all of its outstanding and proposed loans, or such higher per centum as may be fixed from time to time by the Telephone Bank Board in order to allocate available funds equitably among borrowers. . . ." In some cases, this effectively requires telephone systems to wait until REA loans are available even when the Bank has ample funds. These borrowers cannot qualify for a Bank loan without considerable increases in telephone rates which are required solely to provide the revenue needed to satisfy the interest coverage test. If "or such higher per centum" were changed to "or such higher or lower per centum" the Telephone Bank Board could reduce the eligibility test to below 1.5 as well as above 1.5 in order to allocate funds more equitably among borrowers, depending upon the relative availability of each source of financing from time to time.

H.R. 12206 and H.R. 12207 do not propose any modification in the criteria for Rural Telephone Bank loans. While the Department would like to see the criteria for Bank loans changed, this modification is not as essential as the other provisions of our proposed legislation.

We are pleased to note that all three bills agree on the proposed transfer of the remainder of the 1973 appropriation to the revolving fund. Although all three bills propose abolition of the revenue-per-mile test, H.R. 12206 and H.R. 12207 also propose other changes in the criteria for 2-percent loans not proposed in the administration bill.

For telephone borrowers, the criteria of two or fewer subscribers per mile is raised to three or fewer subscribers per mile. This change would make 177 of the present borrowers eligible for special rate financing, about the number eligible in fiscal year 1973.

For electric borrowers, the change is in the form of an additional alternate test—the ratio of general and distribution plant investment to revenue less cost of power. A borrower would be eligible for a 2-percent loan if the plant to revenue ratio is greater than nine. Under either the density test, which remains at two or fewer, or the plant-to-revenue test, 196 electric borrowers would be eligible for 2-percent loans. This number of borrowers is very near the 19.5 percent of all borrowers eligible for the special rate at the time Congress passed the legislation creating the revolving fund.

If a plant-to-revenue ratio test is enacted, the administration strongly urges that it be calculated using a simple average of the ratios for the 3 preceding years. Our data indicate that the ratio changes significantly from year to year for many borrowers. The use of a 3-year average would provide a more stable test and reduce the effects of delaying warranted rate increases.

We also believe it would be desirable to clarify the phrase "for which all such information is available." To provide adequate time for the receipt of accurate reports and at the same time avoid delays in processing applications in the pipeline, a uniform date about 6 months after the close of the calendar year should be established for determining eligibility based on new data.

The administration can support H.R. 12206 or H.R. 12207, but would respectfully request your serious consideration of these two suggested modifications.

We appreciate this opportunity to present this statement in support of technical changes needed to erase unintended inequities that

have developed since the 1973 amendments to the Rural Electrification Act. With the assistance of Administrator David Hamil and members of his staff, we would be pleased to provide answers to any questions which the committee may have.

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

Mr. Hamil, do you have something that you wish to say at this time?

Mr. HAMIL. I have nothing further to add to what Secretary Walker has said other than that it is a real pleasure to be here and to know that we have what I believe to be adequate for the changes of technical amendments to the now splendidly operating Rural Electrification Act.

Mr. BERGLAND. Thank you very much, gentlemen.

Mr. Hamil, I wondered if you could just briefly outline for the subcommittee the budget under which you are working for this next fiscal year. As you are probably aware, we have a requirement in this committee that we examine the budgets of the agencies with whom we work to be sure that all is well.

As you perhaps know, Mr. Administrator, the authorizing committees of the Congress are now involved in the budgeting process so it is essential that we be aware of and up to speed on the budget and any problems that may lie therein.

Mr. HAMIL. Mr. Chairman, we have placed in the hands of this committee a brief summary of the proposed 1977 budget program, the rural electric and telephone programs.

Loan program levels, including guaranteed loans for rural electric and telephone programs, are expected to reach almost \$2.7 billion in 1977. This will be the second largest loan level in the history of the program. It is three times the \$913 million made available in 1973, the year during which REA began to operate under new legislation.

The following table compares 1975 and 1976 loan levels with the 1977 budget.

[The table submitted by Mr. Hamil follows:]

RURAL ELECTRIFICATION ADMINISTRATION

Summary of 1977 Budget Program
(In thousands)

Rural Electric and Telephone Programs. Loan program levels, including guaranteed loans, for rural electric and telephone programs are expected to reach almost \$2.7 billion in 1977. This will be the second-largest loan level in the history of the program. It is three times the \$913 million made available in 1973, the year during which REA began to operate under new legislation. The following table compares 1975 and 1976 loan levels with the 1977 budget:

	1975 Actual	1976 Estimate	TQ Estimate	1977 Estimate
Electric loans:				
Insured loan level	\$ 700,000	\$ 750,000 ^{a/}	\$187,500	\$ 750,000
Guaranteed loan level	1,206,343	1,286,000	322,000	1,286,000 ^{b/}
Telephone loans:				
Insured loan level	199,939	250,061	62,500	250,000
Guaranteed loan level	200,000	250,000	63,000	220,000 ^{b/}
Telephone Bank loan level	160,188	180,000	45,000	180,000
Telephone Bank capitalization	(30,000)	(30,000)	(7,500)	(30,000)
Total loan level	2,466,470	2,716,061	680,000	2,686,000
Salaries and Expenses:				
Appropriation	19,133	20,112	5,220	21,409
Supplemental	--	601	212	--
Total	19,133	20,713	5,432	21,409

^{a/} Fiscal Year 1976 Appropriation Act provides "not less than \$750,000,000, nor more than \$900,000,000" for rural electrification loans.

^{b/} The 1977 budget proposes a limitation on guaranteees of \$1,506 million.

Mr. HAMIL. Briefly the electric loans insured loan level request was \$750 million. The guaranteed loan level was \$1.286 billion. Telephone loans, insured loan level was \$250 million; guaranteed loan level, \$220 million. Telephone bank loan level was \$180 million.

The next item is capitalization of the bank which has been continuing for the past 5 years and will probably continue for the next 5; \$30 million. That means a total loan level of \$2.686 billion.

In our salaries and expenses, we are asking for \$21.409 million.

If there are any questions, Mr. Chairman, I have members of my staff here with me and we would be pleased to answer them for you directly. If we are unable to answer directly, we will obtain the information for you.

Mr. BERGLAND. Mr. Hamil, I have just one general question that is rather parochial in nature. As you know, my district is in northwestern Minnesota. The northern tier States from Montana through northern Michigan have depended upon Canadian crude oil and natural gas for many, many years.

The Canadians have announced a policy of curtailment. Indeed, they are cutting back the exports to the United States. While a person living in Georgia or in Washington, D.C. would be uncomfortable without heat in Minnesota it is fatal.

The Canadians are implementing this policy of curtailment and it is imperative that we develop alternative energy sources, one of which can be produced from the lignite fuels of North Dakota, providing electric heat for literally thousands and thousands of families who will otherwise be without a supply of central heat.

Implicit in this whole arrangement is the need for enormous quantities of credit, particularly in the generating and transmission area.

Are you able to handle the credit demands that will be placed upon all credit sources? More precisely, will you be able to accommodate within this budget the kinds of demands that will be placed upon us?

Mr. HAMIL. Mr. Chairman, it is somewhat difficult to ascertain exactly at this time just the number of our proposed loans that may develop to the point of making the guarantee.

It is our belief that, at this time, the \$1.5 billion will meet these needs, however, should needs develop that would be in excess of this I would very speedily deliver to the administration a request for additional resources to meet these needs.

Based upon what you have said and know that what you have said is factual, I would believe that it would be very reasonable to say that additional resources for those purposes could be made available.

As you well know, some of the largest loans that we have made have been made in the area that you mentioned for generation plants. The Coal Creek plant is now under construction over in western North Dakota. The output of that plant, over 900 megawatts of capacity, will flow into the State of Minnesota through a direct current line of about 412 miles.

The NKOTA Cooperative of Grand Forks, N. Dak., also serving a great deal of the northwest portion of the State of Minnesota, is in the process of adding to its capacity. I believe that one is 400 megawatts.

I will assure you and members of this committee that we in REA will keep others in our administration and Members of the Congress informed of needs that are developing in that area.

I think it is safe to say to you, Mr. Chairman, that since the enactment of 93-32 in 1973 we have been able to meet all of the financial needs as rapidly as our borrowers have been able to develop the projects that are needed and I believe will continue to be needed.

Mr. BERGLAND. Mr. Hamil, I have one question on the testimony provided by the Secretary and then I will yield to my colleagues.

It goes to your remarks on page 8 wherein you suggest we clarify the phrase "* * * for which all such information is available." I believe that is in reference to those words found on line 19 of page 2 of the committee bill.

Would you care to amplify on that statement?

Mr. HAMIL. I am going to ask Mr. Vellone, Assistant Administrator for Administration, if he will speak to that proposed correction.

Mr. VELLONE. That phrase has two possible interpretations. One is information on a particular borrower; that is, the information on density or information on plants and on revenues.

It also may mean the information on all of the borrowers in each program. It is possible to have both interpretations.

Our concern is that we want to have the information in without interrupting the loan processing. These reports cover calendar years ending December 31 and they do not all come in at the same time.

We think we need a bit of time in which to be sure that these reports are received and are received accurately. We, therefore, recommend that the calendar year data, the latest calendar year data for both density purposes and for the plant and revenue purposes be for the calendar year ending at least 6 months before the loan is made.

Mr. BERGLAND. Would you think it necessary for us to amend the bill in that regard or could that be handled administratively with appropriate support in the committee language?

Mr. VELLONE. That is always a possibility. Amending the bill, of course, would make it crystal clear but we have operated under interpretations or statements by the committee in the reports on legislation.

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

Mr. BALDUS. Just looking at the budget, it seems like a no-increase budget is really a decreased budget because of the inflationary impact on actual, spendable dollars. Is that a correct interpretation?

Mr. HAMIL. I will answer that, Congressman, by saying that we feel that we can carry on the REA loan program under these calculations that have been presented here. The one spot where you will notice a reduction in the volume is on the guaranteed loan level in the telephone program.

I would call the committee's attention to a historical fact; that the REA telephone loan program was quite behind in its loans keeping up with its applications. I believe that now, with the Telephone Bank volume at \$180 million and \$250 million in the insured program and a \$220 million guaranteed program, we will be able to meet all of those loan needs satisfactorily.

As I mentioned before, Mr. Baldus, should projects develop faster that would be indicated by the guaranteed loan level that is proposed for 1977, I think we would have ample time to follow normal administrative procedures and bring it to the attention of the Congress and have the matter resolved at that time.

Mr. BALDUS. Mr. Chairman, they may be able to, but if I understand their new budget procedures, we may not be able to respond to that need as quickly as you can because our procedures are undergoing some changes.

What I am referring to, of course, is that reduction but also the reduction in actual dollars. It seems to me when you request the same amount of dollars that is, in effect, a reduction, a request for a 5- to 7-percent reduction.

Therefore, if year after year you requested the same amount of dollars it would be presiding over a diminishing program. That is the reduction that I am referring to; not the noted reduction, but the one because the dollars are exactly the same. This amounts to a reduction.

My question is: Does that reflect a decreased demand?

Mr. HAMIL. I can answer that yes or no, Congressman. I think if you will check the record here you will find that our loan program has expanded up to a sizable volume. I think that if you go back to 1963 that was \$618 million.

We had gone up, as you see, and this is the first year that we have had a loan program of from \$750 to \$900 million. It is our feeling that we can operate satisfactorily within the \$750 million for the year 1977.

Mr. BERGLAND. If there are no other questions, gentlemen, we thank you very much for appearing here today and for your constructive criticism and for your very cooperative approach in these matters.

These are never easy to resolve and you have been most helpful. We appreciate it.

Mr. WALKER. Thank you, Mr. Chairman.

Mr. HAMIL. I also thank you, Mr. Chairman and members of this committee, for your consideration. The REA staff is available to you and members of your staff at any time that you need calculations to be made for you in determinations of what you would propose to do with these bills.

Mr. BERGLAND. Thank you, sir. I know that you have other obligations and you may be excused but we would like to ask if some of your technicians could stay for the balance of the hearings in case questions may arise with which we may need some professional help.

Mr. HAMIL. I am glad you asked me, Mr. Chairman, because I feel a couple of them would have remained here anyway but now you have made it legal and they will be here. At any time that you need information that may not be in their hands but can be obtained in REA, it is going to be available to you.

Mr. BERGLAND. Thank you, sir.

Our next witness will be Bob Partridge, the manager of the National Rural Electric Cooperative Association, Washington, D.C.

STATEMENT OF ROBERT D. PARTRIDGE, EXECUTIVE VICE PRESIDENT AND GENERAL MANAGER, NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION

Mr. PARTRIDGE. Thank you, Mr. Chairman and members of the committee.

I have with me on my immediate right Charles A. Robinson, Jr., the deputy general manager of NRECA, and on my left Mr. Don Smith, staff economist for NRECA.

For the record, my name is Robert D. Partridge. I am the executive vice president and general manager of the National Rural Electric Cooperative Association here in Washington, D.C., servicing about 1,000 members, mostly cooperatives, in 46 States throughout the United States, Puerto Rico, and the Virgin Islands.

We appreciate this opportunity to present our views on the proposed REA Technical Amendments Act of 1976, H.R. 12206 and H.R. 12207.

We particularly appreciate the interest of this committee in dealing with this rather detailed and technical but important legislation.

The purposes of these technical amendments to the Rural Electrification Act are twofold.

First, to remedy the malfunctioning of one criterion for mandatory loans by REA at the 2-percent special interest rate, the remedy for which will substantially reduce the number of borrowers eligible for and the amount to be loaned at such rate.

Second, to transfer certain previously appropriated but unobligated moneys from one account to another. These are clearly technical amendments, notwithstanding their importance to the future functioning of the Rural Electrification Act and the loans programs administered by REA.

The REA lending authority under the present Rural Electrification Act is providing the capital required by the rural electric systems and the loan program is basically excellent. It is incomparably better than the program that was attempted briefly in the early part of 1973 under the Rural Development Act.

No change in the present RE Act would be needed today, as far as the rural electric systems are concerned, had the generally accepted economic assumptions of early 1973 proved to be accurate.

The mandatory criteria for REA-insured loans at the special interest rate would have worked with acceptable selectivity and the number of REA borrowers eligible for the special interest rate would have been relatively stable.

However, the unpredictably extreme increases in fuel prices caused distortions in normal patterns of rates and revenues. The result was that one of the statutory measures of need for the special interest rate has not worked as anticipated.

The legislation you are now considering would replace the malfunctioning criterion with one that would achieve the result initially intended by Congress. It would also transfer previously appropriated loan funds from an inactive account to an active account, the rural electric and telephone revolving fund.

Before discussing the proposed amendments with greater precision, permit me if you will, please, to review a sequence of events related to this proposed legislation:

First, on December 29, 1972, the U.S. Department of Agriculture announced by press release that it would no longer make loans under authority of the Rural Electrification Act but rather would attempt to administer a rural electrification program under the Rural Development Act.

For various reasons fully discussed at the time, many Members of Congress and many other persons throughout the country—notably directors and managers of rural electric systems—considered the announced decision a serious mistake without statutory authority and they were unwilling to accept it.

Second, on February 21, 1973, the Senate passed S. 394 which, in effect, sought to restore the program under the Rural Electrification Act. The House, however, took a different approach, seeking to develop a program which would more fully meet the capital needs of the rural electric systems and on which the Congress and the administration could agree.

Third, on April 4, 1973, the House passed H.R. 5683 which included provisions for a revolving fund from which REA would make loans at a standard rate of 5 percent or a special rate of 2 percent and for REA guarantees of private loans.

It provided that an electric borrower would be eligible for the special rate if it met either of the following conditions. One, an average consumer density of two or fewer per mile; or two, an average gross revenue per mile which is at least \$450 below the average gross revenue per mile of REA-financed electric systems.

It also conferred upon the REA Administrator discretionary authority to make loans at the special rate.

The electric systems then eligible for the special rate, as measured by the REA data then available, totaled 181 with 167 of them qualifying under the low density condition and 14 additional under the low revenue condition.

Some, of course, qualified under both criteria.

Fourth, on May 9 and 10 both Houses agreed to the conference report after the conferees eliminated certain mandatory language to which the administration objected and the administration agreed to lend specified amounts of capital from the revolving fund. The bill went to the White House as S. 394.

Fifth, on May 11 the President signed the bill and it was enacted as Public Law 93-32.

Sixth, by July 1, the start of the 1974 fiscal year, REA had later data than had been available during consideration of the new legislation with result that additional systems became eligible for the special rate.

The total increased from 181 to 198. The number qualifying under the low revenue criterion only rose from 14 to 36.

The reason for this increase in systems qualifying was that some systems had sharply increased their rates and their revenues, thereby increasing the national average revenue per mile, while a greater number of systems had operated with significantly smaller increases in revenue.

So there were more systems whose revenues lacked at least \$450 of equaling the national average.

Generally, those systems which raised their rates to cover bit increases in fuel costs did not get the benefit of the special interest rate while some systems that did not have to increase rates and revenues did become eligible for the special rate.

Another increase in the low revenue group took place the next year. The total of eligibles went from 198 up to 235 with the low-revenue-only category going from 36 up to 78. In the present fiscal year, the

eligibles total 301—up from 235—and the number eligible because of low revenue only is up from 78 to 148.

The NRECA board of directors discussed this situation very carefully at its 1975 summer meeting and decided to ask the members to pass judgment as to whether the organization should recommend an amendment to the statute.

The board set up a committee to study possible alternatives, to discuss the matter with the members at the regularly scheduled regional meetings in the fall, and to ask the members to make their decision at the annual meeting in February this year.

The organization followed that procedure exactly. The members engaged in full and free discussion against the background of experience with the new legislation and a difficult economic situation.

Throughout the period under discussion, rural electric systems throughout the country have felt the impact of increased prices of fuel and of inflation generally. This has resulted in rate increases of an unprecedented number and magnitude in the last 1½ years and the prospect that many more will have to raise rates in the future.

Because of this, it is extremely difficult to justify any action which would add additional impetus to the upward spiral of retail rates. These facts make very difficult a change in the loan criteria such as we are recommending and, of course, we make our recommendation on the basis of other and more compelling considerations.

In that desparate period following the termination of the REA loan program on December 29, 1972, the Congress and we examined many courses of action and the many facts which had to be considered in designing the new REA loan program for the future.

Among these was the fact that we believed it unlikely that the Administration or the Congress would, over an extended period of time, make available all of the loan funds required at an interest rate of 2 percent.

In fact, as we then assessed the situation, it was our mutual conclusion that the 2-percent interest rate should continue to be available only to those rural electric systems most critically in need of this kind of special assistance.

The Congress and we further concluded that, while no criteria could indefinitely and perfectly select from among all REA borrowers with absolute precision, those most in need of the special 2-percent interest rate, we would rely upon either a density test or a revenue test to determine eligibility for this special rate.

We recognized, in other words, that only a few would be eligible for the special 2-percent rate and it was our belief and I think that of the Congress as well that these would be the REA borrowers most in need of the lowest interest rate available.

With that background, it is appropriate to point out that while the density criterion has been doing an acceptably selective job, the gross revenue criterion has fallen short of expectations.

The criterion of two or fewer consumers per mile is clearly understood by all concerned. It is not subject to manipulation and it identifies a high degree of risk from storm damage and other hazards in the utility operation.

Better than the low-revenue criterion, as a measure of need, would be a ratio between revenue and investment in the system. Our mem-

bers recommend calculating the ratio as follows: Add the investment in distribution facilities and the investment in general plant and that is the investment side of the ratio.

To get the revenue side, subtract the cost of power from the operating revenue. Then divide the investment by the revenue. If the result is a figure higher than 9, REA would lend to that system at the special rate.

To avert any possible misunderstanding about this calculation, let me point out in passing that REA uses a different plant-revenue ratio in determining the proportions of the mix between REA standard rate loans and supplementary private loans in the present financing patterns. That is why it is important to describe the PRR calculation as the proposed legislation does.

Applying the new measure or criterion would result in qualifying 42 systems on the basis of 1974 data, the latest available. Adding these 42 to the 153 systems currently eligible by reason of low density, the total eligible would be 195.

This figure should not change much from year to year in view of the fact that both PRR and consumer density are relatively stable.

In adopting the resolution that states the organization's position on these matters, the members voted unanimously and want me to report this fact to the Congress.

In a separate resolution, our members recommended the other amendment you are considering—transfer to the rural electrification and telephone revolving fund of the available loan funds which had been approved by Congress and which remained unobligated on December 29, 1972, when REA stopped making direct loans under the Rural Electrification Act.

The amount of money, as reported by the Department of Agriculture, is \$455,634,525 of which \$366,466,000 had been intended for electrification loans and \$89,168,525 for telephone program loans.

It is generally agreed, I believe, that these funds could well have been included in the revolving fund initially. If you will look at section 301 of Public Law 93-32, you will see that the list of assets assigned to the revolving fund is comprehensive, indeed, so that the inclusion of unobligated loan funds would be compatible with the other inclusions.

Also important to note: The funds would be put to good use in the revolving fund.

As you know, the Department of Agriculture has recommended the transfer to "... facilitate the use of these previously appropriated funds while reducing the need to replenish the revolving fund through borrowings or sales of insured notes or certificates of beneficial ownership in the fund."

This matter appears to be technical and noncontroversial and, therefore, subject to routine handling.

NRECA recommends your approval of this and other technical amendments contained in the H.R. 12206 and H.R. 12207.

Mr. Chairman, members of the committee, I will be glad to respond to any questions the committee may have.

Mr. BERGLAND. Thank you very much, Mr. Partridge, for a comprehensive and constructive statement. I have a question and it goes to the testimony presented by Assistant Secretary Walker wherein they sug-

gested that we amend the bill to provide for a 3-year moving average in computing this plant-revenue ratio.

Would you speak to that recommendation?

Mr. PARTRIDGE. Yes, I would be glad to, Mr. Chairman.

There are two matters which came up as suggestions from among our people and I think from REA as well. After our committee had made its study and had advised the membership of the change which we would propose for their consideration at our annual meeting in February, one of them was the proposition of a rolling average, a moving average—by whatever name called—rather than a 1-year figure for the calculation of plant-revenue ratio.

The other matter which came up was the matter of inclusion in the calculation of the plant-revenue ratio of transmission lines owned by distribution systems.

Our Board's committee felt that both of these matters had merit but felt, further, that they had already advised our members of the change which they would place before them and that to then change the rules of the game, if you will, might result in confusion from which we might never recover.

Therefore, they declined to make any further change.

It is our view—to address directly the question of the 3-year rolling average—that the measure does have some merit. For example, it would tend to stabilize the number of eligible systems.

Additionally, it would make it more difficult if a borrower were of a mind to try to do so to manipulate in any one year to become eligible for a 2-percent loan in a succeeding year.

I think it would be rather difficult to do that in any event but it is harder if it is 3 years to maneuver to become eligible.

Because of our Board's action and our membership's action, we cannot say that our membership supports it because this was never put to vote before them. We do think that the idea does have some merit and I think that we would not strongly object if, in the wisdom of the committee, it is felt that that 3-year average has sufficient merit to be included in the bill.

Mr. BERGLAND. Thank you very much.

Are there any other questions of this group of experts? Mr. Baldus?

Mr. BALDUS. Could I address a question that I addressed earlier? That is to the REA budget. The question really was that since it is a level budget does that really reflect a diminishing budget and does that, in turn, reflect needs or demands?

Mr. PARTRIDGE. Congressman Baldus, the answer to your first question is: Yes, it is in effect a diminishing budget because inflation has had its decided impact on costs of construction of utilities plants.

As to the adequacy of the request, let me call on Don Smith, our staff economist, to respond on that question. Mr. Smith conducts annually for NRECA a survey of our borrowers' needs as they see them for the coming year.

On the basis of that survey we make our request of the Congress for the authorization. I would like for him to respond to the second part of your question.

Mr. SMITH. Thank you. I might point out that the REA backlog as of January 1 of this year amounted to distribution of \$347 million and GNT of \$1.3 billion. To that figure, the loan fund survey that NRECA conducted during January showed that distribution systems

will submit to REA the balance of this fiscal year an additional \$505 million and generation and transmission costs may apply for as much as \$5.3 billion, depending on how their plans materialize.

The point of this is that \$750 million would be the very minimum level that would be adequate and it probably would not be adequate. The \$900 million we feel would be.

If \$750 were a minimum with as much as \$900 million to be provided for basically distribution purposes, this might be adequate to meet those needs.

On the other hand, the GNT loan levels are much harder to predict because it does depend on how the plans—in many instances joint planning now with other GNT's or other types of suppliers of energy—materialize.

These would be well in excess of \$1.5 billion. They would be well in excess of any sort of limitation that is being proposed to be placed on guaranteed loan levels.

It is for that reason that we think that the Congress should continue to place no specific limitation on the amount of guaranteed loans.

Mr. BERGLAND. If the gentleman from Wisconsin would yield on that point; this is a matter that our committee has been most concerned with, not just on REA legislation but all lending authorities.

We find the budget of the United States is a misleading document. All it lists are the debts and the expenses. If a business enterprise were to file a financial statement like we file the budget of the United States, few would be willing to invest a dime because we list neither the assets nor the net worth; just expenses and debt.

It is no wonder that people think this Congress and this Government is spending itself into the ground. There is no place in Government where we list the value of the acres of prime forest land that is owned by the taxpayers of the United States, for example.

We are trying to find a way by which the guaranteed loan portions of the Government are split out from the budget and identified as a separate item because we are pledging the full faith and credit of the United States behind these loans but the loss ratios are so low that they can hardly be measured.

They need to be controlled, they need to be observed, but they ought not be in the budget appearing as though we are appropriating money from the U.S. Treasury and it is somehow disappearing down a rathole because that is not true.

The gentleman makes an excellent point. It is a matter with which we are concerned in all agriculture lending and we are trying to find a way to change it.

Mr. PARTRIDGE. Mr. Chairman, if I may point out this bill deals with an item that falls precisely in that category. The \$455,634,525 which it is proposed be transferred to the rural electric and telephone revolving fund was traded as an expenditure; not a loan or an investment, but as an expenditure for fiscal year 1973.

Therefore, the committee is dealing with a sum of money which has long ago been treated as though expended, actually spent. In fact, of course, nothing has happened to it and even if you transfer it over it then will, of course, be used in a revolving fund the assets of which will propel the program for a good many years to come.

Mr. BERGLAND. Are there other questions?

Mr. BALDUS. I guess the bottom line on that, then, is that this is minimally adequate and does, in fact, reflect a reduction and that you anticipate that your needs are really more than that. Is that correct?

Mr. PARTRIDGE. Yes, Mr. Baldus; and particularly on the guaranteed loan program. As the Administrator said to you, in these power projects the generation and transmission systems are terribly difficult to forecast the precise timing on.

With all of the delays that there are inherent today and without desperate efforts to get capacity on the line, I defy almost anyone to say within a 12-month period when the long term capital financing will have to be laid on the line on a power supply facility.

REA and its borrowers are in no better shape in that regard than the rest of the industry is today. We think that the guaranteeing authority is almost certainly going to exceed \$1.5 billion and ought, for the good reasons that the Congress has heretofore taken the action, be left open ended. Since it is only a guarantee that is involved and since the credit record of the rural electric system suggests that the Government is most unlikely to lose anything on it, ever, it seems most prudent to leave that guarantee open ended; at least, to us it seems reasonable.

Mr. BALDUS. Mr. Chairman, as I understand the new budget procedure, we cannot do that. Is that correct?

Mr. BERGLAND. Unfortunately, that is correct, but it is a matter on which we have not given up because we are making our views known to the Committee on the Budget of the House of Representatives.

I have talked with the chairman and some of the persons on the committee. They recognize this is a shortcoming and are trying to find a way by which this can be properly identified and remedy it henceforth.

We may not be able to do it in this budget proposal because we are just running out of time. This is a brandnew vehicle and we are all learning lessons.

Mr. BALDUS. The reason I am probing it, Mr. Chairman, is that energy is an area where I think all of the Congress agrees that a great deal of investment is going to be necessary over a period of time if we are going to continue.

Still, at the same time, we may be limiting ourselves by our own actions and by our own rules unintentionally. It would seem like the question surfaces then if it would not be safer to go for a larger request with the understanding that if it was not all needed it would be safer that way.

Mr. BERGLAND. Thank you very much, gentlemen. We appreciate your help in this matter.

Mr. PARTRIDGE. Thank you, Mr. Chairman and members of the committee.

Mr. BERGLAND. Our next witness is Mr. A. Harold Peterson, the executive director of the counsel for the National REA Telephone Association located in Washington, D.C.

STATEMENT OF A. HAROLD PETERSON, EXECUTIVE DIRECTOR AND COUNSEL, NATIONAL REA TELEPHONE ASSOCIATION

Mr. PETERSON. Mr. Chairman, members of the committee, my name is A. Harold Peterson, attorney at law, and I reside at Chisago City,

Minn. I appear here today as executive director and counsel of the National REA Telephone Association whose membership is composed solely of REA telephone borrowers, mainly the commercial (privately owned) type. We are pleased to have the opportunity to appear before this committee to support the proposed technical amendments to the present Rural Electrification Act as shown in H.R. 12207. We thank you for this privilege.

Public Law 93-32, which was signed into law on May 11, 1973, contained major changes in the Rural Electrification Act. These changes came about when the Congress resisted an administrative decision enunciated on December 29, 1972, to terminate the program and make it operate under the Rural Development Act. The new act, now nearly 3 years old, has provided the program greater strength and flexibility to accomplish the objectives set forth by the Congress. Nearly 3 years of operation has also shown that there are certain unintended inequities resulting from the statutory criteria which determines qualification for the 2 percent "special rate" of interest, which should be corrected.

Under the 1973 amendments to the act, 2 percent financing is available for telephone borrowers who (1) have a subscriber density of two or less per mile, or (2) have an average gross revenue per mile of less than \$300 below the national average of REA-financed telephone systems. In addition, the Administrator can, in his discretion, make such financing available in extenuating or extreme hardship cases.

At the time of passage of the act in 1973, 191 telephone companies qualified for this "special rate" interest under either the density or gross revenue criteria. From 1973 to date, the number has increased substantially due mainly to the gross revenue part of the criteria, as shown by the table below:

Fiscal year	Number	Percent
1973.....	191	23.4
1974.....	228	27.7
1975.....	294	35.1
1976.....	350	41.2

This phenomena has occurred because a small percentage of telephone borrowers either serve rapid growth areas or possess toll centers, both of which factors lead to greater-than-average increases in gross revenue. This has caused the national average figure to rise higher and higher with each succeeding year; this figure will, in all probability, continue to go higher. Of course, as the average gross revenues increase, the number of companies eligible for "special rate" loans also increases and as a consequence, many companies have become eligible for "special rate" financing, who would not otherwise, and who, we might add, never expected to.

If the telephone density criteria is changed as proposed in H.R. 12207, from two to three subscribers per mile, and the revenue criteria eliminated completely, the number of companies who would then be eligible for "special rate" financing would be reduced from 350 to 177. This amounts to a reduction of 49 percent. This would result in 14 less companies being qualified than were at the time of the passage of the act.

No criteria will be perfect in all respects. However, we wish to point out that a "density only" criteria is simple to apply and is more stable

than any other we know of. The number of companies qualifying for the "special rate" would go down rather than up in future years as more subscribers are added to the systems.

We concur in the recommendation to transfer the unobligated balance of the appropriation for fiscal year 1973 to the rural electrification and telephone revolving fund. It is our understanding that these funds have been held by the administration in abeyance since Congress did not concur in the proposal to rescind these moneys. On the telephone side, this amounts to \$89,168,525. Transfer of these moneys to the revolving fund makes good sense because it will reduce the need for replenishment in the future of the revolving fund to the extent of the amount of the transfer without resulting in any additional budget outlay since these funds have long ago been appropriated.

Our Association has given much study and thought for the past 18 months toward solving the criteria problem. We have had numerous discussions with the Administrator of REA and his staff; in addition, we have met with representatives of the industry associations, both electric and telephone. The position of our association can be stated very simply: The REA insured loan program must be preserved with integrity in order to continue to accomplish the long-stated congressional objectives of bringing modern electric and telephone service to rural America. Unless the equity criteria is corrected at an early date, the REA insured loan program, both electric and telephone, could be jeopardized. To allow these unintended inequities to continue would invite criticism; as responsible citizens, we wish to join in support of H.R. 12207.

Before closing I do want to make a comment with respect to what Congressman Baldus has alluded to in connection with the budget. This will probably, it will in fact be in all the years that I will have testified before appropriations subcommittees, the first time that I will agree with the administration's appraisal as to the needs of the telephone program for fiscal year 1977.

However, I have the same concern that Congressman Baldus has about an upper limit. So far that has not bothered us. In the case of the guaranteed loan program, for instance—and that is a substantial part of the telephone program—the administration has seen fit to meet that need in what we feel is a responsible manner and I hope that it will continue.

I think with that, Mr. Chairman, I will close and tell you that I appreciate being here today and will be happy to respond to any questions you may have.

Mr. BERGLAND. Mr. Peterson, I want to commend you and your association for your attitude in this regard. I know many would wonder how any group such as yours could recommend legislation that would result in a reduction in the number of eligible borrowers among the many members which support you and your objectives.

I think that you have very correctly perceived a change, a profound change in the attitude of the House of Representatives that has occurred in the last few years.

When I first came here, budgets were looked upon as essentially an administration's problem to which the House would make some adjustments; usually added to but never did much with the proposition submitted by the President.

We now have our own Budget Control Act. This has imposed upon the Congress certain disciplines we have never had. With that comes certain authorities and powers which I believe the people of the United States believe ought to be vested with their elected representatives.

However, in this change we have seen an examination of every item in the budget by our peers. It is not a matter of just arguing with the President's proposals, but rather we examine ourselves and each other very carefully.

The question to which you referred in this instance, the matter of integrity, is of paramount importance. I am persuaded that unless some changes are made a successful move could be initiated on the floor of Representatives striking the entire program from the appropriation bill on the grounds that there are certain of these borrowers who cannot justify or defend a 2 percent loan and those few examples would be cited to discredit the entire program.

I do not believe we would be able to plug the tide, frankly, because I have seen this happen recently in other matters. Therefore, I commend you for your forward-looking and your courageous attitude in this regard.

Are there questions of Mr. Peterson?

[No response.]

Mr. PETERSON. Thank you very much, Mr. Chairman.

Mr. BERGLAND. Our last witness then this afternoon is Dave Fullerton, the executive vice president of the National Telephone Cooperative Association, Washington, D.C. Dave, we are pleased to have you, sir.

STATEMENT OF DAVID C. FULLERTON, EXECUTIVE VICE PRESIDENT, NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

Mr. FULLERTON. Good afternoon, gentlemen. With me is Mr. Frederick D. Goss, assistant manager of NTCA and also our legislative director.

For the record, I am David C. Fullerton, executive vice president of the National Telephone Cooperative Association.

The National Telephone Cooperative Association is the national association representing the 242 REA-financed rural telephone cooperatives providing nonprofit telephone service to over 800,000 subscribers in 35 States. NTCA also represents some 30 locally owned and operated commercial telephone systems financed through the rural telephone loan program administered by the Rural Electrification Administration.

Since shortly after the passage of Public Law 93-32, 3 years ago, the NTCA membership has been actively considering the desirability of further amending the REA Act of 1936. Recognizing a need for change from total dependence on low-interest financing, NTCA endorsed a telephone bank concept in 1965 and worked for 7 years in support of the Rural Telephone Bank legislation finally enacted in 1971. During this period our positions have consistently been in support of changes in the rural telephone program which enhanced administration of the program and benefited the rural people who are its ultimate beneficiaries.

After consideration at several legislative committee meetings and at our last two annual meetings, the NTCA membership adopted a resolution supporting certain amendments to the REA Act. That resolution follows:

PROPOSED REA AMENDMENTS

Whereas, the Administration has proposed additional amendments to the REA Act of 1936, as amended, and

Whereas, NTCA recognized that certain language in the 1973 amendments to the Act has created administrative difficulties in the operation of the several loan programs, and

Whereas, NTCA members cannot support further amendment to the REA Act unless certain alterations which we view as positive changes for the program are included in any draft legislation;

Therefore be it *resolved*, that NTCA support legislation to amend the REA Act telephone loan programs in the following particulars:

1. To remove the revenue-per-mile of line criterion from the "special rate" 2 percent insured loan program and alter the subscriber density factor to 3.0 or less per mile of line; thus leaving approximately 20 percent of all borrowers continuing to be eligible for 2 percent financing; retaining the Administrator's discretionary powers to make special rate 2 percent insured loans as now provided in section 305(2) (a) (b) (c) of the Act.

2. To insert or alter existing language in section 305 so that borrowers meeting the criteria of eligibility for 2 percent loans may accept 5 percent insured loans, at their own option, if such funding is more readily available.

3. To maintain the requirement in section 408 regarding eligibility for Rural Telephone Bank loans that a bank borrower maintain a 150 percent TIER ratio for all existing and proposed loans.

4. To remove the prohibition of REA loans for CATV purposes in REA borrower served areas, so long as a telephone borrower also furnishes voice communications service in the area.

5. To require the utilization of the remaining \$89 million in fiscal year 1973 funds impounded by the Nixon administration; either through direct loan to borrowers qualifying for 2 percent financing or through addition of these funds to the REA Electric Telephone Revolving Fund.

6. To attempt to include some language which will commit the Administration (and its successors) to adequate funding for the insured program within the limitations of the economic capability of the Revolving Fund.

Our membership supports these changes partially because we know that the rural telephone program needs to operate in a manner acceptable not only to our friends on the Hill, but to the Administration as well.

The first section of our resolution supports the criteria changes contained in H.R. 12206. It is important to note, however, that the NTCA membership does not consider the items in the resolution as separable. The difficulty which NTCA finds in supporting legislation solely to make a criteria change can be illustrated by the Garden Valley Telephone Co. at Erskine, Minn., which is the largest cooperative in that State. Garden Valley had qualified for and received a Rural Telephone Bank loan but, in 1975, became eligible under the revenue criteria for a 2-percent insured loan. At first glance, this would appear as a flaw in proper administration of the program, but at Garden Valley they view it from a very different perspective. To them the difference between another Rural Telephone Bank loan and a 2-percent insured loan is how many exchanges they are able to upgrade to one-party service, a choice between improved subscriber service and additional interest payments to the Government.

In the interest of maintaining the program at the necessary loan levels, NTCA members have agreed to support alteration of the eligibility criteria to three subscribers per mile with elimination of the revenue criteria.

There are approximately 70 NTCA member cooperatives whose eligibility for 2 percent financing will be terminated by this legislation and they are frankly reluctant to support legislation solely for that purpose.

The second section of the NTCA membership resolution deals with an option for eligible 2-percent borrowers to voluntarily accept 5-percent loans. Our research on the present and anticipated loan application backlog indicates that, with the criteria amended as proposed, 2-percent loan authorizations in the telephone program at a \$100 to \$125 million level should be sufficient to meet the needs and this alternative may not be needed. We would urge the Congress, however, having reduced the number of borrowers eligible for 2-percent financing to match the administration's willingness to make such funds available, to most strongly indicate to the administration that it is expected to meet the needs of the remaining eligible borrowers on a timely basis.

NTCA members continue to strongly support the Rural Telephone Bank and believe that the eligibility criteria established by Congress should not be altered as is proposed by the administration. NTCA supports the concept that borrowers should progress to the higher interest rate loan programs as their fiscal maturity allows. In the current fiscal year, in fact, of the total of \$680 million authorized for rural telephone loans, less than 15 percent is being made available at 2 percent. We oppose elimination of the TIER criteria for Rural Telephone Bank loans.

The fourth section of the NTCA resolution asks for removal of the CATV restriction from the act. We believe that technological changes in the telephone industry will make it desirable that the telephone systems financed by REA provide CATV in their service areas, where television service is now inadequate, through common use of coaxial cable. We believe there is a need for broader availability of cable television. In many rural areas only a single TV station is presently offering service; the consequences are often a limitation in programming and poor reception in outlying districts. REA-financed rural telephone systems are the logical entities to fill this need. The addition of CATV capability in appropriate areas would be beneficial; first, through the provision of the CATV service where it is not now available, and, second, through improved telecommunications service in rural America. On the telephone side of the REA program there has been serious concern for the past several years over increasing costs. The investment per station required to provide modern, efficient telephone service has been increasing dramatically. Cable has probably been the single component most affecting this increase. Consequently, considerable effort has been made to find alternatives to the traditional practice of stringing or burying cable for every new installation. Subscriber carrier has enabled many systems to service new customers without incurring dramatic cost increases.

Through utilization of coaxial cable it would be possible for a single entity to provide both telephone and CATV service. In REA borrower-served areas, the telephone system is the logical choice. This, it is presently anticipated, would be possible at a cost addition of only 10 to 15 percent over present levels. Significant additional funding would not be necessary for REA-financed telephone borrowers to provide total communications. NTCA does not believe this would

provide unfair competition to existing television stations. "Economics" will determine the choice. Where present television service is adequate, it would not be desirable for a telephone system, even with the REA financing available, to provide CATV because there would be no market for it. CATV would be most desirable, however, in the many rural areas where television service is presently not available or inadequate.

In addition to CATV and telephone service, of course, coaxial cable can be utilized to provide a myriad of other services including remote meter reading, fire detection systems, freezer alarms and many more. None of these will stand on their own economically. Like CATV, they will either have to be provided in conjunction with telephone service or remain unavailable in rural areas.

To date, provision of cable television service by commercial operators has not been economically feasible in rural areas. The president of the CATV association admitted as much before the Agriculture Committee years ago and the subsequent record has borne him out. With one entity providing both telephone and CATV, it will be possible to bring this service to rural America at an affordable cost. This arrangement will also assist in holding down increases in costs for provision of other communication service.

The Federal Communications Commission has indicated an awareness that their blanket prohibition of telephone company provision of CATV has been counterproductive in rural areas. It has not resulted in increased competition for provision of the service, but rather in unavailability of CATV. For that reason, on a case-by-case basis, the FCC has granted quite a number of waivers to rural systems to provide CATV. With some encouragement from the Commission, NTCA is now working toward a rulemaking to provide a general exception from the FCC regulation for all telephone systems serving rural areas as defined by the REA Act.

In a recent staff report the House Commerce Communications Subcommittee also reached the conclusion that the policy of the FCC has kept CATV out of rural America. It recommended that a Government lending program, similar to REA, be instituted to make financing available for this purpose.

To take the worst case analysis approach, should some entrepreneur find it economically feasible to provide CATV in rural areas, he would also be able to provide telephone service more efficiently than the existing telephone system, raising the specter of the Government's investment in rural telephone service, currently over \$2.5 billion, being threatened. Certainly there are obvious inefficiencies in any arrangement which contemplates a duplication of distribution facilities; one cable for telephone and another for CATV and related services, all over rural America.

NTCA also supports the concept of placing the appropriated funds remaining from fiscal year 1973 (which were impounded by the Nixon administration) into the rural electric and telephone revolving fund, although a segment of our membership would like to see these funds expended as direct loans to eligible borrowers. As realists, we recognize that such direct expenditures would be accounted for as outlays of the Federal Government, contribute to the budget deficit and be much more difficult to support politically than utilization of the funds in the insured loan program.

The final section of the NTCA resolution refers to efforts to assure that the administration and its successors will make adequate funds available. By establishing the revolving fund and removing the operations of the rural telephone bank and the guaranteed loan program from the budget, Congress intended to assume greater control over the operations of the rural telephone program. In all candor the program has not operated in that manner. The Office of Management and Budget has continued to determine what amount of moneys would be recommended for each year's authorization and, in regard to the insured program, to determine within each fiscal year authorization what amount would be loaned at the special rate and what amount at the standard rate. The language in section 305 would seem to, as clearly as possible, direct that the Congress determine these limits on insured program lending but NTCA would like to see action taken to strengthen that commitment.

We support the legislation in its present form but we do so, in all honesty, without particular enthusiasm. We are told that if any other considerations beyond the criteria change and the disposition of the impounded funds are included, they will create controversy and delay or threaten enactment of the bill. NTCA is not certain that any REA bill can be enacted without controversy. The 94th Congress, about which so much has been said and written, has not considered substantive REA legislation to date. To take whatever risks are inherent in bringing forth new legislation, we believe that legislation should contain positive benefits that outweigh those risks. Attached to this testimony is a draft bill which NTCA believes would be more beneficial to rural areas than the present legislation. It includes both of the provisions of the draft bill. The position of our membership mandates that we request the subcommittee to give consideration to broadening the narrow scope of this proposed legislation to include such provisions.

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

I notice in the last paragraph you say you support it without any particular enthusiasm. This is something like Speaker McCormack used to say occasionally; you hold this in minimum high regard.

Mr. FULLERTON. As you know, Mr. Chairman, it is not the specific provisions of the bill that generate any lack of enthusiasm.

Mr. BERGLAND. I understand. I do have one question that deals with an issue raised on page 3. The Garden Valley Telephone Cooperative is in my district.

Mr. FULLERTON. Yes, sir.

Mr. BERGLAND. I know the board, the officers, and the employees and constituents served by this institution and I know they do a good job serving a large area. Many of the members in that coop are in areas in which there is not much money and they are very scattered.

I am not quite sure but your statement seems to imply that they would not be eligible for a 2-percent loan if this amendment became law, or is that not what you have said?

Mr. FULLERTON. That is something that can finally be determined only by REA telephone program officials but it is my understanding from the discussion with those same officials—and, as you know, one of the directors is on my national board of directors—that that is the difference.

Initially, they were eligible for the rural telephone bank and, in fact, received a bank loan it is my understanding. When the revenue category changed, they were back in the 2-percent category and this is one of the reasons we are talking about changing that.

However, that changes their financial situation markedly and their ability to, in fact, provide service to rural subscribers.

One of our primary responsibilities as a national association is education. We do a lot of work all year long explaining how the law works and the attitudes of the Congress and what is necessary to maintain adequate funding for everybody.

We did have unanimous support for our position even though it has an effect on them but I think they are doing it for the general welfare over their own individual needs. I think there are many like that.

We have 73 members, member cooperatives, who automatically will pay higher interest rates under this bill but they are also supporting it.

Mr. BERGLAND. I visited with members of that board and the management. I understand they have a density criteria of about 2½ per mile. If we raise this to three, they still would be eligible for 2-percent funding for any purpose that would be justified.

Mr. FULLERTON. They would continue to be.

Mr. BERGLAND. They would continue to be; yes, sir.

I think their density is 2.48 in that range.

Mr. FULLERTON. My intention is to relate a story as opposed to quoting their statistics to you.

Mr. BERGLAND. Are there any questions of Mr. Fullerton? Mr. Baldus?

Mr. BALDUS. I am interested in your statement where you deal with the category 5 program. Have you given that enough thought so that you know what recommendations you might make if any when you feel the timing is correct for that?

Mr. FULLERTON. Could you be specific as to the subject matter, Mr. Baldus, so that I can answer properly? Are you talking about part 5 of the resolution?

Mr. BALDUS. No. I am on the page that refers to category 5, restrictions from the act, meaning television, cable TV.

Mr. FULLERTON. Your question is: Have we given enough thought to this to know what we would recommend?

Mr. BALDUS. Yes. Apparently, you are saying that this is not the proper time to address that problem. Is that correct, even though your membership is hopeful?

Mr. FULLERTON. I may answer, Congressman, by saying there are differences of opinion on proper time, controversy, dangers to the act, et cetera. I am not enough of an expert to say this is the right time and this is the wrong time.

I think our position has been studied enough that it is clear and we are confident in it. It is very simply, without dragging out the answer, that there has been on CATV in rural areas unless it has been provided under waivers of the FCC rules by telephone companies.

The CATV industry is not supplying it. The investment is too high.

Technology advances and other factors, however, indicate that when you are putting in a new plant which you are often doing when you are upgrading telephone systems for a 10 to 15 percent additional

investment you could provide that capability, instead of double the investment; for a very much smaller increase.

That being the case, for the benefit of those rural residents it would seem to be appropriate that this be done.

The act excludes it from way back, 1962 or 1963, I believe. The exclusion went in when the provision was made for educational television only. We can provide that under the act.

What happens now? Nothing. Potentially it has controversy surrounding it. If you have a single TV station in a small rural community and either programing in inadequate or service or the reception is not good and you put in a CATV system, then everybody is going to take the CATV system because of the obvious advantage of it.

If that problem does not exist, the economics will not allow installation of the TV system, if the normal transmission is good, but the local TV operator in either case probably is not going to like it so there is potential controversy around it from broadcasting.

For that reason, I have to concur in what is a generally held opinion that these are echnical amendments that, perhaps, is more even though it is technical in nature.

Mr. BALDUS. I my district, we have done some work addressing that problem and I agree with you that there is controversy. There was when the whole idea of REA first came into being.

Mr. FULLERTON. Yes, there was.

Mr. BALDUS. It was rather controversial at the time. I guess that is not a good reason for staying away from it, or at least an adequate reason, but I would be interested from time to time to have your further observations.

Mr. FULLERTON. I would be happy to supply you with them as they occur, Mr. Congressman.

Mr. BERGLAND. In that connection, I share the views expressed by the gentleman from Wisconsin. I think cable TV is an idea whose time is coming. We, in the rural areas, are at an enormous disadvantage in this regard, particularly those that are more remote.

They have no signal whatsoever. I have large chunks of my district in which there is no television, if you can imagine. They are just simply too far away from a translator, from the station developing the signal to reach them. The only way they will ever get TV in there is cable and, in other quarters of Minnesota, in many of these areas, the only television is whatever they can pick up from the nearest transmitter which is sometimes some distance away and they have one signal, one channel, on broadcast.

I tend to think this is probably not the proper time. It would be the Chair's intention if the committee in its wisdom reports a bill or a modification of the bills that have been submitted that we would move this matter on the floor on the suspension calendar which means it would not be open to amendment; it would not open up the REA Act to any kind of mischief that someone might want to make on the floor.

At this time it is important that we maintain the integrity of the entire system but if we go the suspension route it means that it cannot be amended and it is the Chair's judgment that the issue of cable TV is more than technical in nature.

It is substantive. It is a major policy question and we might, if we were to go to the floor under an open rule and open up the act to

amendment, find out that we have no REA left, particularly now with the pressures on the budgets.

However, I certainly appreciate your advancing the idea because I think it is a matter that needs to be discussed and an attempt should be made to work out some sort of an accommodation with the administration, with the broadcasters, and with other borrowers across the country to see what can be done to provide this very useful tool which is more than a pleasure item. It can be used as a business tool.

I have a technical question in this regard. If the telephone company installs underground cable using the conventional systems and decides to install capacity to handle television signals, would they have to replace all of the existing equipment in the field?

Mr. FULLERTON. It would depend on the type that is already installed. The combination of services that could be provided including cable television, the smoke detectors, fire detectors, and all the things that go with it and telephone service could all be provided over a coaxial cable, the physical characteristics of which are such that you can have so many frequencies over the same pair, in effect.

Different borrowers have different types of physical plants installed. How much or how little could be used would depend on exactly what type was there.

Subscriber carrier, for instance, is coming into use and this would be a different consideration than if it were overhead wire.

It all depends on the specifics, Congressman.

My 10 to 15 percent is contemplating the installation of coaxial cable for a broad variety of services which include TV and telephone.

Mr. BERGLAND. Are there any other questions of Mr. Fullerton?

Mr. FULLERTON. Mr. Chairman, I would like to conclude my statement by simply saying that our association both appreciates and supports your interest in this program. We hope that you will continue it and we certainly will support you in every way that we can in your efforts to enact this legislation in the manner that you described earlier.

Thank you.

Mr. BERGLAND. We appreciate your support, Mr. Fullerton.

This concludes the list of scheduled witnesses. Are there any persons in the gallery who wish to be heard on these or related matters?

[No response.]

Mr. BERGLAND. If not, I would like to direct a question to Mr. Partridge on a matter that is apart from the issues under consideration. It goes to the question of transmission systems and it may be unique to my part of the world, I do not know.

There are plans for the construction of high voltage transmission lines from the coal fields of North Dakota into other areas; the Twin Cities (Minneapolis and St. Paul), and such places.

A continuing hassle has arisen over where these lines are to be situated. It is governed by State law and they will work out an arrangement in accordance with State law, Minnesota's Powerplant Siting Act.

However, aside from that, certain experts have suggested that electricity can be transmitted in systems other than using the conventional pole and wire kinds of things which some folks object to on the grounds that it is environmentally, socially unacceptable.

Would you comment to that? How far away are we from transmission systems that do not have poles and wire?

Mr. PARTRIDGE. I think, Mr. Chairman, we are quite some distance away in time from practical utilization, commercial utilization of means of transmitting electric power other than by metallic conductor.

We can, of course, bury the conductor under the ground and there has been a good deal of work done and some successful development in cryogenics field where you operate at drastically low temperatures and thereby reduce the resistance but you are still using the metallic conductor.

The transmission of electric power by other than metallic conductor has been largely experimental to this point. I could not conjecture, really, how long it may take us. Charlie Robinson of our staff has been deep in this power business for many years and closer to the power supply end of it than I. I would be glad to yield to him. He may have more light to shed than I do.

I do think that as we move to the development of solar energy that we are going to be out in space and that it is going to involve transmission by other than metallic conductor back to Earth and that this, probably, is 25 to 50 years away but I do think that time will come.

Robbie, could you respond on this matter of conduction of electricity by other than poles and wire?

Mr. ROBINSON. Of course, you can transmit energy and we do transmit minute quantities of energy by electromagnetic waves. That is the way a radio set works or a television set.

You generate very high frequency and you transform it into an electromagnetic wave and radiate it from an antenna and you pick it up at the other end with an antenna, but the losses are almost infinite.

You get out only an infinitesimal portion of the energy you put in so whereas you can transmit intelligence with a very low level of energy transmission and accept the losses, you cannot do that with a power system.

You have to transmit very large quantities of power and energy. We have no practical way to do that at the moment except, as Mr. Partridge said, by way of metallic conductors.

You can bury these metallic conductors but the kind of voltages you are talking of in your part of the country are on the order of hundreds of thousands of volts and it is extremely expensive to bury this kind of conductor safely and to bury it in a manner which is susceptible to service when you get an interruption.

Therefore, that is the reason for the continuing use by the industry of poles and wires.

Certainly our people in Minnesota, particularly, and in Wisconsin and the other States recognize the desirability of avoiding poles and wires but we do not have any acceptable substitute at the moment which will make that power and energy transmissible with an acceptable loss ratio. That is what the problem is.

Some of the State laws are extremely rigid. I am sure the chairman is well aware of the decision in North Dakota which denied a GNT cooperative in North Dakota condemnation rights to acquire right-of-way on the grounds that a major portion of the electricity to be transmitted over that wire would be used in Minnesota.

This is a decision which we hope will be reversed on appeal but it leads to the thinking that there may, at some time, be necessary the enactment of Federal legislation on powerplant siting and rights-of-way acquisition which is currently being considered by Congressman Dingle's subcommittee.

Certain portions of that legislation go to this point. The electric power reliability bill and siting bills which have been introduced in various forms over the last 10 years by different Members of Congress go to this point.

There is a tremendous ground swell, it seems to me sometimes, of opposition to everything that the electric utility wants to do to continue supplying power to its consumers. We have a legal obligation to continue supplying electricity to consumers in the amounts they want to use.

Especially in rural areas, these amounts are growing.

On the other hand, we are faced with a group of the country's citizens who are strongly opposed to the construction of nuclear powerplants, strongly opposed to the construction of coal fired powerplants, strongly opposed to the construction of oil pipelines and offshore drilling, and strongly opposed to the construction of transmission facilities, so we are in a very difficult position of trying to provide the service that our consumers want and at the same time satisfy those segments of the population which are opposed to the construction of necessary facilities.

It is a very, very difficult problem, Mr. Chairman.

Mr. BERGLAND. I know a couple of the generating transmission systems in Minnesota have switched from other forms of fuel to coal. The other theory is to have a mine-mouth plant where you construct the plant at the mine itself and transmit by wire.

However, there has been a remarkable increase in the tonnage of coal that is moving out of the mines of North Dakota and through my district. I am now getting petitions from people who live in some of the towns along these railroads objecting to the continuing thunder of 100-car coal trains going through at all hours of the day and night.

Therefore, there is a problem.

Back to the issue of transmission underground using refrigerated cable. What kinds of costs are we talking about compared with the pole and wire because I need a benchmark? Does it cost twice as much or three times or what?

Mr. ROBINSON. I would hate to hazard a guess at refrigerated transmission. Underground transmission is a good deal more than twice or three times as much. I would say it is on the order, depending on the voltage, of up to ten times as much.

I would like to supply a more specific and perhaps quantitative response for the record on that but it is a much higher order of magnitude that anything you would put in poles and wires, if you go to underground transmission.

You are not talking just twice as much. You are talking a good deal more than that.

Mr. BERGLAND. Are there any other questions of these gentlemen or anyone else in this proceeding?

[No response.]

Mr. BERGLAND. Again, thank you very kindly for your responses.

[Whereupon, the subcommittee moved into markup of H.R. 12207.]
 [The prepared statement of Mr. Payne, submitted to the subcommittee follows:]

STATEMENT OF HAROLD G. PAYNE, CHAIRMAN, REA BORROWERS COMMITTEE,
 UNITED STATES INDEPENDENT TELEPHONE ASSOCIATION

My name is Harold G. Payne. I am Chairman of the United States Independent Telephone Association's REA Borrowers Committee. The United States Independent Telephone Association (USITA) is a trade association with a membership of more than 1,000 companies representing some 95 percent of the Independent telephones in this country. The Independent industry is made up of operating telephone companies other than those in the Bell System. Of the total USITA membership, 609 companies are REA borrowers.

On May 11, 1973, the Rural Electrification Act was amended, among other things, to establish a Revolving Fund for insured loans. As a general observation the rural telephone borrowers and their subscribers have had a very favorable experience with Public Law 93-32 (the May 11 amendment) and are appreciative of the action of Congress which demonstrated its understanding of the problems of rural telephony.

However, with complicated legislation a period of experience often reveals certain bothersome areas which normally can be cleared up by proper amendments.

The indication that something was wrong with PL 93-32 came from the fact that when the law was enacted in 1973, 191 borrowers or 23.4 percent of the REA telephone borrowers were eligible to receive loans at the interest rate of 2 percent. For the Fiscal Year 1976, which commenced on July 1, 1975, 350 borrowers or 41.2 percent became eligible for loans at the interest rate of 2 percent.

We believe that Congress did not intend in 1973 to set up a vehicle that would increase the number of companies eligible for 2 percent money while in the same legislation recognizing insured loans at 5 percent, the Rural Telephone Bank loans determined by cost of money to the bank, and a guaranteed loan program.

After investigation we have concluded that the cause of this problem rests in the criteria set forth in Public Law 93-32 for determining which borrowers are eligible for the 2 percent program. At the time of the passage of the amendment, Congress could not have foreseen the economic and growth situation in the telephone program and the effect the criteria would have on it. As the subcommittee is aware, the criteria set forth were:

- (1) a subscriber density of two or fewer per mile, or
- (2) gross revenue per mile of line of at least \$300 less than the national average in the REA program.

If under the law a borrower meets either one of these requirements it becomes eligible for 2 percent loans. This eligible status also has the effect of prohibiting the obtaining of a loan from the 5 percent program even if the borrower requests it and can afford the interest rate. In other words, the borrower is locked into the 2 percent program even when able to afford and willing to pay a higher interest rate. The funds for lending at 2 percent are extremely limited and, in this day and age of tight budgets, there is little likelihood of any meaningful increase in them.

The gross revenue per mile of line criterion, as set forth above, is also unnecessarily forcing telephone borrowers into the 2-percent category. This criterion obviously depends upon the national averaging of revenues for REA telephone borrowers. A relatively small number of borrowers in rapidly growing areas has had the effect of raising the national average which in turn increased the number of smaller telephone borrowers that fall below the level of \$300 even though they were continuing to experience increases in their own revenues.

We believe that H.R. 12207, the Rural Electrification Administration Technical Amendments Act of 1976, will correct the unintended inequities in the interest rate criteria for REA borrowers by removing the gross revenue per mile criterion and by increasing the subscriber density of two or fewer per mile to three or fewer per mile. In addition, H.R. 12207 will make available to the REA Revolving Fund previously appropriated funds which were impounded by the previous Administration. We feel that H.R. 12207 contains badly needed technical amendments and we urge that the subcommittee act affirmatively to facilitate its passage into law.

In view of the fact that this association has little expertise or experience with regard to the electric borrowers, we feel it proper to limit our comments to the effect of Public Law 93-32 on telephone borrowers. This lack of comment should in no way be considered a reservation as to the electric proposals contained in H.R. 12207.

The United States Independent Telephone Association appreciates the opportunity of presenting these comments.

PBB POISONING OF LIVESTOCK

THURSDAY, JUNE 3, 1976

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

The subcommittee met, pursuant to call, at 2:15 p.m., in room 1302, Longworth House Office Building, Hon. Bob Bergland (chairman of the subcommittee) presiding.

Present: Representatives Poage, Baldus, English, Hightower, Bédell, Madigan, and Kelly.

Staff present: Fowler C. West, staff director; Robert M. Bor, counsel; John E. Hogan, associate counsel; Nick Ashmore, Susan Bell, Anita Brown, and John M. Lindley, staff assistants.

Mr. BERGLAND. The Subcommittee on Conservation and Credit will come to order, and hear from Dr. James Bostic, of the Department of Agriculture, who will discuss again informally the more recent developments in Michigan on the issue of the PBB poisoning of livestock.

Dr. Bostic, we are pleased you have come.

While we are without a quorum and so are not about to take official action, we may be able to save some time by listening to you, sir, on the more recent developments.

STATEMENT OF JAMES E. BOSTIC, DEPUTY ASSISTANT SECRETARY FOR RURAL DEVELOPMENT, U.S. DEPARTMENT OF AGRICULTURE

Dr. BOSTIC. Mr. Chairman, I would like to report just briefly on what the Department and the administration would like to recommend to assist the credit situation that involves farmers who have suffered from the contamination of their livestock from polybrominated biphenyls (PBB).

After reviewing our lending programs, we would recommend that we would use our existing farm credit programs with some changes.

First, we would suggest using our farm operating loan program. As you know, the present limit on the loan size is \$50,000. The interest rate is 8½ percent. They are made for up to 7 years for farm operating purposes.

We have proposed in the Federal Register a rule that would allow us to subordinate the Farmers Home Administration lien for the purpose of purchasing capital goods, such as livestock, so that another lender could lend one of these farmers money so that he could purchase additional livestock.

We would also support a change in the maximum loan size limit from \$50,000 to \$100,000, for guaranteed farm operating loans with 90-percent guarantee of principal and interest.

Second, we would also recommend that the farm ownership loan program be used to aid these family farms in refinancing of their debts. These loans can be made up to 40 years. The present loan limit is \$100,000. We would recommend that the loan limit be increased to \$200,000 for guaranteed loans with the 90-percent guarantee of principal and interest.

For farmers who are legally organized partnerships and family farm corporations, the emergency livestock loan program is available, and those loans can be made for 7 years up to \$300,000. We would recommend that it be used also.

I have been in touch with the Farm Credit Administration. I met with the Deputy Governor for Credit, Mr. Cardwell, a couple of weeks ago, and with the president of the Federal intermediate bank in St. Paul, and indicated to them that the emergency livestock loan program was available for PBB contamination. It was an eligible purpose. He indicated that he would write to all the member banks in Michigan and advise them that the emergency livestock program was available and encouraged their use of it. Before I came to this hearing, I talked with him by phone, and he indicated to me that that has been done.

The question would come, do we have sufficient funds for farm operating and farm ownership loans in order to meet the credit demands that would be there. We believe that we have adequate funds in farm operating loans already provided to us. On the farm ownership loans, we believe that there may be a need to ask for additional funds. Our estimate right now is about \$20 million, and we would be prepared to ask for additional loan authorization under the farm ownership loan program to meet this need. There is available authority adequate to cover the emergency livestock loans that may be made.

Mr. BERGLAND. Thank you very much, Dr. Bostic.

The Chair notes the presence of a quorum.

The matter on the agenda is the proposition on which we have received testimony that affects the livestock in the State of Michigan. Dr. James Bostic has been kind enough to come over and briefly review the happenings in that State since the committee held its hearings some weeks ago. (Toxic Contamination of Livestock, Serial No. 94-XX.)

In addition to the information Dr. Bostic has provided, I am informed that the scientific panel convened by the Governor of the State of Michigan was designed to hear evidence on the question of contamination, has released its report only this week.

Dr. BOSTIC. They actually gave it to the Governor on the 24th, Mr. Chairman.

Mr. BERGLAND. Am I correctly informed that the panel of scientific experts have concluded that the tolerance established by the Food and Drug Administration that three-tenths parts per 1 million is excessive, and that it ought to be reduced substantially from that to virtually no tolerance?

Dr. BOSTIC. Correct. To .005 parts per million.

Mr. BERGLAND. The Chair has been informed that, under the current tolerance, some 800 farms in the State of Michigan have been affected and obliged to dispose of their livestock. They have, for the most part, filed claims against the supplier of feed in Michigan, the Michigan Farm Bureau Feed Co.

They, in turn, have been granted a judgment in their favor against the Michigan Chemical Co. which was the original manufacturer of the ingredients.

I am also informed that, if the Food and Drug Administration accepts the scientific panel's recommendation that the tolerance be reduced to virtually zero, there will be an additional 700 farms in Michigan that would probably have some right to claim damages against the Michigan Farm Bureau Feed Co.

These matters have been pending now for nearly 2 years. Some of it presumably has been settled. I understand that some \$25 million in claims has already been paid out, and maybe that much more will be pending if Food and Drug reduces the tolerance level to near zero.

The question is, should we amend the law. Should we pass a bill, when there are a number pending, that would authorize the Secretary to enter into direct loans for the purpose of financing livestock producers who are caught up in this disaster not of their own making, or whether or not the authority currently in place is broad enough to accommodate those who may have a credit need?

I must confess that I was disappointed, during the course of the hearings, to learn that the emergency livestock loan program, which is certainly broad enough to allow the financing of these farms under its authority, has not been utilized to any extent. I think there were some six loans that had been made at that time, and we were informed that the reason for that—at least, the principal reason—was that local banks and financial institutions were either unwilling or unable to make these loans even with the Federal guarantee.

Dr. Bostic, to the best of your knowledge, do you know whether that situation has changed any?

Dr. BOSTIC. The only additional bit of information that I could add to that, Mr. Chairman, would be that I visited with the president of the Federal intermediate credit bank in St. Paul and informed him that there was broad enough authority in the Emergency Livestock Credit Act to take care of farmers who had credit needs because of PBB contamination. I asked him if he would write all of the PCA member banks in Michigan and inform them that the emergency livestock loan program was available, and to encourage its use. He has done that. I visited with him just before I came here.

It has been about 10 days since he sent the letter, so I do not have a read of whether or not any loans have been made in that period. However there was question among member banks in Michigan about whether or not they could use the emergency livestock program for this purpose. We tried to clarify that. Hopefully, there will be some greater activity there.

Mr. BERGLAND. So there is no question about your authority in this regard? You are authorized to make those loans? To guarantee those loans?

Dr. BOSTIC. Yes, sir.

Mr. BERGLAND. All right.

One other area that you alluded to, and I must I confess I did not clearly understand. You announced a proposed change in regulations in the farm operating loan section that would make this authority more readily available. Tell me again what you said earlier.

Dr. BOSTIC. What we proposed to do was, if we had an existing Farmers Home Administration (FmHA) borrower who has a farm operating loan with us, we are proposing that we would subordinate the FmHA lien to another lender in order to finance capital goods, which would be livestock, if that borrower so desired.

As it is presently set up, we will only subordinate if a borrower wants to borrow additional operating loan capital for production expenses. We do have authority to subordinate for these capital goods, and we will do so. We will have a regulation finalized shortly that will allow us to let another lender loan additional funds to our borrower.

This is primarily because the loan limit is at \$50,000, and we cannot loan the borrower any additional money. If we are not willing to subordinate our lien, he becomes stuck. So we have proposed that we would subordinate the FmHA lien and allow another lender to loan the farmer money for buying additional livestock.

Mr. BERGLAND. Under that proposed rule, could another lender make a loan to that borrower for the purpose of meeting the financial crunch developed as a result of this disaster with an FmHA guarantee under the livestock loan program?

Dr. BOSTIC. I believe he could.

Mr. BERGLAND. It would seem to me—it would be the Chair's opinion, at least—that the machinery is there. The resources are there to handle this problem.

Does anybody have any comments or questions? Mr. Bedell?

Mr. BEDELL. I understand the FmHA disaster loans were made by your organization. Am I correct in this?

Dr. BOSTIC. Yes, sir. But, in this case, we are not talking about the Farmers Home Administration emergency loan program that is available when a natural disaster caused by adverse and unusual weather conditions occurs. We are talking about the other FmHA farm credit programs that we have.

Mr. BEDELL. You are not talking about the disaster loan program?

Dr. BOSTIC. No, sir.

Mr. BERGLAND. The reference to a disaster loan in this regard is the emergency livestock loan program which was authorized about 3 years ago and revamped about 1 year ago and extended for a while. Mr. Poage?

Mr. POAGE. I do not quite understand the discussion, and probably do not have the background on this, that now the scientists are saying that we must cut tolerance down to practically zero, and that therefore there will be a lot more people eligible to maintain a claim against the feed companies.

How can you, a long time after the fact, create a liability that did not exist? If there was no liability a year ago, when the Department said that three-tenths per million or whatever it was was reasonable and acceptable, how can you now come in and issue a regulation and say that you will only allow .005 per million, and then make everybody liable for damages where they would not have been at the time they produced and sold the seed?

Dr. BOSTIC. I will try to answer that. The level was established by the Food and Drug Administration, and the three-tenths parts per million was established by them.

The recommendation to lower that comes from a scientific panel of experts that the Governor asked to take a look at this. Their recommendation is that three-tenths parts per million tolerance level be lowered to .005 parts per million, which is a trace of PBB.

I cannot answer the question of how they decided that the three-tenths parts per million was not acceptable. They indicated in their report, which I have had a chance to look at, that there were no—as they could tell right now—human health problems. But, they were not sure, and so they have recommended that the level be lowered. That was the basis of their recommendation.

Mr. POAGE. I understood that, if you adopt these new standards, the farmers would be able to collect another \$25 million.

Mr. BERGLAND. I said that. I may have been misinformed. My information was that the standards established by Food and Drug at .3 parts per million—under those standards—those cattle that had residues above that amount were obliged to be destroyed.

Dr. BOSTIC. That is right.

Mr. BERGLAND. And those people had a legitimate claim against the supplier of feed.

My information is that, if Food and Drug again revises the standard downward to the trace levels suggested by the panel of experts, those farmers who had cattle that were within the range, below three parts per million, but above the tolerance level that has been established—that they would be obliged to destroy their cattle.

Dr. BOSTIC. That is my understanding also.

Mr. BERGLAND. They therefore by that act would probably be entitled to a claim against the feed company.

Mr. POAGE. Why would they be entitled to have a claim against the feed company if the feed that the feed company put out met the Federal Government standards at the time it was sold?

Mr. ASHMORE. Mr. Chairman, the tolerance level at three-tenths parts per million was established after the fact itself. The tolerance level was not established prior to the incident.

Mr. POAGE. What is just about that?

If the speed limit is 75 miles per hour today, and I drive that today. Next week you impose a 55-mile-per-hour speed limit. Therefore, am I guilty because last week I stayed within the law driving 75 miles an hour which was the law then. You change the law, and make me guilty of an act which was perfectly legal at the time I committed it.

Mr. BOR. I am not altogether certain of the fact, but I think the feed had been contaminated through error with some type of poison. This had been sold to various cattle producers. They had used the feed. In some cases, after it had been used, there were residues in the livestock that showed that there was an excess of a certain amount, and there was less than a certain amount in other livestock.

After the feed had been used, these tolerances were set up so that certain of the livestock had to be destroyed, and other did not have to be destroyed.

I think what has happened is that, since that time, a panel of experts has determined that even the lower tolerance that had been set

up originally by Food and Drug did not permit safe standards for meat for human consumption.

The whole situation came about because of an error on the part of the feed company in mixing in a chemical that should not have been mixed in to begin with.

The result of all this is that the cattle producers, the dairy producers in the State of Michigan have brought suits against the feed producers to recover damages which they claim that they incurred as a result of having purchased feed which had been contaminated.

Mr. POAGE. What you are saying is that maybe they violated the law in the first place.

What Dr. Bostic is saying and what the chairman is saying is that they did something that was legal and in compliance with the Food and Drug Administration's findings.

Mr. ASHMORE. It was very similar to a situation with which I was familiar when I worked for the Louisiana delegation. We had a situation in Louisiana dealing with HCB's. It was a contamination of a livestock herd down there which was quarantined. A request was made to the Food and Drug Administration to set a tolerance level. Once the tolerance level was established, a certain percentage of that herd was released.

The same type of situation existed in Michigan in that the feed which was contaminated with a fire retardant chemical was brought in accidentally by the Michigan Farm Bureau and the herds were contaminated and there was a request to the Food and Drug Administration to set a tolerance level. They set a tolerance level at three-tenths parts per million.

Now there is a possibility that there will be an additional request to Food and Drug Administration to reduce the tolerance level based on the findings of the scientific advisory panel established by the Governor of Michigan.

Mr. POAGE. That doesn't get to the morality of the thing.

The Government set a tolerance level of three parts per million, and said it was all right to sell this stuff if it had less than three parts per million in it.

Mr. ASHMORE. Mr. Chairman, that is the tolerance level set for meat and dairy products for human consumption. The feed company recognized its error.

Mr. POAGE. You come along later and say that we in the Government made a mistake—not the feed people—and we ought to have set that level substantially lower.

Mr. ASHMORE. No, sir. There has been no one in the Government to indicate that. As Chairman Bergland indicated, there is a possibility that there may be a request to do so.

Mr. POAGE. Under what code of morality can that be done?

Mr. ASHMORE. As counsel pointed out, and as indicated in a reading from the Senate report, the Food and Drug Administration set tolerance levels at three-tenths parts per million PBB in milk and meat, and at .005 points per million in animal feed and whole eggs, which is the established level.

Testimony before this subcommittee during the hearings indicated that the Food and Drug Administration based its findings on parallel tolerance levels set up in PCB levels, so that there was some question

and quite a bit of testimony received by the subcommittee at the time indicating objections to the tolerance levels set by Food and Drug Administration.

Mr. POAGE. An agency of the U.S. Government said that three parts in a million was permissible. It didn't exceed the amount that the U.S. Government said was permissible.

Then the Government changes the rules. They have a right to do that. And I understand the Government's right now to say that you cannot produce any more of this feed or even sell any more of it if it contains more than 0.005 parts per million.

But then to say you are guilty of wrongdoing because you sold this feed that had illegal tolerances at the time you sold it—that is what I am talking about. The injustice is trying to make somebody guilty *nunc pro tunc*.

Mr. BERGLAND. Mr. Chairman, I think you have just put your finger on the area of misunderstanding in this regard.

At the time they produced this feed, the tolerance level was zero. Through an accident in the formulation of the feed, this poison was put in inadvertently. It was only after the poison was discovered that the Food and Drug people got into it and established the tolerances.

In many cases, the livestock had already been contaminated beyond the tolerance and they had to be disposed of.

So, at the time the feed was sold, the tolerance was zero, but nobody knew it was in there until after the herds had been contaminated.

Mr. BOR. I think the issue was also that some of the livestock that had consumed it and had retained the PBB in their tissues, that were amounts in excess of what Food and Drug came out with as being a safe tolerance. Some had it in their tissues in a lesser tolerance. The issue really was, having consumed the feed which had this chemical present, did the livestock have to be destroyed or not, in order to insure the safety to human health.

I imagine what has happened is that the scientific panel has come to a viewpoint that the tolerance level should be lower in order to insure that there would be safety to human health. So they probably came out with a rule that more livestock should be destroyed, rather than retained on the range by the producer.

All this comes about as a result of having the feed some time ago. I think the issue is how much the PBB has been retained in the animal's tissue, and has it been so much as to endanger human health. This has given rise to lawsuits on the part of the dairy producer against the feed company.

Mr. BERGLAND. My understanding is that this is a persistent problem. Once the material is lodged in the fat and tissue of the animal, it just stays.

Mr. BOR. It takes a long time. That is correct. It is a persistent chemical that is retained by the body tissue.

Mr. BEDELL. Is it correct that there were specific requirements which said that there cannot be any of this chemical in feeds which are sold, and there cannot be any of this chemical in the tissues of animals which are sold, prior to this problem?

Dr. BOSRIC. For the feed, there was a zero tolerance level of the flame retardant in the feed. The substitution, the accident, happened in the substitution of what was thought to be a nutrition supplement to the feed. Inadvertently it was this flame retardant.

Prior to this accident, there was a zero level of this chemical.

Mr. BEDELL. So the manufacturers of the feed did indeed sell feed that had this chemical in it at a time when there were regulations that prohibited that from being in the feed.

Dr. BOSTIC. Yes.

Mr. BEDELL. I think that changes the situation quite considerably, if that is the case.

My second question is, from what you have said I had the impression that the findings of this scientific committee were not at all conclusive as to whether there was a problem with this particular amount of contamination in the meat of the animal. Did I understand you correctly?

Dr. BOSTIC. That is right. The panel said that with the present levels established by FDA that they could find there was no danger to human health. But they were not sure of the long-term implications, and therefore they recommended a lower level.

Mr. BEDELL. Who would make that decision? If their findings indicated that there was no danger to human health, who is it that decided—or will decide, maybe—that all that livestock should be destroyed because, even though their findings indicated no danger to human health, maybe there might be some danger that we were not aware of.

Dr. BOSTIC. A recommendation has been made to the Department of Agriculture in Michigan, the State agency, to consider these lower levels. They are going to have hearings May 10.

Mr. BEDELL. Doesn't it seem strange to you if the scientific committee said that the indications are that these levels do not comprise any danger to human health, we think it would be better to have lower levels. Doesn't it seem surprising to you that we would destroy \$25 million worth of livestock based upon such a ruling, or do you think that would be what you would expect to have happen?

Dr. BOSTIC. I cannot really speak for the scientific question.

Mr. BEDELL. I am not talking about the scientific question. I am talking about the findings which the scientists made. If I understand it correctly, there is no danger to health at these particular amounts of contamination. But, in spite of that, they felt that it would be advisable to have lower limits?

Dr. BOSTIC. That is right.

Mr. BEDELL. We don't worry about the scientific. We do not know anything about that. If you got that kind of report, I would think some people would question whether we ought to destroy \$25 million worth of livestock based upon such a report, if it fell within those limitations.

Mr. BOSTIC. I think, at the hearing they will have in Michigan, there will be divergent opinions about whether or not that level ought to be changed.

Mr. BEDELL. Who will make that decision?

Dr. BOSTIC. I assume it will be the Department of Agriculture in Michigan, the State agency.

Mr. BEDELL. The State agency?

Mr. BERGLAND. Will the gentleman yield on that point?

Mr. BEDELL. Yes.

Mr. BERGLAND. Dr. Bostic, does the State Department of Agriculture have authority to establish levels, or is it Food and Drug? Or does the Food and Drug agency accept the Department's recommendations at their face value?

Dr. BOSTIC. It is my understanding that ultimately the Food and Drug Administration has the responsibility.

I am assuming that the recommendation is made to them, or the tolerance level recommended comes from the State Department of Agriculture in Michigan. But it is my understanding that Food and Drug has the final say-so to establish tolerance levels.

I am not familiar with the Michigan laws, as to whether or not the State Department of Agriculture can establish the tolerance level within the State of Michigan. But, ultimately, I believe the Food and Drug Administration has the final say.

Mr. POAGE. What possible good can this scientific examination do if the scientists finally wind up just by saying, "Well, we are never sure of our own findings, therefore, to make sure that nobody will ever criticize us, we will say, don't do anything; don't use this. We cannot find where it is going to hurt anybody. We cannot find that there is anything wrong with this water, but there might be. Since there might be, we suggest that you not drink it. If you do drink it, then you should sue somebody who gave it to you."

Isn't that about what this decision comes to?

Doesn't it simply come to the proposition that scientists say that we don't know anything about it? And they wash their hands of it?

What purpose was fulfilled by this scientific examination and report?

Dr. BOSTIC. Mr. Chairman, all I can do is read to you the recommendation. Since I was not one of the scientists, I cannot tell you what all they considered in coming up with this.

Mr. POAGE. But you are adopting this?

Dr. BOSTIC. No, sir.

Mr. POAGE. You are not?

Dr. BOSTIC. No, sir.

Mr. BERGLAND. The Department of Agriculture has nothing to say about this matter?

Dr. BOSTIC. That is right.

Mr. POAGE. Then why are we discussing it?

Mr. BERGLAND. The gentleman from Texas makes a very good point.

Our committee's jurisdiction is limited strictly to the financial application, or the financial consequences, of what Food and Drug may ultimately do. If the Food and Drug decision imposes an undue financial burden on the producers in Michigan, then we have an area in which we have some jurisdiction.

Our committee's decision may be affected substantially by what Food and Drug ultimately does in that regard.

The gentleman from Texas makes a good point. There is no reason why we should prolong this discussion, obviously.

The chair notes the absence of a quorum, so, even if we wanted to, we couldn't report out a bill.

I commend the Department on what it has done to date, Dr. Bostic, and would urge you to continue to press those persons with whom you come in contact to provide the necessary credits through the private community with the FmHA backing that is currently in place. I think the proposed rule that you have outlined would certainly be helpful in terms of financing some of these who cannot otherwise get credit.

We will just hold things in abeyance and see what transpires. If it appears, after the Food and Drug has made its final decision, that this imposes an undue financial burden that cannot be accommodated within the framework of existing law, then it would be incumbent on this subcommittee to reconvene and consider the evidence and decide upon a course of action.

Mr. Bedell?

Mr. BEDELL. Mr. Chairman, could we request that our staff write a letter to Food and Drug and others involved to keep track and find out what they do on that? I would like to know if, indeed, they issue some rulings which seem to not make sense, I would like to be so informed.

Mr. BERGLAND. I am sure the staff would be willing to track this for us. We will just make that a point of our business, and inform the members of the subcommittee of any important developments in this regard.

Is there anything else to be said on this matter?

[No response.]

The subcommittee will stand adjourned, subject to the call of the Chair.

[Whereupon, the subcommittee adjourned at 3:40 p.m.]

REAL ESTATE AND OPERATING LOANS

WEDNESDAY, JULY 28, 1976

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

The subcommittee met, pursuant to notice, at 2 p.m. in room 1302, Longworth House Office Building, Hon. Bob Bergland (chairman of the subcommittee) presiding.

Present: Representatives Poage, Baldus, English, Bedell, and Madigan.

Staff present: Robert M. Bor, counsel; William A. Imhof and John E. Hogan, associate counsels; Gerald R. Jorgensen, staff consultant, Subcommittee on Department Operations, Investigations and Oversight; Leighton W. Lang, staff consultant, Subcommittee on Oilseeds and Rice; John C. Baize, staff consultant, Subcommittee on Livestock and Grains; Eugene Moos, staff analyst; Christine Abram, Anita R. Brown, and John M. Lindley, staff assistants.

Mr. BERGLAND. The subcommittee will come to order.

We are here today to receive testimony on bill H.R. 14641 and other related bills dealing with amendments to the Consolidated Farm and Rural Development Act as amended.

[H.R. 14641 and the report from the U.S. Department of Agriculture follow:]

94TH CONGRESS
2D SESSION

H. R. 14641

IN THE HOUSE OF REPRESENTATIVES

JULY 1, 1976

Mr. BERGLAND introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Consolidated Farm and Rural Development Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 302 of the Consolidated Farm and Rural Devel-
4 opment Act is amended by deleting the language through the
5 first comma and inserting the following: "The Secretary is
6 authorized to make and insure loans under this subtitle to
7 farmers and ranchers, and to private domestic corporations
8 and partnerships controlled by farmers and ranchers and
9 engaged primarily and directly in farming or ranching, in the
10 United States who, individually or as to their principal stock-
11 holders and partners, (1) are citizens of the United States,".

1 SEC. 2. Section 305 is amended by deleting the first
2 sentence and inserting in lieu thereof the following: "The
3 Secretary shall make or insure no loan under sections 302,
4 303, and 304 of this title which would cause (a) the unpaid
5 indebtedness against the farm or other security at the time
6 the loan is made to exceed the value of the farm or other
7 security, or (b) the total principal indebtedness outstanding
8 at any one time under such sections to any one borrower to
9 exceed \$200,000, or in the case of a guaranteed loan to
10 exceed \$300,000."

11 SEC. 3. Section 306(a) (7) is amended to read as
12 follows:

13 "(7) Except as otherwise provided in this subsection, as
14 used in this title, the terms 'rural' and 'rural area' shall not
15 include any city, town, or village which has a population in
16 excess of ten thousand inhabitants: *Provided*, That special
17 consideration for loans and grants may be given to areas
18 other than cities, towns, or villages having a population of
19 more than five thousand five hundred. For the purposes of
20 loans and grants under sections 304 (b), 310B, and 312 (b),
21 (c), and (d) 'rural' and 'rural area' shall not include any
22 city, town, or village which has a population in excess of
23 fifty thousand: *Provided*, That special consideration for loans
24 and grants may be given to areas other than cities, towns, or
25 villages having a population of more than twenty-five thou-

1 sand. To the extent not excluded above the terms 'rural' and
2 'rural area' may include all or a portion of the territory of a
3 State. Where necessary from time to time, the Secretary will
4 determine the population figure for a city, town, or village
5 after considering the latest reliable statistical and census
6 data.".

7 SEC. 4. Section 307 is amended by—

8 (a) deleting the words in the second sentence up
9 to, but not including, the semicolon and inserting in lieu
10 thereof "Loans, other than guaranteed loans, made
11 under this subtitle shall bear interest at a rate deter-
12 mined by the Secretary of the Treasury taking into
13 consideration the current market yield on outstanding
14 marketable obligations of the United States with re-
15 maining periods to maturity comparable to the average
16 maturities of such loans, adjusted to the nearest one-
17 eighth of 1 per centum, plus not to exceed 1 per centum
18 per annum as determined by the Secretary";

19 (b) deleting subsectioning (a) (2) and inserting
20 in lieu thereof a new subsection (a) (2) as follows:

21 "(2) when any loan under this subtitle is made
22 as a guaranteed loan, bear interest at such rate as may
23 be agreed upon by the borrower and the lender."; and

24 (c) deleting in the unnumbered paragraph follow-
25 ing subsection (a) (2) the words "as escrow agent".

1 SEC. 5. Section 309 (h) is amended by inserting a new
2 sentence at the end thereof as follows: "Any requirement
3 elsewhere provided in this title that an applicant for a loan
4 must be unable to obtain sufficient credit elsewhere to finance
5 his needs at reasonable rates and terms, taking into consid-
6 eration prevailing private and cooperative rates and terms
7 in the community in or near which the applicant resides for
8 loans for similar purposes and periods of time shall not be
9 applicable to guaranteed loans made under this title."

10 SEC. 6. The language of restrictions appearing in section
11 310B is amended by adding in each of subsections (1), (2),
12 and (3) after "312 (b)" the following: ", except for cases
13 where such assistance does not exceed \$500,000 or for cases
14 where direct employment will be increased by not more than
15 twenty employees,".

16 SEC. 7. Section 311 is amended by deleting the lan-
17 guage through the first comma and inserting the following:
18 "The Secretary is authorized to make and insure loans
19 under this subtitle to farmers and ranchers, and to private
20 domestic corporations and partnerships controlled by farmers
21 and ranchers and engaged primarily and directly in farming
22 or ranching, in the United States who, individually or as to
23 their principal stockholders and partners, (1) are citizens of
24 the United States,".

25 SEC. 8. Section 313 of said Act is amended by deleting

1 at the end of clause (1) "\$50,000," and inserting in lieu
2 thereof, "\$100,000 or, in the case of a guaranteed loan, to
3 exceed \$200,000, or", by changing the comma following
4 the word "program" to a period, and by deleting the balance
5 of the sentence.

6 SEC. 9. Section 316 is amended by—

7 (a) inserting in the third sentence after the word
8 "Loans" the phrase ", other than guaranteed loans,";
9 and

10 (b) adding a new sentence at the end of such sec-
11 tion as follows: "Guaranteed loans made under this
12 subtitle shall bear interest at such rate as may be agreed
13 upon by the borrower and the lender."

14 SEC. 10. Section 321 is amended by—

15 (a) deleting in section 321 (a) the language
16 ", Puerto Rico, and the Virgin Islands"; and

17 (b) adding to section 321 (b) (2) after "partner-
18 ship" the words "of the United States".

19 SEC. 11. Section 331 is amended by—

20 (a) deleting in subsection (a) the words "and in
21 Puerto Rico and the Virgin Islands"; and

22 (b) adding a new subsection (j) to read as follows:

23 "(j) notwithstanding that an area ceases, or has
24 ceased, to be 'rural', in a 'rural area', or an eligible
25 area, make loans and grants, and approve transfers and

1 assumptions, under this Act in connection with property
2 securing any loan made, insured, or held by the Secre-
3 tary under this Act or in connection with any property
4 held by the Secretary under this Act.”.

5 SEC. 12. Section 333 (c) is amended by inserting at the
6 beginning thereof the following: “except for guaranteed
7 loans,”.

8 SEC. 13. At the end of the Consolidated Farm and Rural
9 Development Act add a new section 346 to read as follows:

10 “SEC. 346. Congress may from time to time in appropria-
11 tion acts establish levels for any of the programs authorized
12 in this title. Such a level for a given program shall contain
13 two amounts, one against which insured loans shall be
14 charged and the other against which guaranteed loans shall
15 be charged, with or without authority for the Secretary to
16 transfer amounts between such categories within a given
17 program for more effective program administration pur-
18 poses.”.

19 SEC. 14. Section 343 is amended by deleting “and”
20 immediately before “(5)” and inserting the following be-
21 fore the period at the end of the section “, and (6) the term
22 ‘United States’ shall include the States, the Commonwealth
23 of Puerto Rico, the Virgin Islands, the commonwealths, ter-
24 ritories, and possessions of the United States, and the Trust
25 Territory of the Pacific Islands, and the term ‘State’ shall

1 include the Commonwealth of Puerto Rico, the Virgin Is-
2 lands, the commonwealths, territories, and possessions of
3 the United States, and the Trust Territory of the Pacific
4 Islands”.

5 SEC. 15. At the end of said Act, after section 346 as
6 added by this Act, add a new section 347 to read as follows:

7 “SEC. 347. Notwithstanding any other provision of law,
8 departments, agencies, and executive establishments of the
9 Federal Government may participate and provide financial
10 assistance jointly with the Secretary to any applicant to
11 whom assistance is being provided under any program ad-
12 ministered by the Farmers Home Administration. Participa-
13 tion with the Secretary by any other department, agency, or
14 executive establishment shall be only to the extent author-
15 ized for, and subject to the authorities of, such other depart-
16 ment, agency, or establishment, except that any limitation
17 on joint participation is superseded by this Act.”.



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

July 28, 1976

Honorable Thomas S. Foley
Chairman
Committee on Agriculture
House of Representatives
Washington, DC

Dear Mr. Chairman:

This is in reply to your request for a report on H.R. 14641, a bill "To amend the Consolidated Farm and Rural Development Act." The bill would affect certain beneficial changes with respect to borrower eligibility, loan limits, interest rates, program budgeting and areas served in the various programs under the Consolidated Farm and Rural Development Act administered by the Farmers Home Administration (FmHA).

This Department recommends enactment of H.R. 14641.

Under Sections 1 and 7 of H.R. 14641, the farm ownership and operating loan programs, now available only to individuals, would be extended to partnerships and corporations that operate family-size farms and ranches.

Section 2 would raise the limit on an FmHA insured farm ownership loan to any one borrower from \$100,000 to \$200,000 and create a new limit of \$300,000 for a farm ownership loan guaranteed by FmHA. The limit of \$225,000 on the total indebtedness against the farm or security would also be removed. These changes would permit more adequate financing of family farms than is possible under existing limits, and facilitate the use of guaranteed credit.

Section 3 would amend the definition of "rural" and "rural area," primarily by eliminating the nebulous concept of urbanizing areas in the case of business and industrial loans. Eligibility or ineligibility would be determined on the basis of the size of the municipality itself, and the population limits of ineligible towns and cities would remain the same -- more than 10,000 population, in the case of community facility loans, and more than 50,000, in the case of business and industrial programs.

These changes will make the eligible areas easier to determine and will permit FmHA programs for development of community facilities and business and industry to be applied in rural areas right up to the corporate

Honorable Thomas S. Foley

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limits of cities, towns or villages that are ineligible to be served because they exceed statutory population limits. The Department is concerned that the definition of eligible areas for business and industrial loans not be interpreted to allow loans to be made in places contiguous to metropolitan areas. We believe the purpose of this program is to create job opportunities in rural areas.

Section 4 would eliminate the now existing 5 percent statutory maximum interest rate on farm real estate and community facility loans, providing instead for a formula rate based on cost of money to the Government. For guaranteed loans in these categories, the interest rate would be negotiated between borrower and lender. This section also would delete the reference to "escrow agent" now found in Sec. 307(a)(2) of the Act. Such deletion would enable the Secretary, in those cases where he requires prepayments of taxes, insurance and the like, to merge the prepayments with other payments from the borrower, if the Secretary desires to do so for bookkeeping purposes.

Section 5 would eliminate the "credit elsewhere" test in the case of guaranteed loans under the Consolidated Farm and Rural Development Act. Under that test it must be shown that the applicant cannot obtain sufficient credit without FmHA assistance. The amendment would represent a major departure from the philosophy of FmHA farm credit being extended only to farmers and ranchers who cannot obtain credit from local commercial sources. We believe that the "credit elsewhere" test should remain in the statute for guaranteed farmer program loans.

Section 6 would eliminate for business and industrial loans the administrative determination pertaining to employment transfers and over-production, in cases where the loan would not exceed \$500,000 or direct employment resulting from the loan would not be increased by more than 20 employees.

Section 8 would increase the ceiling on farm operating insured loans to \$100,000, and create a new ceiling of \$200,000 for guaranteed loans for farm operating purposes, as compared to the existing limit of \$50,000 for either type of loan. This upward revision of operating loan limits is needed to provide credit to operators of family farms and ranches adequate to offset inflation in their production costs.

Section 9 would provide for interest rates on guaranteed operating loans to be negotiated between borrower and lender.

Section 10 would extend emergency loan programs to all areas as authorized in Section 14 of the bill.

Honorable Thomas S. Foley

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Section 11 would provide that in areas which cease to be "rural" through population growth, FmHA could continue to conduct loan and grant operations in connection with properties or facilities securing any loan held or insured by the Secretary, or in connection with any property held by the Secretary.

Section 12 would eliminate the requirement of "graduation" from FmHA assistance in the case of guaranteed loan borrowers.

Section 13 would add a new Sec. 346 to the Consolidated Farm and Rural Development Act providing that where Congress fixes a program level for a given FmHA program, it must specify separate levels for insured and for guaranteed loans.

Section 14 would provide a definition of the terms "United States" and "State". This definition would extend all FmHA services under the Consolidated Farm and Rural Development Act to commonwealths, possessions and territories of the United States, which would include the U.S. - administered Trust Territories of the Pacific Islands. At present, FmHA services are authorized by the Act only for the States, Puerto Rico and the Virgin Islands, although the agency's housing services under the Housing Act of 1949, as amended, extend also to the Pacific island areas.

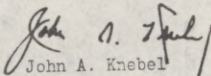
Section 15 would add a new Sec. 347 to the Consolidated Farm and Rural Development Act authorizing other Federal agencies to jointly participate with FmHA in the financing of any applicant to whom FmHA is providing assistance under one of its programs, notwithstanding the fact that the other agency may have a restriction in its statutory authority prohibiting it from becoming involved where another Federal agency is rendering assistance. Enactment of this proposed new section would facilitate the more effective use of various Federal resources available to rural areas, and clear away certain conflicts of jurisdiction.

In the judgment of the Department, H.R. 14641 would improve the capability of the Farmers Home Administration to help satisfy the credit requirements of farm families and rural communities, while at the same time reducing the burden of subsidies now affecting the national budget.

As requested in your letter of July 2, 1976, we enclose a schedule of estimated savings in terms of interest subsidy reductions that could result during the next five years from enactment of H.R. 14641.

The Office of Management and Budget has advised us that it has no objection to presentation of this report from the standpoint of the Administration's program.

Sincerely,


John A. Knebel
Under Secretary
Attachment

ESTIMATED SAVINGS IN PROGRAM COSTS
Farmers Home Administration

If the existing 5 percent statutory interest rate were superceded by cost-of-money formula interest rate through enactment of H.R. 14641, it is estimated that the following savings in interest subsidy costs would be realized in programs continuing at levels appropriated for FY 1977:

PROJECTED SAVINGS RESULTING FROM COST OF MONEY LEGISLATION
(In Thousands of Dollars)

PROGRAM	S A V I N G S					
	1977	1978	1979	1980	1981	1982
Farm Ownership Loans	6,890	21,028	35,653	50,278	64,903	79,528
Individual Soil and Water Loans	810	2,478	4,197	5,920	7,643	9,366
Soil and Conservation Loans						
to Associations (I&D)	15	47	79	112	145	178
Recreation Loans to Individuals	31	92	159	224	289	354
Grazing Loans	61	187	317	447	577	707
Indian Land Acquisition Loans	153	468	793	1,118	1,443	1,768
Total Savings, ACIF	7,960	24,300	41,198	58,099	75,000	91,901
Community Facility Loans	650	3,088	7,800	13,975	20,475	26,975
Total Savings, RHIIF	2,113	10,401	26,325	47,613	71,370	96,298
Total Savings	10,073	34,701	67,523	105,712	146,370	188,199

Mr. BERGLAND. Our first witness today is a colleague of ours, a member of this committee, a gentleman from Iowa, the Honorable Tom Harkin.

**STATEMENT OF HON. TOM HARKIN, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF IOWA**

Mr. HARKIN. Chairman Bergland and members of the subcommittee, I appreciate the opportunity to appear today in support of H.R. 14641. This bill makes many needed changes in Farmers Home Administration programs. I wish to commend the subcommittee for the extensive oversight hearings last winter which resulted in this legislation, and I wish to testify in favor of two bills which I have introduced in this area, H.R. 12650 and H.R. 14059. I urge that they be considered independently or incorporated into the final version of H.R. 14641.

During the oversight hearings in late January and early February, I wrote a letter to Chairman Bergland with copies to the other members of the Subcommittee on Conservation and Credit regarding the designated attorney system and the need for an appeal procedure for FmHA farmer loans. I have also been in frequent communication with officials at FmHA. FmHA has now taken the necessary steps to eliminate the political spoils system which has plagued the designation of FmHA loan closing attorneys since the mid-1950s under both the Democratic and Republican parties. Case backlogs were not uncommon in counties suffering a disaster with only having one or two designated attorneys available. Some farmers in my district had to wait as long as 3 months to obtain a title clearance for an emergency loan. This was over and above the time it took to complete the application process. I commend FmHA for instituting their new regulations. However, I think we should go further. H.R. 12650 places these present regulations into law. I think we must do that to avoid trouble in the future.

H.R. 14641 incorporates many needed changes in the farmer programs of the Farmers Home Administration. However, the bill passes over one important weakness in the present law. Under present law, a farmer who is determined to be ineligible for an FmHA loan by a county committee cannot appeal that decision. He has nowhere else to go, regardless of the merits of his application. Frank Elliott, who administers these programs testified to this effect last winter. The law specifically states that any farmer loan must be approved by the FmHA county committee. If this committee denies the loan application, the only recourse left for the applicant is to protest to a higher authority who is unable to rectify the problem.

As a Member of Congress from a district which has suffered severe drought and has a large number of counties declared disaster areas, I am extremely frustrated by the letters I receive from farmers who need help, but are turned down on the local level.

My bill, H.R. 14059, creates a five-person appeal board which will review these applications on the State level and either overrule the county committee or turn down the person because he or she is not eligible. In addition, my bill requires that a person denied a loan for any reason must be informed in writing of his right to appeal and of the reason for denial. Present regulations only cover half of this. The

person is informed why he is turned down, but not that there is a right to appeal. On the contrary, the person is invited to discuss the issue further with the FmHA county supervisor.

I would like to point out that a person may be deemed eligible for a loan by the county committee, but still denied assistance because the county supervisor also has the authority to turn down the application at a later date. Thus, an applicant is often directed to discuss the loan with the very person who helped make the decision to deny assistance in the first place. It is impossible to determine how many farmers in my district were turned down by the county committee and how many by the county supervisor. But the significant fact as it relates to Iowa is that the State director of FmHA has records of only one appeal under current regulations even though I had requested his review of well over 70 cases.

There is little question as to the dedication and integrity of the vast majority of the FmHA county supervisors. However, with the expanded role of the Farmers Home Administration, these dedicated civil servants are pressed to the wall with a multitude of responsibilities other than farm loans. Because of this expanded role, the supervisor may make mistakes, especially at the time of a natural disaster when the workload doubles or even triples.

For example, one county supervisor in my district told a farmer after he had received an emergency loan that the farm which he owned in his name would have to be converted into joint tenancy and unless this occurred, he would have to immediately return the loan. The only explanation for such a situation is human error. I have also received a flood of communications regarding one supervisor who farmers feel is acting capriciously. An appeal procedure is needed to give these farmers due process in the administration of Farmers Home Administration programs. H.R. 14059 would provide that appeal procedure.

H.R. 14059 would also change the manner used for the selection of FmHA county committees. It would elect the committeemen in an identical manner and at the same time that ASCS committeemen are elected. This means we could elect FmHA county committees at no additional cost.

As we all know, the grass roots democracy embodied in the ASCS committee structure has resulted in the even-handed administration of farm programs at the local level for nearly four decades. These committee members are trusted and respected members of the farming community. Under the present authority for the appointment of FmHA committees, only two of the three members must be farmers. I think that the entire committee should be composed of farmers.

I would like to call your attention to the attached article from the Des Moines Register of February 26, 1976, by George Anthan regarding the selection of FmHA county committee members. As you can see, the designated attorney system was not the only aspect of the FmHA system which has been tainted with partisan politics. My bill endeavors to get partisan politics out of the FmHA county committees as well.

During this subcommittee's oversight hearings, several witnesses intimated that FmHA committees be elected. Joseph Doherty, a Washington-based writer who has worked for the USDA for 20 years, took

this one step further and suggested that FmHA should be reorganized and that the FmHA farmer programs should be given to the Agriculture Stabilization and Conservation Service. While I don't favor such a move at this time, I feel that such alternatives should be considered. By electing FmHA committees, it would be a simple step to merely transfer responsibility on the national level at some future date.

H.R. 14059 would allow the ASCS county committee to be utilized for the determination of loan eligibility following natural disasters. These committees presently are responsible for the administration of the ASCS disaster program under the Agriculture and Consumer Protection Act of 1973. Not only could such authority coordinate disaster assistance on the county level, but farmers could also have their loans processed faster. Several farmers had to wait several months for the county committee to rule on their loan application in one county in my district. This would be standby emergency authority which could be used to speed the loan process and would only be used in a rare case.

Again, I appreciate the opportunity to appear today. I hope you find these thoughts useful as you proceed with the markup of H.R. 14641.

[From Des Moines Register, Feb. 26, 1976]

PATRONAGE USED TO FILL FmHA PANELS IN IOWA—COUNTY UNIT MAKEUP BY PARTY IN POWER

(By George Anthan)

WASHINGTON, D.C.—The U.S. Farmers Home Administration (FmHA) political patronage system in Iowa extends to selection of county citizen committee, which check on the eligibility of prospective borrowers, officials said Thursday.

They said that since 1969, when the Nixon administration took office, most of the persons selected for the county committees have been Republicans. During the eight years of the Kennedy-Johnson administrations, they said, most, if not all, of those named were Democrats.

The three-member county committees certify that a person seeking to borrow FmHA money is eligible, that he has been turned down for conventional credit, that he can repay the loan and that he has adequate security.

AGENCY APPROVES LOANS

The citizen committee does not approve the loan. It makes recommendations to the FmHA's county, district and state offices. In all cases, FmHA officials said, final approval of a loan is left up to the agency itself.

FmHA officials and some former county committee members who were interviewed emphasized they knew of no cases where the prospective borrower's political beliefs had anything to do with whether he received the federal loan.

One former county committee member, a southwest Iowa Democrat, said "I just found it rather intriguing that in doing away with the spoils system, we still retained this remnant."

LAWYER SELECTION

The FmHA has been operating a political spoils system in selection of the lawyers it certifies as eligible to handle legal matters involving its loans to farmers and to middle and low income families in the state.

FmHA officials in Washington now have directed that the agency's Iowa office include all lawyers who apply on its list of designated attorneys. The lawyers will have to meet certain bonding requirements.

A Northwest Iowa Democrat who served on an FmHA county committee during the Johnson administration said, "The FmHA now has three farmers on the county board and they're all Republicans. The Democrats did the same thing. What happens is that the FmHA supervisor in each county makes it clear that members of the citizens board must be members of the party in power."

"IN HISTORY"

Iowa state FmHA Director Robert Pim said the patronage method of choosing county committee members "goes back into history."

Pim said the county board members receive \$7 for each meeting they attend, and each unit meets about once a month. The members also receive \$3 if they drive 25 miles or less to the meeting, \$5 if they drive up to 50 miles and \$7 if they drive more than 50 miles. Each member serves for three years.

Pim and FmHA county supervisors select three persons to fill each vacancy, then send the list to him. Pim said he usually selects the first name on the county supervisor's list. Several persons who are familiar with the system said the list in most cases is submitted to the Republican county central committee before being forwarded to Des Moines.

But Pim emphasized that FmHA regulations clearly state that no one who holds a political party office or who is active in party affairs may serve on the county board.

Mr. BERGLAND. Thank you very much, Mr. Harkin. Are there any questions of our colleague? Mr. Bedell?

Mr. BEDELL. Mr. Harkin, first of all I would like to commend you for your work on this matter.

I do not find anything in the bill with regard to the compensation for the State committee members. Did I miss that in the bill? Is there to be compensation, or do they serve without compensation?

Mr. HARKIN. Do you mean the appeal board?

Mr. BEDELL. Yes.

Mr. HARKIN. No. I assume they would be paid on the same basis that the county people are, and I think that is \$7 a day right now, when they meet. You see they meet on a periodic basis, like once a month. Then they are paid \$7 a day. They usually meet 1 or 2 days.

Mr. BEDELL. That is not in here, is it?

Mr. HARKIN. Yes, section 2 of my bill would authorize the Secretary to establish a level of compensation.

The appeal board's compensation should be based on the same basis on which the county committees are now based—travel plus \$7 a day, or \$10 a day or something like that.

Mr. BERGLAND. May I pursue the point raised by the gentleman from Iowa?

Seven dollars a day—that is a labor of love. These persons would presumably be chosen from among the farm population of the State?

Mr. HARKIN. The appeal board would not. The appeal board that I envision setting up would be appointed by the Secretary, much as the ASCS State board is right now.

They would elect, among themselves, a chairman for the appeal board.

I am sorry—the county committee that would be elected. I may have misspoken. I am talking about the county committees being paid \$7 per day. The appeal board—where they have to drive a longer distance perhaps to meet from around the State—may have to be paid a little more than that. But the county people and the ASCS people are now paid \$7 a day, if I am not mistaken. The Farmers Home people are now paid \$7 a day.

Mr. BEDELL. It seems to me, to clear up the legislation, you ought to put into the legislation what you feel the compensation per day should be.

Mr. HARKIN. That is a good suggestion, and it ought to be done.

Mr. BERGLAND. Thank you, Mr. Bedell.

Are there any other questions? If not, thank you, Tom, for coming today, and for your work on this matter. I know the subcommittee members will consider your suggestions very carefully when we get to marking up the bill.

Our next witness is also a colleague—the Honorable Larry Pressler from the State of South Dakota.

Mr. Pressler, will you introduce your associate?

STATEMENT OF HON. LARRY PRESSLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH DAKOTA

Mr. PRESSLER. Thank you, Mr. Chairman, for the opportunity of making some brief, unscheduled remarks.

Mr. Marwood Wise, president of Dakota State Bank, is with a group from South Dakota which is experiencing one of the worst droughts in our State's history.

Earlier today we had the pleasure of meeting with you and yesterday with Secretary Butz on some of the credit problems that exist.

I would like to insert into the record a letter I have written to Secretary Butz about some potential improvements in the administration of law that now exists.

Mr. BERGLAND. Without objection, that letter will be included in the record.

[The letter submitted by Mr. Pressler follows:]

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 27, 1976.

HON. EARL L. BUTZ,
Secretary, Department of Agriculture, Washington, D.C.

DEAR MR. SECRETARY: Thank you very much for your kindness in having the meeting with the South Dakota group today.

I am disturbed that there are at least four potential areas in which the Department of Agriculture has not acted where it appears that administrative steps could be taken without new legislation. Those areas seem to be:

1. For the five-year average utilizing the last five non-drought years for computing a farmer's average crop. Many of the drought counties in South Dakota have had three years of consecutive drought and those suffer even more. At the meeting this afternoon it was brought forth that the Department could administratively use five non-designated drought years. This would make a big difference. No new legislation would be needed by Congress.

2. It appears that the Department could administratively lower interest rates for emergency loans in some instances. Possibilities in this area have not been exhausted.

3. The utilization of the hay hauling program for cattle hauling. In the meeting with the South Dakota farmers it was pointed out that they could administratively use this program to haul cattle as well as hay if a farmer prefers. This has not been done and I urge that it be done immediately.

4. Under the way the law presently is administered, farmers are required to show proven individual production records for a five-year period and it was stated at the meeting that other records such as county ASC normal yields might be used in lieu thereof.

Finally, I would plead that you have the Department of Agriculture's legal counsel check all existing laws relating to the drought assistance to see what we can do administratively for immediate relief. We shall work on legislation to provide further relief, but until the Department of Agriculture is fully utilizing existing programs, it will be hard to pass new legislation. It has been my feeling that the Department has not been sufficiently aggressive in exploring and finding relief under existing laws.

I think it would be profitable if we could have additional meetings on any or all of the foregoing suggestions.

Sincerely,

LARRY PRESSLER,
Member of Congress.

Mr. PRESSLER. Mr. Wise has a few remarks.

If the record could be left open for me to insert additional remarks of his under my name, I would much appreciate it.

Mr. BERGLAND. We will see what we can do to accommodate you.

STATEMENT OF MARWOOD WISE, PRESIDENT, DAKOTA STATE BANK

Mr. WISE. Thank you, Congressman Pressler, and Mr. Chairman, thank you for the opportunity to express our views here. We are a non-partisan group from the eastern part of the State of South Dakota, and we share the common need. I am sure the need has been expressed very fully to you gentlemen, and we will not waste time on that.

We have two definite, immediate requests, however, and they are roughage and capital.

It has already been talked over in various forms as to how we can best obtain this roughage so that we can keep the cattlemen in business. At the present time in the State of South Dakota it is not economically feasible for the cattlemen to stay in business at the cost of roughage. Briefly, we cannot spend over \$20 a ton for feeder cattle. We cannot spend over \$40 to \$50 a ton for dairy cattle. If this thing continues on for another 6 months, there are not going to be any dairy farmers in the State of South Dakota.

Second, we are going to need capital for operating expenses because all of the collateral feasibility of the borrowing power of the farmer has been exhausted as far as his collateral development is concerned. Therefore, we are going to have to need a long-term, low-interest-rate loan on an unsecured basis over a long period of time based on repayment ability. By that, I mean that we can possibly pass the credit test of chattel, but not the credit test of real estate. And it is going to have to be based upon his repayment ability over the express number of years as far as crop mortgages might be concerned.

I thank you gentlemen for your time, and, if there are any questions relative to this, we will have some definite recommendations as to how this can be implemented.

I would like to say, in closing here, that, after speaking to the various agencies, I certainly would not impugn the judgment of the agencies in the exercise of the law, nor would I begin to even express my opinion relative to what has transpired in the last few days in Secretary Butz's office, and so on. But, I believe there has been a breakdown in communications. We are not getting the same thing out in South Dakota that you gentlemen are telling us here.

Administratively, we have had a breakdown. We have not exhausted all of the things that are available to us.

We would like to get a low-rate-of-interest, long-term loan, and administratively you gentlemen are in the driver's seat right now and you can do it for us.

Mr. BERGLAND. Thank you very much, Mr. Wise and Mr. Pressler.

I have a question or two of you. Maybe the others have as well.

About 2 years ago we created an emergency livestock loan program and an amendment to the Emergency Credit Act. In both cases, we provided for more liberal repayment terms allowing up to 7 years, and in some cases 12 years, to be repaid out of the proceeds of the crops or livestock sold.

It was our judgment that, in most cases, at least, the repayment terms were more important than the rate of interest, because we know that, if we are going to have loans at 1 percent interest, all the forces at work in this society would demand that that loan be paid back right away.

If the interest rates are more near the cost of money, we are able to work out arrangements whereby the terms can be more generous, which we thought was more important to a hard-pressed creditor.

That program is operating in South Dakota. Have you had problems with it? You refer to a need for more liberal credit. What more can be done that has not been done?

Mr. WISE. We have not only had problems with the administration of this program, but we have, as I said before, a definite breakdown in communications to the fact that there are very few people in our community that realize that it is even available to us.

We have such a small staff out there as far as this administration that we could possibly use a jump team out there, or someone, to administer this thing.

I definitely agree with you that a longer period of time is what we need. We also need a lower rate of interest.

But I will agree with you that a longer period of time is essential. We need money, and we need it now, however.

Another thing that I want to impress upon this committee before we leave is, in 3, 4 or 6 months down the road, we are not going to need this help any longer, because we are not going to have any cattle farmers in the State of South Dakota.

Mr. BERGLAND. I have one last question.

I have been told that there has been a rather extensive delay in the processing of these applications. What has been your experience in that?

Mr. WISE. The credit test as far as real estate is concerned has been a real bugaboo as far as this program goes. I am sure you gentlemen are all acquainted with the fact that we have to extend abstracts, attorneys' opinions, and so on, in putting a second real estate mortgage on the books.

This thing could be eliminated very easily, we feel, administratively. This would speed up the process.

We have one attorney in Grand County that is authorized for this purpose. They are trying to service about 600 customers. By the time one attorney services 600 needy customers, the cattle are all shipped out of the State.

Mr. BERGLAND. I see. Thank you.

Mr. Madigan?

Mr. MADIGAN. Mr. Chairman, just to reinforce something that you said in the Capitol Building earlier, and again alluded to today, and perhaps to contribute a little to your understanding of our problems here, all of us at this table represent farming interests in farming

areas, and all of us are very much interested in doing everything that we can for American agriculture.

There are a substantial number of programs that the Federal Government either runs or participates in that are guaranteed loans, in some cases, and low-interest loans in other cases, and things like that. Some of them are for municipalities, like the city of New York.

Now there is a program going through the Congress for new resource recovery facilities for municipalities that some of the municipalities want a 1 or 2 percent interest rate on.

Just to reinforce what the chairman said, and to help your understanding of it, while we are very much interested in your problems and are going to try very hard to help Mr. Pressler and Mr. Abdnor and your two Senators, we do have the problem of trying to ride herd on all of these things, and the total of the guaranteed loans today by the Federal Government according to the Office of Management and Budget—this is as of last week—is \$208 billion. That is a lot of money.

I only make those comments to contribute to your understanding of the situation that we are in and what the chairman means when he talks about the cost of money and the need for us to avoid these things as much as we can.

I noticed yesterday in the newspaper, the Department of Agriculture had a release urging people to buy meat. I wonder—because I do not understand this meat situation at all—we do not grow beef in the area that I represent; we do grow a lot of corn that we sell to you people to feed to your beef, and we are interested in your problems for that reason—how much of your problem is the depressed cattle market as opposed to the price of roughage?

If the cattle market were to improve as the result of increased buyer and consumer interest in meat products, would not your problems be alleviated?

Mr. WISE. No. That is not the problem. Effectively, what we are doing is, regardless of the price of beef right now, we are putting the cattle farmer out of business for at least 2 years. Foundation herds are going. Breeding herds are going. Dairy herds are going.

The price correlation, as far as the need of roughage right now, is not that directly correlated. There are a lot of exotic herds out there right now, for instance, that are having to be sold on the block. Do you know what I mean by on the block? They have to be sold at market prices. They have to be bought back at three to four times the price at which they were sold. In the meantime, where is the individual going to be that is the cattle farmer? Where are the people who were working for him going to be? They are going to be on the welfare rolls.

We are 90 percent agribusiness. In the meantime, it is going to work itself on up directly to the consumer, to the drugstore, to the bank, to the hardware store, to Main Street South Dakota.

Mr. MADIGAN. If the price of cattle does not improve—suppose it stays as low as it is, or goes even lower—irrespective of what we might do in terms of improving your credit capabilities, you would still be going out of business anyway, would you not?

Mr. WISE. No. I would say, no. If we can obtain the capital and the roughage, the hardy growth-type people in the State of South Dakota are willing to run that risk and stay in there and continue to provide

the consumer with these products at nil profit—just treading water for the time involved.

Mr. MADIGAN. If I may impose upon your patience, I do not understand that.

I have had a little business experience, and the ability to borrow money is one thing. The ability to pay it back is something else. If you are borrowing money to stay in a business that you are losing money in, something has to change or you are ultimately going to go out of business anyway, are you not?

Mr. WISE. That is very true, although I do not think that we are going to control the price of beef, nor are we going to be able to project ourselves right now into that proposition. I don't think anyone can read the future down that long a road.

The only thing I am saying right now is that we are willing to run that risk. We are willing to do that in the State of South Dakota. All we are asking for is disaster loans now on a wait-see basis so that we can continue this effort, because we do have enough faith that this thing is going to continue so that we can stay in business.

After all, that is all we have in the State of South Dakota—agribusiness. What else can we depend upon? We have to have faith that it is going to be there. We have to also have faith in our administration—that they are going to keep the price up and keep things in line so that we can produce and so that we can make some money on them. In the meantime we have to have these disaster funds—the roughage, the money. We have the will. We have the desire. We have the property.

Mr. MADIGAN. Mr. Chairman, I have one other question. It is about a statement you made this morning which I do not understand. But it can wait. I can ask it later.

Mr. BERGLAND. Thank you very much, Mr. Madigan. Any other questions of our colleague from South Dakota? Mr. Baldus?

Mr. BALDUS. Earlier, in visiting, you talked about the problem of the 5-year average. Could you explain that? It seemed to be an administrative delay problem.

Mr. WISE. Under our present administration, the way I understand it, under form 22, in order for a farmer to avail himself of this loan, he has to establish a 5-year production average for the last 5 years. Out of the last 5 years, 3 have been poor. This creates a hardship on him right away by which he cannot prove a loss, because 3 out of 5 is not a good ratio.

Our suggestion on that, which, as Congressman Pressler said would follow, I am sure will contain the language so that we would express ourselves and could ask for an ASC average. In other words, there has been an average production track record established for the State of South Dakota by the ASC office. We would like to take that general average.

Mr. BERGLAND. Thank you, Mr. Baldus. Mr. Bedell?

Mr. BEDELL. Three out of five—is that something in the legislation, or is that a ruling by the Department?

Mr. PRESSLER. Let me interject there. Those are drought designated.

I think your county has been designated as a drought county for the three of the last years. Is that right?

Mr. WISE. Three out of five.

Mr. PRESSLER. Three out of the last five. So it is in the legislation? No, it is not in the legislation. I'm sorry. That is the point. Maybe I can read it. It is my first sentence to Secretary Butz:

"For the 5-year average utilizing the last 5 non-drought-designated years for computing a farmer's average crop, many of the drought counties in South Dakota have had 3 years of consecutive drought designation, and those suffer even more.

"At the meeting this afternoon (that was yesterday in Mr. Butz's office), it was brought forth that the Department could administratively use the 5 last non-drought-designated drought years."

So the Department of Agriculture is not utilizing its full authority under the law in this area, is what I am arguing. They now have authority. This is the point of my letter to the Secretary.

I don't know if we need new legislation, but first of all we need to try to utilize fully the laws that we now have.

Mr. BEDELL. The question is whether or not there is a repayment capability there. Am I correct in that?

Mr. WISE. Yes; I would say so.

Mr. BEDELL. It takes the last 5 years to determine whether or not that is there.

They have a flexibility, as we understand it—am I correct? To use that as they see fit. So it does not require a change in the law for them to be able to use the other thing? They can do so?

Mr. WISE. That is purely administrative.

Mr. BEDELL. My second question is, you said "This thing could be eliminated," when you were talking about the delay that exists. I do not know what thing you were talking about eliminating.

Is the delay caused, in your opinion, by the fact that FmHA does not have adequate personnel, or because of their regulations, or does the delay exist because of the time required, as you said, to get the abstract brought up and those sorts of things that have to be done? What is it that is causing the delay, which I understand is quite a problem out there?

Mr. WISE. The credit test on real estate is in there which inevitably creates a delay because the second real estate mortgage has to go in there. I am saying, eliminate the need for a second real estate mortgage entirely.

Mr. BEDELL. I do not completely understand that.

Mr. POAGE. Mr. Chairman?

Mr. BERGLAND. Mr. Poage?

Mr. POAGE. I just want to go back to this question about what you use as your base, because I think we get ourselves in a lot of trouble by grasping at something that doesn't give us what we want.

If I understand it, it has been suggested that, instead of using a 5-year average, that we use the average of production as long back as we have historical records.

I do not claim to know what will happen in South Dakota, but I do know what would happen nationwide, and we are going to have to pass legislation nationwide and not just legislation applicable to South Dakota. You are going to cut yourself off from a lot of loans if you put that on a 100-year or 200-year basis instead of a 5-year base, because, over this Nation, our agricultural productivity has greatly increased in the last 40 years.

When I came to Congress, the average wheat production in the United States was about 11 bushels per acre. You go back and put yourself about 100 years, which was about 11 bushels per acre or less, and you are going to find that you are getting far less rather than more protection. I think that is just exactly what we do not want to do. I think we have got to recognize what we are achieving here.

If you go back and take a 100-year history, you haven't anywhere near the production that you have had in the last 5 years.

Mr. WISE. Begging your pardon in interrupting, sir, my reference was to the ASCS established production which would be possibly the last best 5 years of production. The ASC office has these records established for us, and they are at our disposal.

Mr. POAGE. They go back 40 years?

Mr. WISE. Not necessarily, no.

Mr. POAGE. You said a minute ago, all the way back.

Now how far do you want to go back. I think that is your point. Where are you going to stop in this going back?

Mr. PRESSLER. I think that is an excellent point, Mr. Chairman. We are suggesting going back 5 non-drought-designated years, which, in the case of his county, would be 8 years.

Mr. POAGE. If you are going to have us pay the farmers on their best years, that would be very fine. I have a selfish interest in doing that.

Mr. WISE. No. Nondrought years.

Mr. POAGE. All right. Nondrought years are good years.

Mr. PRESSLER. Non-drought-designated years—the last 5.

Mr. POAGE. They are good years. That is not an average of your production.

Mr. PRESSLER. They could be average years. A non-drought-designated year could be an average year.

Mr. POAGE. No, they cannot be, because, when you are getting a drought, you are getting them more frequently than you would like to confess.

Down in my country we get about the same rainfall that you do, but we have a tremendous evaporation that you do not have. It takes a great deal more water to grow a crop of wheat or a pasture of grass in west Texas than in does in South Dakota because we have a large amount of evaporation which you do not have. You have it frozen all winter. You are not getting any evaporation. You are not losing water, is what I am saving. You are using a much larger percentage of the water that falls, and you get about the same the same amount falling that we do.

I know that we have droughts at least 2 out of 5 years. If you run it back the last 100 years, I think you'll find that at least 35 or 40 of those years were drought years.

I don't think you can sell this Congress on doing anything other than taking the average—taking the good and the bad—and I think we should. We are certainly entitled to the good, and, in fairness, we have got to take credit for the bad. Otherwise you are going to give my country the same production that you are giving Virginia, and we do not have it.

Mr. WISE. Mr. Chairman. I would not impugn the knowledge of the administrative people in this field in any way, shape, or manner, to

establish what they think would be an equitable average. This is not the point of contention, as far as I am concerned.

What we are actually asking for is a replacement of a normal production basis on which we can base our loss and get this money back into the class floor element so that we can live in the State of South Dakota.

Mr. POAGE. I am perfectly ready, and I want to go along with you to get an actual record of production. I think you should have it, and you shouldn't distort it with any particular years. But, what do you suggest is a better formula?

I am not wanting to criticize the Department or anybody else about this thing, but I am not about to say that we shall let the present Department—or, when Mr. Carter is President, his Department—should just pick years out of the calendar or almanac or history.

Mr. WISE. Could this come in recommendation form in writing from our committee?

Mr. POAGE. I am trying to find out what you are seeking here. Certainly you can write anything you want to, but I am trying to find out what you really want. You could take a 5-year average, or you could take a 10-year average. I have no objection to it. You could take a 30-year average, if you want to.

I want this thing written out. When you lend money as a banker, you have got both a note there and a mortgage here and you have all kinds of language in it. Your mortgage doesn't say, "Pass it back, if you can." It says what you will pay, when you will pay it back, and it describes the property you have taken mortgage on. It does not say that somebody can manipulate that down to the good years and picking out certain years. If I were a banker, I would require it too. I think you have an obligation to your stockholders to do it, and to your depositors. You would go broke in a few years, if you didn't.

The Government has got to have those kinds of things. We have got to write this out. We have got to say what these years are going to be.

I have no objection if you want 10 or 20. But I think that, when you get back to taking 20, 25, or 30 years, you are going to get less than you get when you take 5, because I think that your production—I don't claim to know South Dakota, but I know nationally—increased in each of those more recent years. You are going to be cutting yourself off when you take a long string of years instead of the last 5.

Mr. PRESSLER. Mr. Chairman, I think your points are good. Let me say that this group is going to be submitting some written recommendations. I am going to put it in the Congressional Record, and, I hope, to this committee. I do not want to take too much of the committee's time, but let me very briefly say this. Say there are two countries side by side, one of which happens to be drought-designated. Farming operation in another county might come just under the line, or just over the line and not be drought-designated. It so happens that Grant County has been drought-designated for the past 3 years.

Let us say that the county next to it in Minnesota or South Dakota does not have that designation. A farmer would be put on a different basis with almost the same kind of a farming operation. He might have received, by chance, less rain. In South Dakota we have very scattered showers some times.

I believe there is a flaw in the way this is being administered or interpreted. I think we should submit in writing a more detailed analysis of that, if that is agreeable.

Mr. BERGLAND. Thank you very much, Mr. Pressler and Mr. Wise. We will look forward to receiving your explicit recommendations on this matter.

Mr. PRESSLER. Thank you.

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

Mr. BERGLAND. Our next witness is the Under Secretary of the Department of Agriculture, a man who is no stranger to this committee having worked here for some time, the Honorable John Knebel, who is accompanied by Dr. James Bostic, the Deputy Assistant Secretary of the Department of Agriculture, and Mr. Frank W. Naylor, representing the Farmers Home Administration.

STATEMENT OF JOHN A. KNEBEL, UNDER SECRETARY, U.S. DEPARTMENT OF AGRICULTURE

Mr. KNEBEL. I appreciate the invitation to appear before the subcommittee and discuss the measures proposed in H.R. 14641, affecting services administered by the Department of Agriculture through the Farmers Home Administration (FmHA).

The Department recommends the enactment of this bill. In our judgment, it would improve the Consolidated Farm and Rural Development Act in the direction of more effective and, at the same time less costly, administration of major rural credit programs authorized in the act.

As you know, one of the broadest missions Congress has given the Department of Agriculture is that of primary responsibility among Federal agencies for assistance in rural development.

Today, with the growth of private industrial investments in rural areas and the increasing dispersal of nonfarm job opportunities around the country, in small towns, in cities, and in open country, more Americans can find jobs in a variety of places. This means that more Americans can choose the place where they want to live to the basis of attractions of place, good schools, modern hospitals, adequate health care, and a wide assortment of social and cultural institutions, as well as the availability of jobs.

The once seemingly inexorable movement of people to our largest cities has apparently halted. The number of people moving from metropolitan areas exceeded the number moving to metro areas during 1970-75, reversing the longstanding migration trend.

During the present administration:

1. Nonmetro occupied housing grew at a faster rate than metro from 1970 to 1975 (14 percent versus 11.2 percent). In the 25 years of rural housing programs, 85 percent of the total loans have been made during the past 7 years.

2. Occupied substandard housing declined at a faster rate in non-metro areas from 1970 to 1975 (35 percent versus 25 percent).

3. The nonmetro population growth rate has exceeded the metro rate for the first time this century—1970-74 nonmetro population growth was 5.6 percent, compared with 3.4 percent for metro areas. Nearly \$3 billion (more than 40 percent) of the \$6.3 billion provided for community facilities financing through FmHA in 35 years has come in the past 7 years.

4. Nonmetro areas have gained population faster in the 1970's than they lost population in the 1960's—the 1970-74 estimated gain was 1.6 million versus the 1960's loss of 3 million. Much of this growth is the result of increased opportunities for those who want to stay in the country, or return to the country, and find there decent work and living conditions in a better environment.

5. As a group, even nonmetro counties not adjacent to a metro area have increased their population more rapidly than metro areas—4.9 percent versus 3.4 percent during 1970-74.

This greater freedom of choice as to where and how one will live is the aim of rural development, urban development, and national development. The three concepts are not independent. The needs are different in specifics but the aim of all efforts is the same—to make a place livable, enjoyable, and nurturing.

We at the Department of Agriculture are totally committed to achieving these goals.

A predominant part of the Federal assistance in this effort flows from programs carried out through FmHA under authority of the Consolidated Farm and Rural Development Act. These include the loan programs for ownership and operation of family farms and for farm recovery from natural disaster; the assistance in improving water, sewer and other community facilities in rural areas, and the guarantee of commercial loans for greater development of business and industry in rural areas. Also, FmHA has broad authority for improving housing in rural America under the provisions of the Housing Act of 1949 as amended.

For several years we have recognized a need to update some of the statutory limitations and options on these programs. Continuing to operate under terms of law based on economic conditions prevailing 10 to 15 years ago has tremendously increased the cost of these programs to the taxpayers. In farm and community credit programs, budgets have doubled during the past 5 years. In several respects, the act as it stands today is deficient or unrealistic as to interest rates, rules of borrower eligibility, loan limits and provisions to expedite more rural financing through private commercial sources.

The administration believes the changes proposed in H.R. 14641 represent significant progress in bringing the Consolidated Farm and Rural Development Act up to date. The effect of principal provisions of the bill would be as follows:

WITH RESPECT TO INTEREST RATES

The now existing 5-percent statutory maximum rate to borrowers on farm real estate and community facility loans would be removed, in favor of a formula rate based on cost of money to the Government.

These insured loan programs were conceived on the basis of a cost-of-money lending rate; 5 percent was adequate as a cost-of-money rate when the 5-percent statutory maximum rate was adopted some 22 years ago. But in 1966 the FmHA cost of borrowing insured money became greater than 5 percent, and the interest subsidies in the program, have been mounting for the past 10 years.

Now as in the beginning, it is feasible to conduct these programs on a cost-of-money basis. That principle has been applied successfully

for the past several years in the FmHA farm operating loan program. The change to a cost-of-money formula would provide a great measure of relief from the present-day budget impact of these programs. For example, if lending were to continue at present FmHA program levels, it is estimated that savings through elimination of interest subsidy would total more than \$553 million over the next 5-year period.

The existing act provides that interest rates on FmHA guaranteed business and industrial loans be negotiated between borrower and lender. H.R. 14641 would extend this provision to other types of guaranteed loans authorized by the act, excepting the farm emergency loan program. Adoption of this provision of the bill would eliminate interest subsidies under the other guaranteed farmer loan programs.

There would be no change in the existing 5-percent interest rate for insured farm emergency loans covering farmers' actual losses resulting from natural disasters.

WITH RESPECT TO LOAN LIMITS

The bill provides for upward revision of loan limits in the farm ownership, other farm real estate and operating loan programs to permit more adequate financing of family farm and ranches than is possible under existing statutory limits.

The maximum on an insured loan secured by real estate would be increased from \$100,000 to \$200,000 for any one borrower, and the limit on an insured operating loan would be increased from \$50,000 to \$100,000.

New ceilings on FmHA guaranteed loans by private commercial lenders would be established at \$300,000 for a real estate loan and \$200,000 for an operating loan.

These increased limits are needed to provide credit to operators of family farms and ranches in amounts adequate to offset increase in their costs, and to facilitate the greater use of guaranteed credit in meeting the needs of family farm agriculture.

The bill would remove from the act the existing limit of \$225,000 total indebtedness against the farm or other security property on which FmHA has made a loan.

WITH RESPECT TO ELIGIBILITY

Two changes in the eligibility criteria for FmHA services are proposed in H.R. 14641.

The bill would extend farm ownership and operating loans to family size farm partnerships and corporations. At present, these two basic farm credit services of FmHA are available only to individual borrowers. This limitation has foreclosed service to many family size farms and ranches because they are organized as family partnerships or family farm corporations.

The bill would have the effect of extending all FmHA services under the Consolidated Farm and Rural Development Act to American territories, possessions and trust territories in the Pacific. Congress has previously extended rural housing services to those areas. The act now confines its authorizations to the States, Puerto Rico and the Virgin Islands.

Negotiations with the Trust Territory of the Pacific Islands for the purpose of determining their future political relationship with the United States have not yet been completed. Included in these negotiations, is the question of future financial assistance. Therefore, we believe that any extension of these programs to the trust territory should be deferred pending completion of these negotiations.

Two other provisions of H.R. 14641 bear on questions of eligibility and also would alleviate administrative delays that may occur in the program.

The bill would exempt applications for guaranteed farmer program loans from the "credit elsewhere" test, a procedure of proof that the applicant cannot obtain sufficient credit without FmHA assistance. The amendment would represent a major departure from the philosophy of FmHA farm credit being extended only to farmers and ranchers who cannot obtain credit from local commercial sources. We believe that the "credit elsewhere" test should remain in the statute for guaranteed farmer program loans.

Section 3 of the bill would resolve questions of eligibility for community facility or business loans in areas near ineligible cities. This section would amend the definition of "rural" and "rural areas" so as to eliminate the concept of an "urbanized" or "urbanizing" area. The act now prohibits loans in these "urbanized" or "urbanizing" zones. Section 3 of the bill would permit loans in any territory outside an ineligible city. Cities ineligible to be served through the FmHA programs remain those of more than 50,000 population, in the case of business and industrial loans, and more than 10,000, in the case of community facility projects. The Department is concerned that the definition of eligible areas for business and industrial loans not be interpreted to allow loans to be made in places contiguous to metropolitan areas. We believe the purpose of this program is to create job opportunities in rural areas.

WITH RESPECT TO PROGRAM BUDGETING

Section 13 of the bill provides that where Congress fixes a level for a given program authorized by the Consolidated Farm and Rural Development Act, the Congress must specify separate levels for insured and for guaranteed loans. This would clarify the agency's annual level of program authorization for each category of loan.

Administrative improvements are provided in other sections of this bill before you.

H.R. 14641 proposes to eliminate the requirement for Department of Labor and administrative determinations pertaining to employment transfers and overproduction, on applications for business and industrial loans that would not exceed \$500,000 or result in the creation of more than 20 new jobs.

The requirement that FmHA periodically examine the status of borrowers to determine whether they should be graduated to conventional credit would be eliminated in the case of guaranteed loan borrowers. This provision is endorsed because guaranteed borrowers already are being served by commercial lenders, and the examination of their status under the graduation procedure is an impediment to secondary marketing of guaranteed loans.

Section 15 of the bill represents an authorization for Congress to other Federal agencies to jointly participate with FmHA in financing any applicant, regardless of any restriction in the other agency's statu-

tory authority against becoming involved where another Federal agency is rendering assistance. Enactment of this section would clear away certain conflicts of jurisdiction, and facilitate the more effective use of various Federal resources available to rural areas.

Mr. Chairman, the subcommittee is aware of the vigorous efforts now being made by the Farmers Home Administration to take every possible administration action that will improve its service in helping to meet the credit requirements of farm families and rural communities.

But some needed improvements can only be effected through legislation.

We consider the provisions of H.R. 14641 most beneficial toward this purpose, and we recommend your favorable consideration of this bill.

If I may, however, I would like to take a few minutes—with your permission and indulgence—to comment on a couple of points which Mr. Harkins raised earlier, if the committee is interested in that. If you are going to report the legislation, it may be helpful for us to comment rather than go back through another hearing process.

Mr. BERGLAND. Mr. Secretary, would you go ahead and respond to those comments in any way you wish.

Mr. KNEBEL. Thank you, sir.

Mr. Harkin has suggested and proposed a measure which would require FmHA borrowers to have, if you will, a freedom of choice with respect to the individual attorney who is to close their loan.

In principle we support that notion. However, I would hope that the counsel for the committee would develop, in their report, some language which would suggest that the attorney must be in local good standing with his bar. He must be an active practitioner, hopefully, in the field of real estate. This is a matter where, as you get a higher incidence of loans, it is going to be a very attractive and lucrative area for lawyers, if you will, to do a little skimming. By that, I mean to pick up some work which has a fixed fee on it and is relatively easy work, but I must say it is also work which can be fairly drastically overdone if, indeed, the people are not good, knowledgeable practitioners in the field. So we would like some restraints, however, we are amenable to that. I am not sure it need be done by law, but, indeed, the Harkin proposal is a step in the right direction.

With respect to the use of ASC committeemen and ASCS employees to help in processing those emergency disaster loans, I would point out that the Civil Service requirements actually prohibit Farmers Home Administration from utilizing ASCS employees now, because the ASCS employees are not civil servants in the strictest sense of the word. Therefore, we cannot use them.

During the development of this year's appropriations bill, we had sought legislative authority to use ASCS employees to help FmHA. We ran into a little resistance. In fact, the measure did not come to pass, and we were denied that, so we would like to have some standby authority. You see, these ASCS employees are not regularly scheduled employees, and therefore they cannot report to the Farmers Home Administration supervisor.

I would have some questions and some reservations, however, with respect to just giving the ASCS disaster committee carte blanche authority to approve an FmHA loan. I think that is going a little bit far.

I also seriously question whether or not the present statutory intent would not be exceeded if that were done.

Aside from that, Mr. Chairman, I have no further comments and would be glad to take such questions as you or your colleagues may have.

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

Dr. Bostic, do you, or Mr. Naylor, have anything, at this point?

Dr. BOSTIC. No, sir.

Mr. NAYLOR. No, sir.

Mr. BERGLAND. All right.

We appreciate your testimony. I do have questions, and I am sure other members of the committee, and maybe the staff, do as well have something they would like to ask.

My first goes to your comments on the credit elsewhere test. The bill under consideration sets aside that requirement in the case of guaranteed loans only.

My reason for considering that proposition is that, while I perfectly well understand the need for credit elsewhere test in the insured loan area, the situation has arisen in a number of cases in which the lender has an account with the borrower. It has gotten to the point where the lender can no longer carry that account without some additional security. One of those could obviously be an insurance policy written by the Farmers Home Administration under the guaranteed loan authority.

I did not want to force that borrower to go to another bank, or other banks, or go shopping around, but rather keep that borrower with that banker, with that lender.

One of the many reasons for introducing these changes in the guaranteed loan area is to try to reduce the burden placed upon the local administrators of the FmHA. There is more to do in those offices than they can possibly say grace over. And if we can shift much of this burden to the private sector with an FmHA guarantee, we will have more people servicing these loans and fewer complaints about the delays and problems that have arisen when we have hundreds of people move in on an FmHA office and there is no way they can handle it. We understand the staffing problems in that regard. You cannot anticipate what the problems may be.

So, by enlarging the guaranteed loan program, we may have a half dozen loan supervisors in the county that can make and service these loans with an FmHA guarantee.

I did not want to force these people to go to other banks and shop around. I think the borrower ought to stay with the lender—the lender with whom he has had experience. The lender understands the borrower. They understand each other, and they can work out an arrangement that is more satisfactory than if the borrower is forced to go shopping around and entailing a good deal of redtape for no good purpose.

Is there some way we could work out an accommodation in this regard?

Mr. KNEBEL. We do not intend to require the borrower to try to find a whole new banking relationship.

What we do, however, intend to do is to require the banker to make the decision that, but for the guarantee, he can extend further credit.

I don't think that, when you get down to actual practice, Mr. Bergland, we are that far apart.

Mr. BERGLAND. No. Apparently we are not.

Does the current law in that regard allow you to do what you said you want to do?

Mr. KNEBEL. Yes; it does. Not only in the Consolidated Farm and Rural Development Act, but also in the Small Business Administration Act. That is actually how they operate.

Mr. BERGLAND. So, to make it clear then, in the case of the guaranteed loan, the borrower could stay with his bank even though the credit elsewhere test remains in the act, and he would not be forced to go shopping?

Mr. KNEBEL. Yes, sir.

Mr. BERGLAND. All right. That helps me, at least.

Mr. BALDUS. How many tests?

Mr. KNEBEL. It is just the banker with which the ongoing relationship exists, Mr. Baldus, makes the determination, in that case.

Mr. BALDUS. So it is one turnaround?

Mr. KNEBEL. It is just the one turnaround. That is correct.

Mr. BERGLAND. That means, in the instance cited by you, the banker would certify to the FmHA that he cannot carry that account without an FmHA guarantee?

Mr. KNEBEL. What he is really saying, Mr. Chairman, is that the security interest is just all about he can see on a commercial side. The rate of interest is going to be at the commercial rate. And he is asking the Government to put a guarantee on up to 90 percent of the loan that he may be extending in addition to that which is presently outstanding. It is a consolidation and an extension.

Mr. BERGLAND. One of the problems that has been called to my attention over the years has been, as they say in the community, they run out of money. You allocate money on a quarterly or monthly basis and, in some cases I know, it has been reliably reported that you have as many requests on file as there is money for the entire year.

You release the quarterly allotment, and it is soaked up within a matter of days, and then there will be months in which nothing transpires.

I know that your loan volume has increased rather substantially in the past 2 or 3 years, but I am not sure how much. Can you tell me what has happened in this area?

Mr. KNEBEL. Mr. Chairman, I would like to submit a table for the record, if I may.

[The table submitted by Mr. Knebel follows:]

FARMERS HOME ADMINISTRATION—FARMER PROGRAM LEVELS, FISCAL YEARS 1969-77

[Dollar amounts in millions]

Farmer programs ¹	1969	1970	1971	1972	1973	1974	1975 actual	1976 actual	1977 estimate	Current interest rate (percent)
Emergency loans.....	\$114.7	\$89.4	\$127.6	\$108.9	\$557.8	\$128.3	\$735.0	\$477.7	\$200	5
Farm ownership loans.....	277.1	261.5	268.4	355.5	408.1	352.2	352.0	435.0	450	5
Operating loans.....	275.0	275.0	27.50	387.2	454.6	525.0	551.0	539.2	625	8.75
Soil and water loans.....	5.5	4.7	8.6	5.4	4.5	4.2	4.0	33.6	54	9
Grazing.....	12.5	7.7	6.9	7.3	2.5	2.8	3.8	4.0	4	5
SCS loans.....	5.6	4.7	8.9	6.0	23.2	20.9	22.1	1.9	27	5.1
Indian land acquisition loans.....				5.0	2.0	3.3	9.9	3.1	10	5
Recreation loans.....	20.2	5.8	2.2	1.8	1.7	1.0	.9	1.2	2	5
Total.....	710.6	648.8	702.6	824.0	1,455.7	1,044.3	1,678.4	1,495.7	1,372	

¹ Excludes loan guarantees expected to be made under the Emergency Livestock Credit Act, Public Law 93-357,

Mr. KNEBEL. In 1969, the farmer program loans were \$710 million. This year we estimate it will be \$1.7 billion. So, it is about 150-percent increase in the past 6 or 7 years.

Mr. BERGLAND. Can you tell from your records in the field whether or not there is still a big backlog or a big demand that is going unserved?

Mr. KNEBEL. Unquestionably, Mr. Chairman.

Mr. BERGLAND. Then by setting up two accounts—one for the guaranteed and one for the insured—we have put in place the necessary mechanism so that we will not at least be constrained as severely as in the past? We will have enough money so that we can meet this demand within reasonable limits?

Mr. KNEBEL. That is correct. Even if you had equal amounts in the fund, which theoretically you could do—I doubt seriously you will because, if the cost of money is the same and the limits are higher on the guaranteed side, I think the tilt is going to be toward the guaranteed side.

But, even assuming you had equal amounts, we only charge the amount of Government exposure with respect to the guarantee, so you have got an automatic factor of 10 percent of guarantee over insured, because the 90-percent inversion would give you a 10-percent increase.

Mr. BERGLAND. On a guarantee, do you have a service fee that you levy?

Mr. KNEBEL. One percent, sir.

A one-time 1 percent.

Mr. BERGLAND. A one-time 1 percent. That would be like a point, in the conventional lending area?

Mr. KNEBEL. Yes, sir. That is paid to the bank to service that loan, to collect it, to really look after the interest of the Government.

Mr. BERGLAND. The borrower pays that 1 percent?

Mr. KNEBEL. Yes, sir. Generally out of the proceeds of the loan.

Mr. BERGLAND. I have other questions, but I will yield to my colleagues for some.

Mr. Poage?

Mr. POAGE. No; thank you.

Mr. BERGLAND. Mr. Baldus?

Mr. BALDUS. I was interested in one thing.

You said that you could not use ASCS employees, but that has been done in the past, hasn't it?

Mr. KNEBEL. On occasion, Mr. Baldus. However, it does take special legal authority to even detail people for the maximum amount of time that we can. Under the civil service laws, we can detail a person to another function for up to 120 days, renewable one time. Then he has got to revert to his old job. But they have to be classified, scheduled employees to even make the detail.

There have probably been instances where we have been in emergency situations where you just do it.

What we are asking in the appropriations authority this time was some legitimization and authority to do it in the present fiscal year. That was denied us.

Mr. BALDUS. But administratively you can do that?

One of the reasons, of course, for our concern here today is about emergency crop disasters, and so forth, and your agency gets involved in that. You can do it for up to 120 days by administrative order?

Mr. KNEBEL. No, sir. The only thing we can do right now is an example such as the Teton Dam disaster. When we hit the ground out there, we moved other Farmers Home employees into there on a per diem temporary duty basis to work that disaster. But we could not use ASCS employees to process Farmers Home loans. That is what is verboten.

We can move other Farmers Home employees into a physical disaster area, but we cannot mix the two functions even though they are still sitting on the ground right next to each other, and their offices might be colocated.

Mr. BALDUS. Is there a difference? Are you making a distinction between actually processing the loan and, perhaps, some other function?

Mr. KNEBEL. No, sir. I am making a distinction between their work. In other words, the ASCS employee can only do those functions which the ASCS does, namely, he can process a disaster payment under the ASCS provision of law. He cannot process a Farmers Home Administration emergency disaster loan application.

Mr. BALDUS. Did you misspeak, or did I misunderstand when you said it could be done by administration up to 120 days?

Mr. KNEBEL. No, sir. What I was saying with respect to 120 days was that, if you have a classified employee, then you can designate him for a detail up to 120 days.

Mr. BALDUS. Classified employee, meaning what?

Mr. KNEBEL. A regular civil service employee.

You must understand, sir, the ASCS employees are not regular employees, so I cannot use that provision of law to detail them to this function.

Mr. BERGLAND. Will my colleague yield on that point?

ASCS employees are not classified civil servants. They work for the county committee of ASCS and under their direction, and they do not have the tenure enjoyed by other Federal employees and, therefore, the law does not permit them to be transferred on a temporary basis.

Mr. BALDUS. Even then, it seems to me, it has been done in the past. There is some experience as to that.

Mr. KNEBEL. I believe there was some typing relief, but not really into the processing of applications. It was strictly clerical and a one-time type of thing.

Mr. BALDUS. FmHA doesn't then have any authority for part-time help or non civil service?

Mr. KNEBEL. We have part-time hiring possibilities throughout the Department, and we do exercise that.

Mr. BALDUS. Are any of these the same people?

Mr. KNEBEL. No. You couldn't use the same person because he has a different type of Federal appointment, and there is a prohibition from a person holding two Federal appointments at the same time. In other words, I cannot take an ASCS employee and have him take leave and come over and be a temporary Farmers Home employee. It would be better, in that instance, just to ignore the whole legislative framework and bring him over and have him do it, because I am jeopardizing his whole situation if I do that.

Mr. BALDUS. I am trying to find some way to respond to that. We get the complaints, and it is going to be that way again very shortly.

To gain responsiveness—a program doesn't really do any good, an emergency program, unless you are able to respond to the emergency, and, of course, the people who are involved in it want it yesterday. You feel that, if you get it done some time this year, that will really address the problem. Somewhere in between must be some answer.

Mr. KNEBEL. Sir, we want it done yesterday, too. Please understand that. We are not dragging our feet.

When we get into a disaster situation, we do everything we can within physical limits. I have been in many disasters, both at SBA and at Agriculture, and I have seen people work 18- and 20-hour days.

I think, frankly, the Federal relief role in disaster situations is truly outstanding. You must understand, however, that there is an awful lot of emotion when you get into a disaster. If someone doesn't get his check until 3 o'clock, he is still mad because he thought he could have gotten it at 9 o'clock.

Granted there are some—and I hope they are few—instances where we have not done as well as we could have. We try to get on those. I hope you will let us know if we are not responding correctly.

Mr. BALDUS. What is your program or policy to responding with more administrative people to these high administrative problems which you have in areas where perhaps there are disasters for 2 or 3 years in a row, and at the same time you have the ongoing FmHA program that needs to be done?

Mr. KNEBEL. Mr. Baldus, there are some counties in this country that have been disasters for 9 out of the last 10 years.

I have a little bit different attitude as to the urgency of getting the relief out in that situation than I do in a true natural disaster.

Mr. BALDUS. Disaster is routine there, you mean?

Mr. KNEBEL. It is a disaster if it is not a disaster, is what it amounts to.

I think Mr. Naylor could perhaps comment with specificity with respect to our reaction in South Dakota.

Mr. BERGLAND. May I interrupt? We have an amendment pending on the floor, and we are obliged to go and make our choice.

We will take a temporary recess.

[Short recess taken.]

Mr. BERGLAND. The subcommittee will come back to order.

Mr. Secretary, perhaps you or one of your associates could describe to me the appeals procedure that was alluded to by one of our colleagues. I have been of the impression that any opinion rendered in the field is appealable, but apparently in this instance we have a problem. Would you tell us what it is all about?

Mr. KNEBEL. We do have an appeal procedure, and I think perhaps Mr. Naylor can best describe it. With your indulgence I would like to ask him.

Mr. BERGLAND. Yes, sir.

Mr. NAYLOR. Mr. Chairman, the county committee, as you are aware, is very carefully selected, based on their knowledge of the area and some financial experience and background. Frequently they are former borrowers of FmHA.

They form the loan committee that makes the first review of the loan. They are most intimately familiar with the loan situation in that particular area.

However, if a prospective borrower, or a borrower who has, for example, a foreclosure action proposed, feels that it is not proper or that his case has not been adequately reviewed, he does have the right to go to our State director and request a review of that action. He can further and ultimately, come to the Administrator of FmHA—and we do get a number of cases each year that the Administrator reviews personally.

It is our standard practice to have someone go from the National Office on these cases and take a look at them firsthand, and to insure that the county committee did, in fact, properly review and examine the case.

It is unusual, frankly, for us to request our committee to reevaluate a case. We have found the quality of our committees to be good, that they have been compassionate. Obviously, a person under financial strain will not always agree with that, but they look very carefully at the prospects of success and what can be done. I have seen them bend over backwards many, many times, Mr. Chairman, to try to help individuals—far beyond what any other source of credit would do.

For individual type loans made under the Consolidated Farm and Rural Development, section 333(b) (7 U.S.C. 1983(b)) requires the certification of the county committee for the items prescribed in that section. Section 332(a) (7 U.S.C. 1982(a)) provides for the appointment of members of the county committee and that they “shall be removable for cause by the Secretary.” The county committee cannot be directly overruled by the Administrator or State director. They can be presented with new facts, and they can be requested to reconsider their prior refusal to certify as to a given applicant. The procedure for this is set forth in our regulations at 7 CFR 1801.3. In the event that after being presented with new facts the Administrator determines that the committee acted improperly in reaching their decision, his only option or remedy would be to undertake a dismissal of the committee for cause and appoint a new committee.

Mr. BERGLAND. Did I understand you to say that, if the Administrator determines there is reason to overturn a county committee certification, his only recourse is to remove that committee?

Mr. NAYLOR. Yes, sir.

Mr. BERGLAND. Is that in the law?

Mr. NAYLOR. Yes, sir.

Mr. BERGLAND. Does that apply as well for the State administrator who disagrees with a county committee?

Mr. NAYLOR. Yes, sir.

Mr. BERGLAND. It seems to me that, if that is a matter of law, it is something we ought to address.

I think that is very important, because I spent some time in the administration of ASCS. I was on a State committee, and we reviewed decisions made by local committees on many program matters and from time to time found their judgment to be wanting, and we overturned their decision. But we did not remove them. We just disagreed with them. Then sometimes we were overturned by higher authority when the appeal was vested here in Washington.

The fact is that we did not more than question the county committee. Unless we found them to be derelict in their duties or were in some way running a bad shop, we would remove the whole bunch.

I can understand now why a committee does not want to be overruled. We have appeals from time to time. An applicant has written and said he has been abused by a county committee or he should have been approved. Of course, I do not know what the story might be. We send it down to either the State administrator or here in Washington, and I cannot recall the time when they have overruled the county committee. Some times a committee can be prevailed upon to change its mind. But more often not. I do not know the correctness of the decision, but I can understand why an Administrator would not want to question the judgment of a committee if he has got to hang them at the same time.

Mr. NAYLOR. Of course, as you know, Mr. Chairman, the Administrator would both do that if the case warranted it. We also frequently, in the process, develop additional information and refer it back to the committee and say, "We really do not think you had this information before you at the time. Take a look at it."

I think, however, that committees as a whole do an excellent job. But it is a situation where they are given, as you recall, Mr. Chairman, very strong authority within the law itself. The committees are part of the law. They are specifically identified and given specific authority in dealing with farm loans. It is a fairly strong section of law.

Mr. BERGLAND. I understand that. They have about 18 programs they have to run out there. They are going to make mistakes from time to time, and it seems to me we ought to develop a more reasonable system under the circumstances.

Our colleague from South Dakota referred to the 6-month delay in the processing of these emergency loans. I would not expect you to know all about every State, but can you tell me—have you had a problem in this regard there or elsewhere, as a matter of fact?

Mr. NAYLOR. Mr. Chairman, we do occasionally have a problem. We do our best not to.

As you are aware, the law does provide specific administrative funds for us to apply to hire additional personnel without any restriction to deal with an emergency situation, which we do. We base this on a request of our State directors, and we do this in two ways.

Because our programs are complicated, as you are aware, in many respects under statute, we will bring our regular personnel in from adjoining States or adjoining counties, as the case may be, to provide expert knowledge in a loan area to be able to assist us.

In addition, we will hire temporary personnel—clerical or other categories—for inspections or whatever, under the authority provided and funds provided in the law to help in these areas.

Frequently the reason for the appearance of long periods of time is that the loss has to be established. Let me give you an example of a case in point.

There are some parts of Minnesota, as you are aware, Mr. Chairman, that have already been designated as is the case with South Dakota. But the actual loss on the row crops will not really be determined until harvest time. So while a designation may be made, the farmer may have already come in and applied for the loan. The processing really will not take place until late this fall sometime when they have a better feel for the loss. Then there will be a bunching of loans.

We will probably get a little behind at that point. We will put additional personnel in the area to assist during that period of time. Then we will get them cleared out as rapidly as we can.

We are particularly careful in the spring periods when we have producers who need production money, to be certain that they are provided for. We give extra priority—even more so—to be sure that they have their funds in time to get the planting down.

Mr. POAGE. May I interrupt here?

I have pointed it out for 40 years that there is nobody in the Department of Agriculture who ever had a calendar or an almanac. You will be well prepared by the time you get north of the Missouri River. But, when you are south of the Red River, you assume that we are not going to plant until they plant in Minnesota. We are actually beginning to harvest our crop by the time they plant in Minnesota.

You make no—not only you, but your predecessors in office ever since I can remember—effort to get an almanac down in the Department of Agriculture. I just wish you would get something and learn that we begin planting cotton in February.

Mr. NAYLOR. Mr. Poage, that is a lesson well learned. I think you are probably right. We do have a tendency to forget—us northerners—that you get a little ahead of us down there. We try not to, but it has happened on occasion.

Mr. BEDELL. Will the gentleman yield? You said you have to wait until the loss is established. Why?

Mr. NAYLOR. The law requires that we make a 5-percent emergency loan only for the actual amount of the loss, and to be fair to the farmer. It would be unfair to him to go in and establish a loss of a partial crop when he may have a larger loss at the end of the period involved.

Mr. BEDELL. Under the emergency livestock loans. Is that true in this case?

Mr. NAYLOR. No. That is another law.

Mr. BEDELL. But you administer that law as well?

Mr. NAYLOR. Yes, sir.

Mr. BEDELL. But in that law you could make a loan immediately. Is that correct?

Mr. NAYLOR. Yes. That is economic. The loss is an additional factor in there. There is no reason for delay on that one.

And, in some instances, where you have a major natural disaster such as a flood or a tornado or a hurricane, obviously we are going to be right in there immediately also. There is a case in Idaho where we have already closed a number of loans up there in helping those people.

Mr. BEDELL. I have questions on that, but I will delay them if you want to finish first, Mr. Chairman.

Mr. BERGLAND. I have just one or two more, and then we can get to you, Mr. Bedell.

On the emergency loan matter again, the 5-year-history business, Mr. Poage makes a very excellent point. I have been in parts of the United States which looked to me as if they were disaster stricken, and I was told that is the way they look all the time. So one has to compare the situation with normal, and that is a difficult thing to do.

Five years is arbitrary. It may be as good as any, but I can see where you may have a situation such as in South Dakota where a phenomenon has occurred. They have a 2, 3, 4, maybe 5 years' drought. We

have these drought cycles—even Kansas has them. Sometimes they are for real; sometimes they are imaginary. I understand that, and we need to make the distinction.

What if we get into a situation where we have a long, extended drought over a region such as South Dakota for 5 years in a row that occurs every 25 years? Would that mean that they would be disqualified under the application of this provision?

Mr. KNEBEL. No, sir. Actually, as Mr. Poage pointed out to the preceding witness, the longer you stretch out the period, the more it works against them.

I would be very unsympathetic to the notion of writing this into the law. I think, frankly, you would be curtailing flexibility. I do not want to see us get into a situation where you allow a lot of years, because there are certain counties in this country—I believe four or five—where, as I said earlier, there have been 9 years of disaster declarations. If you went back and threw those years out, you would be back to a time when you were operating under the restraints of very controlled acreage. To this point, it would be back into the mid-1960's when I think the farmer would be very adversely affected by throwing out those years. It would really circumscribe our flexibility to the point where it would be disadvantageous.

Mr. BERGLAND. What kind of records are required in the instance where you have had true disaster? Obviously everybody knows that the crop in the county has been shot and destroyed by flooding or drought, or whatever. It is not a normal event. It is a phenomenon. The county is designated as eligible for disaster aid.

Is that farmer obliged to bring in 5-year records showing what his yields have been just to establish eligibility? Or can that judgment be made by the county committee, where they know there is no question about the loss?

Mr. NAYLOR. Mr. Chairman, we ask them if they have them available to produce them. But in a situation such as Idaho, where a dam broke and the records obviously are destroyed, we will go in and use ASCS records, county yield records, or whatever data is available to us, and to the best of our ability establish what a reasonable figure for that producer would have been.

We do have flexibility in this regard.

Mr. BERGLAND. That is fine, because I have had complaints where we have had a farmer who in 1 year sold a 2 years' crop. The next year, he sold nothing. He did this only for tax reasons. Then the records are distorted—completely distorted. The production was there, but the sales did not correspond to the calendar year. That is a common occurrence in the grain country. They may have sold heavy cattle in the year, and so they defer a sale of their grain. Then the sales slips do not reflect the true production.

I can understand why people get upset when they are obliged to bring in sales records which are really not an entirely reliable indicator of production on the farm.

Mr. NAYLOR. That is true, Mr. Chairman.

What we are really looking for is some reliable record—the best reliable record available—to indicate what their production was. Not what their sales were, but what their production was.

Mr. BERGLAND. I have two more questions, and then will yield to other members.

One question has to do with the Federal financing bank. There have been bankers who have asked for some authority to be able to turn over their securities in the guaranteed area to a secondary agency.

Would you object if a provision were put in this act that would authorize the Secretary to develop a secondary market should the need arise so that the bank could roll over its guaranteed paper through the agency into the Federal financing bank?

Mr. KNEBEL. Mr. Chairman, I think frankly that if we get a cost of money provision, as you have proposed in your bill, operative, and if we see, as I believe we will, a heavy tilt toward guaranteed loans, the local banks are going to develop enduring relationships with corresponding banks, and that there will develop a secondary market for guaranteed paper.

It may be helpful, in the interim, to have that as a standby authority which we could use. I would hope, however, that it would not be put in place as a mandatory thing, because I can foresee down the road—and I believe the business and industrial loan program is a good example—the development of a secondary market in this area.

Mr. BERGLAND. I would not want to have it mandated because, I think, as much of this work as can be spun off into the private sector the better off we all will be, both as producers and as executives in Government. I am for that. But I wonder if we ought not have it on a standby basis, because you never know when the need might arise, and right now you can't handle it. I understand that.

Mr. KNEBEL. That is right. We cannot do it now. Certainly if it is on a permissive and standby basis, I don't think it would be inimical to the purposes we are trying to achieve.

Mr. BERGLAND. All right.

Thank you very much, gentlemen.

I will yield to my colleagues for questions.

Mr. Baldus?

Mr. BALDUS. Can a bank do that now—that is, sell the paper on a nonrecourse basis? Is that illegal?

Mr. KNEBEL. You can do it now. The problem is that the banks don't really bother with paper because it is such small pieces. What I am saying here is that, if you get all of the loans on a guaranteed basis at the same interest rate, the loan portfolio that the banks are going to handle will generate sufficient volume so that there will be developed a secondary market. It is permissible now, but it is so spotty that it is not worth the banks' trouble to handle the paper. They generally put it in their portfolio.

I think as you see a correspondent relationship develop, there will be enough of these consolidated in areas that a secondary market will develop and somebody is going to make some money on these, which is fine.

Mr. BALDUS. I was asking a question, when the bells came along, about the policies you have to respond to emergencies.

First, I think maybe I ought to go through and make sure that I have an understanding. I am referring to the county that has the 9-year disaster record. That would make a distorted record. But also it might distort the point-of-view. In order for it to be that way, I understand that the county would have to declare itself a disaster; the Governor would have to declare it a disaster. The Secretary would

recommend to the President, and the President would declare it a disaster. Is that right?

Mr. KNEBEL. No, sir. The Secretary could make a agricultural declaration himself.

Mr. BALDUS. Without the other steps?

Mr. KNEBEL. Up to that point you are right. The county must initiate it. The Governor must ask for it, and then the Secretary—in the case of a major natural disaster, the President—must declare it.

Mr. BALDUS. Is that distinction there a national disaster?

Mr. KNEBEL. A natural disaster, sir. On the larger scales you get into different relief measures.

Again, by way of example—when the Teton Dam broke, that was a Presidentially declared disaster because the recovery effort that was needed, and the Federal involvement that was needed to restore not only the farmlands but the entire community, was far broader.

The Secretary, on the other hand, in a restricted geographic area, can indeed declare a local agricultural disaster and can bring to bear the Department of Agriculture's disaster relief procedures and put them into place.

But when you get beyond, and you get into the Federal disaster assistance program, when you get into the Bureau of Reclamation, that takes a Presidential declaration to put all of the Presidential initiatives into being.

Mr. BALDUS. Sometimes the President declares the hay program, I think.

Mr. KNEBEL. That is correct.

Mr. BALDUS. But it wasn't necessary that he do it?

Mr. KNEBEL. No, sir. It was necessary because it was on a far broader basis.

Mr. BALDUS. I see. Anyway it would otherwise start with counties, State, and Secretary, then?

Mr. KNEBEL. That is correct, Mr. Baldus.

Mr. BALDUS. So there is agreement that it is, at least, a disaster even though it is a 9-year record of disasters. It is comparable to disasters in other areas.

My question was, describe to me how, within the Department or within the agency, you respond to these. What is the usual way? Very frankly, I am concerned that the local people who have this disaster put on top of them aren't able to function well.

Mr. KNEBEL. Again, we have disasters, and then we have disasters. We have annual recurring disasters which are of one magnitude; they are very severe from the standpoint of the individual farmer. Then we have the major natural disaster.

With respect to any disaster, we have in place a local USDA coordinator who is designated as the disaster team leader.

Mr. BALDUS. Is that in the county?

Mr. KNEBEL. Yes, sir. We have a State person. We also have a county person.

Mr. BALDUS. They are identified?

Mr. KNEBEL. They know who they are.

Mr. BALDUS. Department of Agriculture, or FmHA?

Mr. KNEBEL. Department of Agriculture. Oftentimes it will be an FmHA person. Sometimes it is an ASCS person. Sometimes it is a

Soil Conservation person. And, I would suppose in a few instances it is a Forest Service officer.

Mr. BALDUS. I see. But it is a Department of Agriculture person who is one that is concerned?

Mr. KNEBEL. That is correct. He begins getting the documentation which must go forward on which we can make a declaration.

You set forth quite well in your own words just exactly how it goes up the ladder. You get it into the local disaster operatives of the Governor. It gets into Washington and gets declared.

Your question then is how you get the delivery system in place, and what happens next.

First of all, there are differences in types of disaster for the relief available. If we can, we can talk with some specificity about the situation in South Dakota, because everyone here is familiar with it.

In this instance, the Department has, through the ASCS, the hay transportation program. The Farmers Home Administration is in there with operating loans making adjustments on operating loans, real estate ownership loans. The ASCS may well, by the end of the cropping season, have disaster payments to make. That, in essence, is about all that is going on right now.

When you get into a disaster where there is loss of life and personal property, such as in the Teton Dam situation, then we have additional measure such as Soil Conservation Service in removing debris under the Federal disaster assistance administration program. We have the dispensation of food stamps. In some instances, we have the delivery of commodities and stored agricultural products which are put in place and given to the local church or Red Cross to cook meals and to put up emergency shelter.

In essence, what happens, Mr. Baldus, is, we look at the situation and try as best we can to determine the relief necessary, and that local person at the USDA employee level makes that recommendation. We then bring the forces and, hopefully, the manpower to the area to get it done.

Mr. BALDUS. If there is not enough manpower to handle it—you see, that person has never been visible to me. I don't know who it is in any of my counties.

Mr. KNEBEL. There is no real reason you need know it unless you got a disaster.

Mr. BALDUS. Oh, yes. We have disasters.

Mr. KNEBEL. Let's go back to Teton Dam.

Mr. BALDUS. But not that kind of disaster. A crop disaster.

Mr. KNEBEL. Then it is generally going to be the ASCS or the Farmers Home right in employ.

Mr. POAGE. Will the gentleman yield?

I am interested in knowing how you can divide this territory. About 2 months ago, we had about the worst hailstorm I ever knew. It swept about 15 miles and was about 3 or 4 miles wide through Bosque County, Tex. It destroyed every crop in that area completely. The rest of the county was not hurt at all; they just got a good rain. In declaring that a disaster area, you have got to declare the whole county a disaster, don't you?

Mr. KNEBEL. Yes, sir.

Mr. POAGE. Of course, the people outside of the hail area couldn't show any loss, so it doesn't have anything really to do with them. But the county is declared a disaster area, as a unit, is it not?

Mr. KNEBEL. Yes, sir, and there is one small provision for a FmHA State director-declared disaster, as I recall, where you can have up to 25 farmers affected without having to go to the Secretary. This would be like the flash flood alongside the creek—that sort of thing.

Mr. POAGE. Thank you.

Mr. BALDUS. My reason for all these questions is that very long backlogs do seem to build. Then those backlogs are reasons for not getting the housing loans done. I am questioning whether there is a procedure so that, when you have those disasters nationwide, you can respond to them. I am questioning if you do.

Mr. KNEBEL. Mr. Baldus, as far as we are concerned, disasters take absolutely top priority.

Please understand—and this is not by way of mitigation, but rather by explanation—that oftentimes when you hear from a constituent, he says, "My loan has been pending for 6 months." If you went out and looked at that folder yourself, you would probably find that, yes, he came in to make contact with the Department 6 months ago, but he may not have actually bothered to fill out a form until 3 months ago, and he still may not have all the paper work we require.

Mr. BALDUS. I think we have some disaster ones over a year. I am not sure of that.

Mr. KNEBEL. If we do, I would like to know about it.

Mr. BALDUS. I would have to document that. I think I have done that.

Mr. KNEBEL. If you would give me those, I will see if we can get some—

Mr. BALDUS. I think I have sent them to the Department already.

Mr. KNEBEL. I will do my best, if you will give me some documentation, sir.

Mr. BALDUS. Do you readily move people into those areas?

Mr. KNEBEL. Yes, sir.

Mr. BALDUS. What is allowable—a 3-month delay, for instance? What is an allowable tolerance for backup before you respond with some other element of response?

Mr. KNEBEL. I am not sure if there is a handbook-type backup time.

Mr. BALDUS. Just in a general way.

Mr. KNEBEL. As a rule of thumb, we try to keep current.

Mr. BALDUS. Meaning 3 months?

Mr. KNEBEL. Just as soon as we can process it. Then, generally from the time the whole jacket is approved to the time it is sent to St. Louis, which is the check processing time, is maybe 10 days to 2 weeks.

How long it takes to process it is part of that backup time. You are going to have some time getting the basic data, which is going to be largely the responsibility of the applicant.

Mr. BALDUS. The local level.

Mr. KNEBEL. Then you have a period of time before that committee actually acts.

Then you have the processing time, from the time that folder goes off to St. Louis, until the green check arrives in the mail, or the bank is notified of the deposit.

I would say, altogether, if a person, from the time he walks in with all his papers, should be able to see some relief in 60 days. But I do not have any rule of thumb.

Mr. BALDUS. Even if there were some backup? If it was a disaster area, and there were a lot of people, 60 days would still be tolerable?

Mr. KNEBEL. It is not tolerable to the individual.

But there are questions about how much manpower we can bring to bear before we start becoming even more inefficient than we normally are.

For instance, again, going to a physical disaster, we will bring a team in to a temporary office. I can go back to Agnes, when we had that up in Harrisburg. We had 350 to 400 people working in Harrisburg at the Small Business Administration. Part of the problem was the fact that the people were in such a state of shock. For them to get records together, to get the applications done—

I can remember being called over to the Banking and Currency Committee and Governor Schapp would tear us up one side and down the other for delays. In point of truth, the delays were something we had very little control over.

Again, I do not offer that as an excuse, but you just have to understand that, from the disaster hits until the check hits, there are a whole lot of factors and there is an awful lot of emotion.

Mr. BALDUS. You said before that the local office has to request, in order to get additional help, and the State officer has to request. Is that the chain?

Mr. KNEBEL. Generally, what happens when you get into your emergency operations, once that disaster is declared, there is a very frequent rapport between the chief disaster officer and the Washington headquarters. If Washington sees the backup building, they are going to be moving people either from within the State to that point, or from without the State, or giving them temporary hire authority. Temporary hire authority is something that, in some instances, is helpful. You can get clerical personnel. But you cannot get loan processors. You run into appraiser problems. Believe me, when you try to administer disaster, you can have the best looking manual in the world, and you can have the best procedures set up in advance, but nothing ever goes the way it is written.

Mr. BALDUS. But it is a responsibility you have?

Mr. KNEBEL. I do not move from that responsibility, sir. I am just telling you it is a very difficult responsibility.

Mr. BERGLAND. The chair is constrained to interrupt this useful dialog to announce that action on the floor of the House demands our attention.

The committee will have to stand in recess for a short while again.

If any of you must leave, we will understand. We would appreciate someone staying to answer questions.

Mr. KNEBEL. Although I have a 5 o'clock appointment, I will stay with my associates.

Mr. BERGLAND. Thank you.

[Short recess taken.]

Mr. POAGE. The committee will please come to order. The chairman will return shortly.

Does Mr. Baldus have questions?

Mr. BALDUS. I yield to Mr. Bedell.

Mr. BEDELL. Mr. Chairman, when the people from South Dakota were here, they requested that they have permission to submit written testimony for the record. I would like to have unanimous approval of the committee that they be permitted to do that.

Mr. POAGE. Without objection, that will be done.

[The addendum statement on behalf of the South Dakota delegation follows:]

ADDENDUM STATEMENT ON BEHALF OF THE SOUTH DAKOTA
DELEGATION ON AGRIBUSINESS

My name is Marwood W. Wise, I am President of the Dakota State Bank, Milbank, South Dakota. Our town is an agri-business community of 5,000 people with 10,000 population in Grant County, of which Milbank is the county seat. I appear today as a direct representative of the Special South Dakota Delegation.

Whereas it is our intention to seek aid for farmers and ranchers in South Dakota, we feel that because the normal growing season for 1976 is nearly history, a more liberal interpretation of present statutes of the Agricultural Relief Act is the most direct way to help the extremely disastrous drought condition in South Dakota. We ask that the Secretary of Agriculture and his staff be requested to immediately review the present statutes and apply a much more compassionate and liberal administration of the law, that amendatory language be inserted into directives to increase the effectiveness of the original intent of the statutes.

We would like legislation in this regard but because of the time factor, we feel that new statutes would come too late to help livestock and dairymen who are presently drastically reducing foundation herds.

We recommend that the hay transportation program be extended so that a full winter supply of feed can be laid in while quality and quantity of hay is available. It is the normal practice for farmers to get the winter feed put up before snow fall, South Dakota winters do not normally permit any movement of hay during the winter months.

We would like to have the Federal Government help stabilize the hay price by appointing a qualified hay buyer (or group of buyers) under the direction of one agent, to set the hay price based on a price of \$40 per ton and 17% protein content, adjusting cost per ton in direct proportion to protein content. We would like to have the option of shipping the cattle to the hay as well as hay to the cattle with the option up to each individual cattleman.

We foresee a great necessity to make long term, low interest loans in order to keep a cash flow in the total economy of the State of South Dakota. The present statute is too restrictive in that the administration is interpreting undue financial hardship in the strictest sense. The test of credit should not be assessed against real estate in the case of loss loans up to \$30,000. Repayment ability in this type of loan should be sufficient.

The paperwork on the local level, in the administration of the program, with the Form No. FmHA441-22 is the greatest hangup in the processing of disaster loans. The current ASCS County crop average would be a better standard in the administration of the statute.

We understand that under current law and regulations, direct and guaranteed loans are charged against the same program. We believe that direct and guaranteed levels should be separate. We feel that such a separation would in itself level the "credit test" need and availability of direct funds and those furnished by private lenders.

We thank the committee for the opportunities to testify and the courtesies extended our delegation.

Mr. BEDELL. Pursuing what Mr. Baldus had to say about additional personnel and funds—first of all, has South Dakota been declared a disaster area?

Mr. KNEBEL. Yes, sir.

Mr. BEDELL. Have you put in additional personnel and funds into South Dakota?

Mr. KNEBEL. It is a situation, Mr. Bedell, in which a cropping hasn't occurred.

Mr. BEDELL. For their livestock situation?

Mr. KNEBEL. I do not believe we do, sir.

We will doublecheck on that.

Mr. BEDELL. They tell us, for example, that their committee meets only once a month. I asked them, "Won't they meet more frequently to help you with your problem?" They said, "No."

Is this correct? Even though they have a problem up there, there is not an effort being made to see that they will meet more frequently?

Mr. BOSTIC. I do not think so, Mr. Bedell. There have been very few emergency loan applications made through the Farmers Home Administration because of the current drought.

I would expect that, when the drought has broken, or farmers have had an opportunity to harvest whatever crops are there, there will be many more applications made.

Mr. BEDELL. With regard to livestock loans, if a farmer in South Dakota now applies for a livestock loan, does he have to wait 30 days, if need be, until the committee meets. Or because of the situation are they meeting more frequently out there, if the need demands it?

Mr. BOSTIC. I am not aware that they are meeting any more frequently, and I am not aware that that has been a real problem. The gentleman did say yesterday that it had been a problem.

Mr. BEDELL. They tell me it is a problem. If it is a problem—

Mr. BOSTIC. The county committees then can meet more frequently.

Mr. BEDELL. Do they get reimbursed for that?

Mr. BOSTIC. Certainly. They get \$12 per day, plus travel.

Mr. BEDELL. All right. If they are not meeting frequently enough, and those people feel they are not meeting frequently enough, what is their recourse?

Mr. BOSTIC. Their recourse is having told us about it, and we will be sure that there are no counties where there are applications pending, that are waiting just because the county committee has not met.

Mr. BEDELL. You will check to make sure that is not happening?

Mr. BOSTIC. Yes, sir.

Mr. BEDELL. I must say I was quite disturbed over your statement in regard to the review process. In effect, it seems to me, you told us you really do not have an effective review process, because a review process requires that the people who did not make the loan all be fired. It is not very likely that it is going to be a very effective program.

Are you considering doing anything to change that so that there will be an effective review process, moreso than there is today?

Mr. KNEBEL. Mr. Bedell, quite frankly, I feel—and I have been quite close to it in my association with the agency—we do have a good review process. I have never seen any hesitation on the part of the Administrator if, after reviewing the facts of the case, that we feel there has been an error made—

Mr. BEDELL. We are short on time, and you have to leave.

You and I disagree on that. We have a right to disagree.

It is very clear to me that the process you explained does not provide an adequate review process, in my opinion. What your answer to my question, I guess, is that, no, you do not have any plans to make any change in that because you think it is adequate. Is that correct?

Mr. KNEBEL. That is correct, Mr. Bedell.

Mr. BEDELL. I am sorry to be so long. I know you are trying to get through.

My final question is—you said it is freedom of choice as to an attorney, and this is something where you would be somewhat concerned because, if you let anybody do it, this is a fixed-fee deal where they would have an opportunity to steal, and you wanted to be sure that only legitimate attorneys could have an opportunity at this.

Did I understand you correctly, Mr. Knebel?

Mr. KNEBEL. Sir, I am not concerned with legitimate attorneys. There are attorneys, however, who are not skilled in the closing of these types of loans, who are not familiar with title searches, and who may not be as well qualified as others.

We don't want to go to the notion of trying to have a test. I think that is an undue burden. But I do not know that, by opening it up to every attorney possible, we are going to really improve the system. I just want to warn you that, while we do want the people to have a choice, we want to make sure that the downside risk is understood if you go into this.

Mr. BEDELL. If I understood your testimony correctly, I got the impression that you felt this was a pretty good deal for lawyers to have this opportunity. Did I misunderstand you?

Mr. KNEBEL. Well, it will pay the rent, believe me.

Mr. BEDELL. If that is the case, the concern that has been issued in the papers, and so on, out our way, is that only one and he appearing to be a political appointment, it is bad that there is only one attorney.

My question to you is that, if that is the case, what steps if any do you contemplate taking to expand the choice of attorneys, because at least the people from South Dakota indicated to me they thought this was another one of their problems?

Mr. KNEBEL. Sir, it has already been done, and any attorney who wishes to be designated can be designated upon demonstrating that he is a member of the bar in good standing, demonstrating that he can be bonded, and demonstrating that he knows how to set up the escrow and handle the account.

Mr. BEDELL. OK. You have already taken steps to do that?

Mr. KNEBEL. Yes, sir.

Mr. BEDELL. All right. I guess the only thing I would say would be that, as a legislator, I can tell you that Mr. Harkin's bill, which provides some method of review, is very appealing to me from what you have testified here, because I could tell you that I would not think that any method of appeal wherein any case of appeal it was ruled that the party was wrong and they had to all be fired, would be a very ineffective review process.

Apparently you do not feel you are going to do anything about it. I can tell you that, as one Member of Congress, I am going to do what I can.

Mr. KNEBEL. Let me tell you very candidly—I had not come here today prepared to testify on Mr. Harkin's legislative proposal. Frankly, I had never even read it. I will indeed look at it. We will look at this matter.

I came here, frankly, to testify on Mr. Bergland's bill. I gratuitously offered some comments on Mr. Harkin's bill, in the possible consoli-

dation effort to help the committee expedite its considerations. There are not very many legislative days left.

Perhaps we do not need to give you some further feelings with respect to the Harkins legislation, and we will be glad to provide a legislative report, if the committee wants it.

Mr. BEDELL. I yield back.

Mr. BERGLAND. Thank you very much.

The Chair notices we have another amendment pending on the floor.

I believe this is all that we have to ask of these gentlemen, and they may be excused.

Our next witness, Mr. Leslie W. Peterson of Trimont, Minn., represents the American Bankers Association.

I understand you have a plane to catch, Les?

Mr. PETERSON. That is correct, Mr. Chairman.

Mr. BERGLAND. Could you submit your statement for the record?

Mr. PETERSON. I certainly can.

Mr. BERGLAND. I know you have a 6 o'clock plane. You can leave your statement, or, if you want to stay, we will come right back and listen to you.

Mr. PETERSON. Mr. Chairman, unless you have further questions, you have the statement that specifically states our total support of this legislation.

If you have questions, I am sure you could get back to us later. I do not think you are going to have a markup on this bill today.

Mr. BERGLAND. All right. We will hold the record open and read your testimony in detail.

If we have questions, we will write you asking information of you, or get in touch with your Washington counsel on any matter that arises and causes us any question.

The Chair would ask unanimous consent to permit the American Bankers Association to submit their statement for the record.

[The prepared statement submitted by Mr. Peterson on behalf of the American Bankers Association follows:]

STATEMENT OF LESLIE W. PETERSON REPRESENTING THE AMERICAN BANKERS ASSOCIATION

My name is Leslie W. Peterson. I am president of the Farmers State Bank, Trimont, Minnesota. My bank is in an agricultural community of 900 people in southern Minnesota and has \$10 million in deposits. I appear today as vice chairman of the Agricultural Bankers Division of the American Bankers Association.

My bank is representative of a large number of the nation's 14,000 and more banks, 93 per cent of which are members of the American Bankers Association. One half are in towns having fewer than 5,000 residents.

Banks are a major source of credit for farmers, holding over \$24 billion or approximately 30 per cent of the total debt of farm families. This represents an increase by banks of approximately 15 per cent annually for the past five years as compared to a farm debt growth by all institutions of 12 per cent. A substantial portion of this bank farm debt is held by small, local community banks. Nearly 60 per cent of the community banks responding to a 1972 American Bankers Association survey listed agriculture as the single most important source of income for these communities. Community bank, therefore, are deeply interested in the success of the programs authorized by the Rural Development Act of 1972 and administered through the Farmers Home Administration (FmHA).

We take this opportunity to support all of the provisions of H.R. 14641 which is designed to fully implement the farmer programs under the Rural Development Act of 1972. For a number of years we have recommended changes which would make it possible for the Farmers Home Administration and private lenders to provide credit to agriculture in a more effective and efficient manner.

Through the use of guaranteed loans, the private sector can assume responsibility for a substantial part of the credit demands now made of the FmHA. Direct lending can continue in high risk areas which require above normal supervision of borrowers and where the social needs of rural communities need to be met. Substituting guaranteed loans for a substantial part of direct loan programs will release government money and personnel. This will reduce cost to the government and should speed up service.

My statement is principally directed to provisions in H.R. 14641 which we consider to be most important. However, as indicated, I would like to stress that we support the entire proposed bill.

LENDING LIMITS

H.R. 14641 doubles the maximum size of direct (insured) operating loans of \$100,000 and farm ownership loans to \$200,000. The maximum size of guaranteed operating and farm ownership loans is increased from \$50,000 to \$200,000 and \$100,000 to \$300,000, respectively.

Statutory limits in the farmer programs have not kept pace with changes in agriculture and with inflation. The present restrictions of \$50,000 and \$100,000 are much too limiting today, particularly for those producers for whom this program is expected to provide special help; the young farmer, the farmer adversely affected by current economic or weather conditions beyond his control, and new business ventures.

The present loan size restriction is creating a particular problem under the guaranteed loan programs since first liens or security must be assigned to the guaranteed loan. This makes it virtually impossible for the lender to handle any additional outside financing which is often needed because of the size of the farm business and its large credit line requirements.

It is essential that financing under these programs adequately provide for the credit needs of economically sized farm units. These farm units need to be large enough to provide a living wage for the farm family and sufficient cash flow to service debt.

The \$225,000 ceiling on "unpaid indebtedness" is too restrictive. If the lending limits are increased to a more realistic level, it is imperative that this unnecessary ceiling be eliminated or substantially raised. Therefore, we support the provision which eliminates the dollar ceiling and limits "unpaid indebtedness" to the value of the farm or other security.

We have previously recommended that limits for the guaranteed loan program be set administratively rather than statutorily, putting the farm program more in line with business and industrial loans. The limits set forth in H.R. 14641 would certainly be most helpful. However, they are well below the \$500,000 loan ceiling authorized small businesses through guaranteed loan programs of the Small Business Administration.

FUNDING

We support the provision which would segregate (in appropriations) the program levels for direct (insured) loans and guaranteed loans.

Under current law and regulations, direct and guaranteed loans are charged against the same program level. We agree that direct loan levels and guaranteed loan levels should be established separately. Direct loan appropriations should be set at the level of loans to be made since the funds come from the government. However, guaranteed loan funds from private sources should not be subject to this restriction. We suggest leveraging of appropriation funds to minimize the effect of the guaranteed loan program on the Federal budget since most of the funds will come from the private sector. The absence of separate funding arrangements has been the primary reason the guaranteed farm loan programs have not been used. Under the present arrangement, the limited FmHA dollars could be most effectively utilized through direct loans under subordinated arrangements with private lenders.

INTEREST RATES AND FEES

The requirement that interest rates on direct and insured farmer loans be at least equal to the cost of money to the Treasury and that all guaranteed loans be at rates negotiated between borrower and lender are important in any revision of the Farmers Home Administration law. The interest rate subsidy in the farm programs has been costly and has seriously limited program expansion. Therefore, we believe that in the long run more realistic interest rates are in the best interest of farmers. Fees should be set to cover cost of the guarantee service.

GUARANTEED LOANS; CREDIT ELSEWHERE; GRADUATION TO COMMERCIAL CREDIT

H.R. 14641 eliminates the "credit elsewhere" requirement and the requirement for "graduation to commercial credit" for farmer loans guaranteed by the Farmers Home Administration. Since these loans are made by the private lenders receiving the loan application and at negotiated rates, there appears to be no reason to retain the "credit elsewhere" test or the requirement for "graduation to commercial credit." Eliminating these requirements will improve marketability in a secondary market and thus provide a source of liquidity for country banks.

FARM PARTNERSHIP AND FAMILY CORPORATIONS

These are valuable tools in facilitating transfer of a farm unit from one generation to another. Including eligibility for these structures under the FmHA lending programs will provide a source of financing for beginning farmers who have the opportunity to gradually buy into established economically sized farm operations.

These amendments will provide the necessary changes to more fully implement the farmer programs under the Consolidated Farm and Rural Development Act. If enacted, these amendments will have a significant impact on the availability of credit to finance the farmer, particularly the young farmer.

We thank the committee for this opportunity to support H.R. 14641.

Mr. BERGLAND. Is there any question of Mr. Peterson and ABA at this point?

Mr. BALDUS. My apologies for the fact that it took this long, but on some of these things I think you perhaps share our concern.

Mr. PETERSON. We certainly do share your concerns.

We have worked a long time to resolve some of these problems. We think Mr. Bergland's bill is going to resolve many of the problems that will enable us, as a banking industry, to help the Farmers Home Administration.

We solicit your support for this bill.

Thank you.

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

Our last witness is Mr. Reuben L. Johnson representing the Farmers Union.

We must take a 10-minute break and go to the floor. Then we will come back and hear from you, sir.

[Short recess taken.]

Mr. BERGLAND. The subcommittee will come back to order.

Our concluding witness on this day is a long-time friend, Reuben L. Johnson, representing the National Farmers Union.

Mr. Johnson, you may proceed.

STATEMENT OF REUBEN L. JOHNSON, DIRECTOR OF LEGISLATIVE SERVICES, NATIONAL FARMERS UNION

Mr. JOHNSON. Mr. Chairman and members of the subcommittee, when our delegates met in New Orleans in March in consideration of policy concerning farm credit, they adopted language concerning the Farmers Home Administration as follows:

"The lending programs and related services of the Farmers Home Administration have deteriorated to the point that the agency has lost credibility with its eligible farmer patrons. Delays in action on loan applications, adherence to top-down administration and dictation concerning eligibility for its loan programs, and failure to maintain adequate loan funds are major causes for the deteriorating performance of the agency's functions at the farmer patron level.

"We, therefore, call on Congressional oversight committees to make a full-scale investigation of the agency's operations starting with the office of the director of

the agency, and continuing throughout state and county offices, with special emphasis on the disaster loan program. A full and complete report of findings should be made available for public review, including recommendations for correcting deficiencies that are found to exist.

"We urge continuation of a disaster loan program administered by the Secretary of Agriculture, and available only to family farmers and ranchers who have suffered a disaster. Disaster loans should be at low interest rates, and have a repayment period of ten years, with deferral of principal up to a period of three years at the discretion of the Farmers Home Administration county committee."

I must say, I am intrigued, and I think our members would be intrigued, if they were in on this testimony today, about the changes proposed by Congressman Harkin. These are, I think, significant recommendations that he made to the committee.

In other respects concerning the credit program of the agency, our delegates recommended substantial increased lending levels for both operating and farm ownership loan programs, and a reduction in current interest rates in keeping with the original intent of Congress in establishing this agency. The Farmers Home Administration is unique among lending agencies in that it was created to provide loans to farm families unable to secure credit on reasonable rates and terms from commercial, including cooperative, lending institutions.

In our view the agency has drifted far afield from the original intent of Congress as to its purpose. That explains the reason why our delegates have called for a full-scale investigation of the agency's operations. Perhaps those who would seek to expand lending programs without regard to the level of interest rates can justify their position out of the belief that it is no longer feasible under the present conditions fostered by the Administration to maintain the original concept of the agency's lending programs.

I must say, Mr. Chairman, I am completely frustrated by the leadership of the Department of Agriculture which tends to want to make this agency just another commercial lending institution.

We hope and we trust that this is not the case, and that there will be some resistance to the kind of leadership we have had in the Department concerning the direction of the agency's lending programs.

We call upon the Congress to approach legislative changes with an attitude to strengthening the original loan eligibility requirements and the programs which were developed to meet the needs of eligible borrowers. Since the agency does deal with borrowers unable to secure credit from commercial sources, we believe that lower interest rates than prevail in commercial lending transactions are fully warranted.

Mr. Chairman, I think that is the real crux, in terms of the administration's desire to continue to want to mould and change the thrust and the direction and the structure of this agency. They are constantly trying to figure out some way to load all of the cost of these loans back onto the farmers, those farmers who, in the first place, were unable to go and get commercial credit on reasonable rates and terms, and obviously are in an entirely different kind of situation with regard to the credit picture of the country than those farmers who can go get credit from commercial sources.

As we view it, interest rates are the crux of the issue in regard to this and other legislative proposals concerning the agency.

While we realize that remedial action concerning bringing interest rates down to reasonable levels on a national basis—which is really

what we ought to be trying to do—is out of the hands of this subcommittee, we think that the subcommittee members will agree that such action would largely resolve the difficulties with which the bill before the subcommittee relates.

I do not know how to make that paragraph any stronger. The problem we have got in this country is that interest rates are too high, and they create difficulties not only for farmers but for others in the economy as well. They are a big factor, as we view it, in the whole inflationary situation in which we find ourselves.

We question the advisability of acting at this time to establish a new procedure which puts the agency into a position of making loans irrespective of its traditional and historical requirement that a borrower not be able to borrow from usual sources in order to qualify for Farmers Home Administration assistance. And, we question a new procedure which would raise interest rates.

Any shift away from the fundamental principles on which the agency was created are first steps toward the complete and total elimination of the kind of credit assistance that the agency has rendered to capable and deserving farm families who otherwise would have never had an opportunity to begin farming.

The Farmers Home Administration program has had a strong stabilizing influence on the emergence and development of our family farm agriculture. We would not want to see that influence in any way diminished by legislation before this subcommittee or any other committee or subcommittee of the Congress.

Mr. Chairman, when I started my career in Washington, D.C., I worked for the Farmers Home Administration. Even though we were making loans to families who were turned down by bankers in their area or other commercial institutions, as I recall the agency, during that period, was running about 98 percent collection on operating loans, and somewhere in that neighborhood on farm ownership loans. I have never been able to understand, when an agency has established a record of collection in that category for people who are denied credit from a usual commercial source, why money couldn't be generated without any limit.

It comes right back. It stimulates economic activity that adds to the general tax revenues paid into the Government at every level.

What we are really talking about, in trying to expand the amount of funds available, is just nothing more than shifting around a piece of paper. We get caught up in worrying about a line item in the budget which limits credit when it seems foolish to me to sit and let that budget procedure stand in the way of making money available under the structure we already have.

I know what problems we have with budget. But, in a different kind of context, it might be a little bit different in terms of the leadership in the Office of Management and Budget. My next paragraph relates to that.

Conceivably next year, the whole agricultural credit picture can be looked at under new and different circumstances. We are, of course, grateful for the continued concern of the chairman and members of this subcommittee for making the Farmers Home Administration program truly serviceable for those farm families who are eligible for its assistance.

We want to help. We pledge our continued cooperation in seeking solutions to the problems. These relate to a wide range of difficulties. As a matter of fact, it has been intriguing for me to be here today to see the extent to which the interest of the members here today extended to other activities of the Farmers Home Administration, particularly regarding those disaster loans which we constantly get field complaints about the way they are handled, the delays. Even the process of getting an area, a county, designated a disaster county so that loan procedure can start has been a problem.

One day when I was checking out one of those complaints about a county designation down in New Mexico, I called the office over in the Farmers Home Administration, and they asked a staff man over there who I happened to know personally what the holdup was. He said, "If you want to know the honest truth, we just do not have the typist to get it typed. As soon as I get a typist to get this typed and can get it over to the White House, the approval will come."

Those are the kinds of things that are inexcusable. There has to be some way we can give this agency direction so that we are getting the service that it has provided in the past.

I cannot ever recall, in the early years of operation of the Farmers Home Administration anything but complete acceptance and approval in the function of that agency. It is really shocking to find now that we have so many complaints about its activities.

That brings us to the conclusion that we really need, is not to just come in here with a bill and attempt to try to deal with an insufficiency of funds problem—which is basically, Mr. Chairman, what your bill does. And I must commend you for attempting to find some way on a short run to solve the problem. But, I think we would prefer to dig a little deeper and look at the agency in a little broader perspective and get a little information about its activities, hear from more witnesses, and then write the kind of comprehensive legislation that would deal across the board with the kind of problems as we see them.

Thank you.

Mr. BERGLAND. Thank you very much, Mr. Johnson. Your testimony is intriguing.

There is obviously an election this fall and there will be a new administration. It may be a Democratic administration or it may be a new Ford administration, or whomever.

Nonetheless, there will be an election, and shortly thereafter there will be changes in personnel undoubtedly, and the new administration may have its own ideas as to what ought to be done. If this Member of Congress is reelected and occupies the post of chairman of this subcommittee, we will certainly work very closely with that administration to develop a more comprehensive program to meet the credit needs of the country.

Credit is a poor substitute for income. I think that has been stated before, and it is as relevant today as it ever was.

One of my frustrations with the Farmers Home Administration has been in its inability to meet the credit needs, the demand that has been placed upon it. They have an outstanding track record. Their losses are in the fraction of 1 percent. I do not know what it is, but it is so small it can hardly be measured.

It seems to me they ought to assume a greater risk. One of the problems they have had is that they have been called upon to make loans to people who are in the grey area; they are not good enough to fly by themselves in the commercial credit field, and they are not in such a bad condition that they need to have the kind of careful day-to-day attention that is required of a person who is in a very difficult position financially.

So they have become burdened down with the credit demands from people who are in a kind of inbetween stage. It is our hope to be able to graduate those into a private bank cooperative credit area through the use of the guarantee, so that the FmHA supervisor and his staff can work with those people who are in a tough fix and need help, so that they can spend the time necessary to help them manage their farms and help them with other problems that may arise.

I would only comment briefly on your question of credit.

I have a Federal land bank loan on my farm in Minnesota which was made in 1958. My interest rate is 5 percent.

Inflation has changed all that, and the 5 percent rate that was set by law in 1954, I think, was at the time about the commercial lending rate. The cost of money to the Treasury was under 3 percent. Now that is all changed, obviously.

This is frankly a tradeoff—going to the cost of money in return for which we get a higher lending authorization is a proposition which we must consider. I suspect that the next administration's OMB, even if it is the Carter administration, won't be a whole lot different from the present one or the one I worked with when I was with the last Democratic administration in the 1960's. They are tough, hard-boiled money managers. I suspect we are not likely to see the Treasury opened up and have a \$2 billion appropriation for subsidized loans for Agriculture. I just do not think it is in the cards, and we have to be realistic—I know you are—about these matters.

Therein lies the reason, in my judgment, at least, for bringing the interest rate more in line with what is today's market in return for which we can increase the amount of money available.

I was married on June 4, 1950. I bought a farm on July 21, 1950. Within 5 years, we had two kids, and my financial condition had gone from bad to worse, because we had 3 bad crop years during that time, and the prices fell. I had to get an FmHA loan, refinance a contract for deed, and pick up outstanding credit and debts around town. And I made it.

There was a time during that period when the most important thing to me was to be able to get terms. I had to have terms. I had to have time to work out from under this. I couldn't care less about the rate of interest. I couldn't pay 1 percent, if I had to repay the whole loan that fall. I had to have time.

I got it. I worked out from under it, and graduated to the Federal Land Bank and cooperative credit sources along with one private bank, and we finally got things under control. So, I believe that time and terms to the borrower is vitally important. If you can't get time, you might as well give the loan away. They are not going to be able to make it.

Mr. JOHNSON. Mr. Chairman, I certainly don't disagree with your observations here. I, too, am familiar with many farmers who have gotten their start with the Farmers Home Administration.

I guess what our basic concern here is that we are still looking for some way, within the existing structure of the agencies, to continue to provide some kind of a helpful lending procedure to farmers who cannot get commercial credit.

Frankly, rather than destroy that basic concept within the Farmers Home Administration, I would prefer to see another agency of the Government take over the type of a guaranteed loan structure or procedure as your bill provides.

I just do not think that the Farmers Home Administration can maintain its original structure looking towards those farmers who cannot get credit from normal sources, which I think we need to maintain. That is the key. We need to maintain that, but I do not think you can do that if you come along and make this agency part guaranteed loan with no limit on interest, and no eligibility requirement relating to the congressional direction and the eligibility requirement relating to the fact that you can't get credit elsewhere.

If you make a hybrid animal out of the Farmers Home Administration, you are going to destroy one part of that hybrid animal. That is going to be the part that relates to that borrower who has not been able to get credit from commercial sources.

I think it would be better if we maintained some kind of delineation, if you have to go over and create another agency, or put it over in an existing agency—the type of program you have in mind. Maybe an arm of Small Business.

Perhaps there is a little nostalgia creeping through here, because I worked for the agency when we got all appropriated funds, and we could set the interest rates in the Congress wherever we wanted them.

Mr. BERGLAND. If I might interrupt, Mr. Johnson, when was that? When did you work for the agency?

Mr. JOHNSON. I came to work for the Farmers Home Administration in 1951.

Mr. BERGLAND. Do you remember offhand what the cost of money to the Treasury was then?

Mr. JOHNSON. It was about 3, $3\frac{1}{2}$, $3\frac{1}{4}$.

Mr. BERGLAND. Three to four. You were making loans, I suppose, at 3 to 4 percent interest?

Mr. JOHNSON. We made farm ownership loans at 4 percent, and operating credit was all over the place for 5 percent. I have a great deal of admiration and respect for you. I have followed your career over a long period of years. I am certainly not here to say that you have not brought a beneficial debate to the surface. I think you have.

All I am saying is, let's don't let this agency get out of control in terms of an original purpose that I think ought to be continued.

Mr. BERGLAND. I couldn't agree more.

Mr. Baldus?

Mr. BALDUS. I want to continue on the same point a bit.

The 5-percent loan part creates a problem within my district. One person qualifies for it, and another doesn't.

Then we have a problem with equity. You probably have the same problem?

Mr. JOHNSON. You would create an even further disparity if you went the route of guaranteed loan that this bill provides. You would probably have even higher interest rates than the current $8\frac{3}{4}$, which, I understand, is in effect for the insured operating loans.

I think the answer to your question is simply that the agency has lost, in its administration of these programs, the use of that county committee in the way that it was intended. The county committee was to make a judgment about the people who were eligible for those loans—who needed the help and couldn't get it elsewhere.

Mr. BALDUS. They sometimes do, but if they have 20 eligible and only money enough for 5, then you have people that are equitable. There is equity between them, but there is not equitability in the action by the governmental agency.

Mr. JOHNSON. That gets back to my original observation about the fact that I have never been able to understand why it is that we cannot shift around the pieces of paper necessary to get the money, when it is paid back to the Treasury with interest. Investment in people—the best kind. And to have some money manager over in the Office of Management and Budget putting some kind of limit on the amount of funds you can insure—you know, you can insure—under this kind of program, just never made any sense to me.

I cannot understand that shortsightedness.

Mr. BALDUS. I think my biggest problem was in this equity. In limited amounts. But you can understand why, at very low interest rates, it is probably necessary to make limitations, because the county committees can see problems.

Mr. JOHNSON. We have people out there, Congressman Baldus, even on these county committees who are running this program like a bank. They think like a banker. That is the problem with it. It has lost its fervor for trying to help people who cannot help themselves. They are treating everyone out there as if he were just another borrower.

The basic concept of the agency has been lost in the management that it is being given. Unless we give somebody some leadership back in there who has a little compassion and has a real zeal to go out and try to help some of the people who are in need of the help, I think the function of the agency is going to continue to be subject to question.

I am not sure that, if you pass all the law you want to up here, you are going to get the problems that I see straightened out.

Mr. BALDUS. That goes to the other side. You said you have got complaints from constituents. You have a wide constituency. I have only the district.

I enunciated some of my problems today. Do you have widespread complaints about delays in processing?

Mr. JOHNSON. We have had widespread delays. We have had a lot of complaints, and we have set up meetings with the Department of Agriculture about the way they assess losses in crops. They brought in a bunch of people from the crop insurance program, you know, and did not use the ASCS people right there in the counties to do the estimating on losses. There were a lot of complaints about that.

It has been one continual line of controversy coming to us about the agency's functions.

Mr. BALDUS. People today didn't seem to really admit that they had very long delays. It seemed like 60 days, maybe.

Mr. JOHNSON. I think I will start trying to run some of my complaints by him. I have been dealing with the agency level people over in the Farmers Home Administration, but I think I will start sending some through his office.

Mr. BALDUS. If you want to run some through my office and then on over, you are welcome to do so.

Mr. JOHNSON. All right. We will keep that in mind.

Mr. BERGLAND. Thank you very much, Mr. Johnson. We appreciate your candid and, as usual, constructive testimony.

Mr. JOHNSON. Thank you.

Mr. BERGLAND. That concludes the list of witnesses scheduled for today.

The hearing set for tomorrow will be postponed indefinitely.

We have some questions we will be propounding of the Department of Agriculture by mail or by telephone.

The Chair will schedule a markup session of this subcommittee at an early date.

With that, the subcommittee stands adjourned.

[Whereupon, the subcommittee adjourned at 5:37 p.m.]

AMEND COMMODITY FUTURES TRADING COMMISSION ACT

TUESDAY, AUGUST 10, 1976

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

The subcommittee met at 2:10 p.m., pursuant to notice, in room 1301, Longworth House Office Building, Hon. Bob Bergland (chairman of the subcommittee) presiding.

Present: Representatives Baldus, Bedell, Madigan, and Kelly.

Staff present: Alan M. Gray, staff consultant, Subcommittee on Livestock and Grains; Christine D. Abram and Susan Bell, staff assistants.

Mr. BERGLAND. The meeting will come to order.

We are here to consider H.R. 12571, introduced by the chairman of the House Committee on Agriculture, Mr. Foley; and S. 3051, introduced by the Senator from Kansas, Mr. Dole.

[H.R. 12571 and S. 3051 follows:]

(107)

94TH CONGRESS
2D SESSION

H. R. 12571

IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 1976

Mr. FOLEY (for himself and Mr. WAMPLER) introduced the following bill;
which was referred to the Committee on Agriculture

A BILL

To amend the Commodity Futures Training Commission Act of 1974 to make certain technical changes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Commodity Futures
4 Trading Commission Act Amendments of 1976".

5 SEC. 2. (a) Section 101 (a) (5) of the Commodity
6 Futures Trading Commission Act of 1974 (88 Stat. 1390,
7 7 U.S.C. 4a (d)) is amended by striking the words " , by
8 and with the advice and consent of the Senate,".

9 (b) Section 205 (a) of the Commodity Futures Trad-
10 ing Commission Act of 1974 (88 Stat. 1397, 7 U.S.C. 6n)
11 is amended—

1 (1) by striking in its entirety subparagraph “(2)”
2 of subsection “4n” and renumbering the succeeding sub-
3 paragraphs of said subsection respectively; and

4 (2) by striking the words “registered under this
5 Act” in subsection “4o (1) ”.

6 (c) Section 402 (a) of the Commodity Futures Trading
7 Commission Act of 1974 (88 Stat. 1412, 7 U.S.C. 6c (a))
8 is amended by adding immediately after the words “SEC.
9 4c.” and before the period thereafter the following: “, and
10 by striking the words ‘not have been disapproved’ in the
11 last paragraph and inserting in lieu thereof the words ‘have
12 been approved’ ”.

13 (d) Section 415 of the Commodity Futures Trading
14 Commission Act of 1974 (88 Stat. 1415, 7 U.S.C. 6g)
15 is amended by striking the word “Brokers” in subsection (3)
16 and inserting in lieu thereof the words “Floor brokers”.

94TH CONGRESS
2D SESSION

S. 3051

IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 1976

MR. DOLE (by request) introduced the following bill; which was read twice and referred to the Committee on Agriculture and Forestry

A BILL

To amend the Commodity Futures Trading Commission Act of 1974, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Commodity Futures Trad-
4 ing Commission Act Amendments of 1976".

5 SEC. 2. (a) Section 101 (a) (5) of the Commodity
6 Futures Trading Commission Act of 1974 (88 Stat. 1390;
7 7 U.S.C. 4a (5)) is amended by striking the words " , by
8 and with the advice and consent of the Senate,".

9 (b) Section 205 (a) of the Commodity Futures Trading
10 Commission Act of 1974 (88 Stat. 1397; 7 U.S.C. 6n) is
11 amended—

II

1 (1) by striking subparagraph (2) of subsection 4n
2 and renumbering the succeeding subparagraphs of said
3 subsection respectively; and

4 (2) by striking the words "registered under this
5 Act" in subsection 4o (1).

6 (c) Section 402 (a) of the Commodity Futures Trading
7 Commission Act of 1974 (88 Stat. 1412; 7 U.S.C. 6c (a))
8 is amended by adding immediately after the words "SEC. 4c."
9 and before the period thereafter the following: ", and by
10 striking the words 'not have been disapproved' in the last
11 paragraph and inserting in lieu thereof the words 'have been
12 approved'".

13 (d) Section 415 of the Commodity Futures Trading
14 Commission Act of 1974 (88 Stat. 1415; 7 U.S.C. 6g) is
15 amended by striking the word "Brokers" in subsection (3)
16 and inserting in lieu thereof the words "Floor brokers".

17 SEC. 3. Section 6001 of part V of title 18 of the United
18 States Code (84 Stat. 926; 18 U.S.C. 6001) is amended by
19 adding after the words "Civil Aeronautics Board," the words
20 "the Commodity Futures Trading Commission,".

21 SEC. 4. This Act shall be effective immediately upon
22 enactment.

Mr. BERGLAND. The Chair will announce that it is not his intention to schedule a markup of these bills today because one of the elements of the bills deals with the question of immunity to witnesses. That provision in the bill is under the jurisdiction of the House Committee on Judiciary. We have negotiations going with that committee to see if they have any objections to reporting a bill with that provision in it. If objections are raised, then it will require some changes in our bill.

Today we will just receive testimony from anyone who cares to comment on the propositions pending.

Our first scheduled witness is Mr. John Rainbolt, the Vice Chairman of the Commodity Futures Trading Commission.

STATEMENT OF JOHN V. RAINBOLT II, VICE CHAIRMAN, COMMODITY FUTURES TRADING COMMISSION, ACCOMPANIED BY HOWARD SCHNEIDER, GENERAL COUNSEL, AND ANTHONY McDONALD, ACTING EXECUTIVE DIRECTOR

Mr. RAINBOLT. Thank you, Mr. Chairman. My name is John Rainbolt. I am a member of the Commodity Futures Trading Commission, and I am honored by serving as its Vice Chairman. I am here to present the Commission's views regarding H.R. 12571 and S. 3051, and also to recommend an additional technical amendment which we feel should be incorporated in the legislation which you are considering.

With me at the table today are Howard Schneider, the General Counsel of the Commission, and Anthony McDonald, the Acting Executive Director.

The Commodity Futures Trading Commission Act of 1974 has been hailed as one of the House Agriculture Committee's most significant achievements. Many of you were direct participants in the drafting of that act which led to creation of the Commission.

As a former counsel to this committee associated with that effort, it is a matter of special pride for me to be here today. In many respects this is where it all began.

The Commission has now been in existence slightly over 15 months, and we have a better grasp of the problems associated with regulation of the industry than when the first four members of the Commission were sworn in only days before the effective date of the new act, April 21, 1975.

Since that time, we have designated 10 contract markets for trading in 48 commodities; and registered over 24,500 individuals as commodity trading advisers, commodity pool operators, futures commission merchants and associated persons, as required by law.

Pursuant to our exchange rule approval authority, we have actively reviewed rules of contract markets and over 100 rules and rule change requests by exchanges have been examined and approved. Working with exchanges we have approved additional delivery points for corn, thus eliminating a potential barrier to delivery by producers on that contract.

We have used the new authority provided by the act to obtain injunctions against fraudulent acts and practices which previously bilked the public and harmed the image of the industry. In order to obtain producer, public and industry input into our decisionmaking, we

chartered an extensive advisory committee program under which approximately a dozen major commission objectives were analyzed by four public advisory committees, each chaired by a commissioner.

Putting together—correctly—the agency you envisioned in the act has not been an automatic exercise. By and large, we feel we have been earning our pay and making progress in obtaining the goal of realistic regulation in today's economic and political environment.

During the course of our work with the Commodity Exchange Act, as amended by the Commodity Futures Trading Commission Act of 1974, we have come across several desirable technical changes in the act itself that we believe should be addressed.

In many respects working with the act has been like buying a new house: We have had to move in before discovering there were not enough electrical outlets in some rooms and that the furnace clanks in the winter. Needless to say, the house—in this case the act—is sound and is standing the tests it has been subjected to thus far.

It is in that spirit that the Commission supports the changes embodied in the legislation before you. Since I drafted many sections of the new act, it fell to my lot to respond to your requests for our views on the bills before you.

H.R. 12571 and S. 3051, propose technical amendments to the Commodity Exchange Act. Briefly, I will explain the purpose of the amendments, with reference to the House bill, unless otherwise noted:

Section 2(a) of the House bill would amend the act to remove the requirement for Senate confirmation of the Commission's Executive Director; the current requirement for Senate confirmation in this case is arguably unconstitutional, according to the Department of Justice and a study prepared by the Legislative Research Service of the Library of Congress.

Section 2(c) of the House bill would amend the Commodity Exchange Act to change section 4c language to conform with the "positive" rule approval concept; a technical amendment to correct a probable oversight in the drafting of the 1974 act.

Section 2(d) would amend the act to change section 4g(3) language from "broker" to "floor broker"; another technical change to conform language used in the act.

Section 2(b)(1) would amend the act to delete the section 4n requirement of CFTC approval of commodity trading advisor or commodity pool operator applications for registration within 30 days of their submission; the Commission is unable to process these applications within 30 days and the statutory requirement serves no purpose.

Section 2(b)(2) would amend the act to change certain language in section 4o—regarding commodity trading advisors or commodity pool operators—from "registered under this act" to "who is or should be registered under this act"; the proposed change would close a possible enforcement loophole by which an individual not actually registered with the Commission might be beyond the reach of our enforcement powers as a consequence of present language.

Finally, section 6 of S. 3051 would amend title 18 of the United States Code to enable the CFTC to grant immunity to certain witnesses; the language would add the CFTC to a list of other agencies given authority under section 6001 of title 18 to grant immunity to witnesses on their own after consulting with the Justice Department.

The Commission supports these changes. In addition, the Commission respectfully urges the subcommittee to consider and adopt an additional amendment.

The amendment would integrate the provisions of section 217 of the Commodity Futures Trading Commission Act of 1974 into the Commodity Exchange Act, as amended.

Section 217 of the CFTC Act provides that no one shall conduct transactions commonly known to the trade as leverage contracts or margin contracts contrary to any rule, regulation or order of the CFTC designed to insure the financial solvency of the transaction or to prevent fraud or manipulation. The provision applies to transactions involving silver or gold bullion, or bulk silver or gold coins.

Although enacted with other provisions of the 1974 amendments to the Commodity Exchange Act, section 217, itself, did not constitute an amendment to the Commodity Exchange Act. It is solely a provision of the CFTC Act of 1974.

Commission counsel advises that, consequently, it might be claimed that the transactions addressed by section 217 may not be subject to certain enforcement authority of the Commodity Exchange Act, including sections providing sanctions, such as fines up to \$100,000, against fraud and manipulation.

Nevertheless, section 2(a)(1) of the Commodity Exchange Act provides that "the Commission shall have exclusive jurisdiction with respect to * * * transactions subject to regulation by the Commission pursuant to section 217 * * *" of the CFTC Act of 1974.

This proposed amendment would bring the section 217 provisions fully within the Commodity Exchange Act, as amended, thus enabling the Commission to utilize without question its full complement of enforcement authority in regulating leverage contracts.

Mr. Chairman, in the opinion of the Commission, these amendments are necessary to fulfill the mandate provided us by the Congress. I will be pleased to answer any questions you might have at this time.

Mr. BERGLAND. Thank you, Mr. Rainbolt.

Without objection, the amendment you propose to H.R. 12571 will be inserted in the record.

[The amendment submitted by Mr. Rainbolt follows:]

AMENDMENT TO H.R. 12571

Add a new Section 3.—

Section 217 of the Commodity Futures Trading Commission Act of 1974 (88 Stat. 1405, 7 U.S.C. 15a) is amended to read as follows:

"Sec. 217. The Commodity Exchange Act, as amended, is amended by inserting the following new section immediately after section 18 (7 U.S.C. 22):

"Sec. 19(a). No person shall offer to enter into, enter into, or confirm the execution of any transaction for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coins, pursuant to a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract contrary to any rule, regulation, or order of the Commission designed to insure the financial solvency of the transaction or prevent manipulation or fraud: *Provided*, That such rule, regulation, or order may be made only after notice and opportunity for hearing. If the Commission determines that any such transaction is a contract for future delivery within the meaning of this Act, such transaction shall be regulated in accordance with the applicable provisions of this Act.

"(b) The provisions of section 9(c) of this Act shall be applicable with respect to persons who violate the provisions of this section."

Mr. BERGLAND. The amendment you have recommended to section 217 is a new matter. Do you know offhand whether that provision is in the Senate bill?

Mr. RAINBOLT. No, Mr. Chairman, it is not.

If I might clarify a point, the language that is probably included in the insertion has been reviewed again by us since it was put together. There is a slight further technical change that we would recommend to that language to bring it more in line with what we think was the original intention of Congress.

If you are interested in the history of this section 217 authority, Mr. Chairman, it originated as a Senate amendment to the House bill. As you will recall, the environment we were operating in at the time of conference was that the Senate passed the bill, and it was immediately called to conference.

Thus, section 217 provisions were probably not subjected to the full review that they might otherwise have received in the event that we had more time to study it. The change that we are recommending today is one that we think is in keeping with the theory of the bill itself.

Assuming that section 217 transactions have been cut out by Congress for special regulation by the Commission, this would make sure that there would not be any loophole or gap in the regulatory authority of the commission and that the full arsenal of weapons that the Commodity Futures Trading Commission Act of 1974 provides may be brought to bear.

Mr. BERGLAND. Do you know whether or not the Treasury Department or the Securities and Exchange Commission or anyone else has any objection to this provision?

Mr. RAINBOLT. I do not know, sir. We cannot really envision why any other agency would have any sort of objection to this.

In effect, all we are trying to do with this amendment is to accomplish what we think the authors of the act thought they were accomplishing when they wrote the act itself. It is really only a technical amendment.

Mr. BERGLAND. Thank you very much.

Any questions?

Mr. Bedell?

Mr. BEDELL. I am wandering off here into territory with which I am not too familiar, Mr. Rainbolt. So if I need some enlightenment, I wish you would help me.

In 4n, where you say that the 30 days is an insufficient time for you to register those people, my question is this: Why was it that you simply did not extend the time or give a greater length of time rather than delete the whole section?

Mr. RAINBOLT. This gives us more flexibility, quite frankly, than writing in a longer period of time.

The background behind that, Mr. Bedell, is this. The act envisions, of course, that we will receive applications from these people. Because one of the authorities of the Commission is to deny application to someone who has, for example, been convicted of certain crimes or has been otherwise enjoined in the securities area, we take the applications that are submitted to us and run them through an FBI and SEC computer. It is this process that takes longer than 30 days.

It is difficult for us to be able to make any particular judgment as what length of time we could put in there.

Mr. BEDELL. Suppose it were to say 6 months, for example, instead of 30 days. Would that give you any troubles?

Mr. RAINBOLT. In all probability, frankly, no.

However, I would point out that other commodity trading professionals under similar registration provisions that are in the act have no time limit on them.

Mr. BEDELL. Again, I am not knowledgeable in this area. The thing that bothers me is that we find, for example, in our small business oversight committee that Federal Trade Commission will get applications and they will sit there for 2 years and never have any hearing or anything on them.

I see some responsibility for us as we pass legislation with the different agencies to somehow do something that will require them to at least act on applications, whatever they may be, within some reasonable period of time.

Mr. RAINBOLT. Right now I can assure you that that is not the case. In fact—

Mr. BEDELL. If that is not the case, then I cannot see what harm there would be in putting in some time period of whatever you would think is reasonable. Maybe it is 12 months; I don't know.

Mr. RAINBOLT. Honestly, you could provide for 6 months. The only caution on that is that we cannot tell you exactly what length of time it is going to be.

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

Mr. Baldus?

Mr. BALDUS. I have a question that is not directly related to the bill.

I recall one time before there was some discussion about looking into agricultural commodities that were not presently regulated.

I think this has to do with the butter market. I have heard complaints in my district about the market being so thin that there really was not a market there.

There was some public discussion of that, and I was wondering if you could add to my knowledge of it.

Mr. RAINBOLT. Mr. Baldus, the problem of the butter market has been called to our attention.

If our general counsel is familiar with that, perhaps I can ask him to respond to your question.

Mr. SCHNEIDER. Sir, I believe there was an economic analysis of that market done in response to an inquiry from one of the farmer organizations concerned with the butter industry. That analysis showed that the price of butter rose according to economic factors in the market and then dropped just prior to December, I guess, when the heavy use of butter occurs.

As a result of that, I believe, there was a letter written by the Commission to the farmer organization involved indicating that, based on that limited analysis, which, as I say, was only an economic analysis—there was no complete investigation made—the economic factors seem to indicate the market responded according to supply and demand factors.

We indicated further that since it was a cash market that was involved and not a futures market, our jurisdiction in that area was somewhat circumscribed. We did not pursue it any further than that.

Mr. BALDUS. While we are on that subject, I think that cheese is also a cash market, not a futures market. But there has been some discussion as to whether or not it should be a futures market.

I think, perhaps, total butter sales have gone down; but total cheese sales have gone up considerably.

Do you have a point of view on the cheese market?

Mr. RAINBOLT. If I can take just a moment, let me give you my own perception about the act.

We have talked about the butter market, and you are raising the problem, I guess, of the Wisconsin Cheese Exchange.

The act itself provides authority to the Commission to prosecute manipulations and false rumors on cash markets, although most people think that the act only relates to futures markets. In fact, throughout the history of the act, it has always had some cash market jurisdiction attached to it.

The question we are facing at the Commission is this. How do we exercise that cash market jurisdiction and how far do we go?

In other words, arguably there is enough authority in there for us to regulate the Wisconsin Cheese Exchange, for example, or the butter market or any other essentially cash market. It may even be broader than that.

I recently chaired an advisory committee that has been addressing that particular issue. While the Commission had not taken up the recommendations of the advisory committee, the advisory committee's findings are probably worthwhile mentioning here.

What the advisory committee recommended was that inasmuch as violations, manipulations of cash markets, and many of the other crimes that are specified in the Commodity Exchange Act are in all likelihood also either antitrust problems or restraints of trade or in all probability would be otherwise actionable under antitrust laws or other marketing laws, that the Commission should itself utilize its resources more directly in regulating the futures markets.

That would probably be the effect of it inasmuch as the Department of Agriculture, when it had these same provisions in the law, never did use these provisions actively to regulate, say, the Wisconsin Cheese Exchange; to extend those provisions very cautiously and instead probably act only on complaint and only when it appeared there was no other way that there could be some adjudication of the issues that had been raised on cash market manipulation.

The plain simple fact of the matter is that at this point the Commission has not really reached a decision as to whether or not we should even be in the Wisconsin Cheese Exchange or in the cash butter market.

I think you would find—and I have to tell you this—I think you would find a split among the members of the Commission as to how active we want to be in there. Perhaps some time—and I suggest not in this bill—but at some time it is an issue that I think the Commission is going to have to face. In fact, if we face it, it may be brought back to your attention.

The issue is this: What should be the role of the CFTC in the cash markets?

At this point we seem to have in the language of the act a choice. We can be active or passive.

Right now, of course, we have our hands full. We have very few people. We do not have enough enforcement people even to handle all the problems with the Maine potato market and options and all that. We have an OMB ceiling on top of us of 450 people.

Until we get more people, I can tell you right now I do not anticipate that we are going to be very active at all in investigating cash market problems.

Mr. BALDUS. Upon a complaint, however, you would probably feel obliged to look into things?

Mr. RAINBOLT. Upon a complaint, we have in the past looked at these problems. We have not written back and said that we do not have jurisdiction to look at them.

At least we have taken a run at them, in the case of butter; and I think we would, and possibly have, in the case of cheese as well.

We do get complaints from time to time on manipulation of cash markets that do not have a futures contract associated with them. In every case so far we have looked into them. We have not devoted the resources, say, that we would to a default on the New York Mercantile Exchange on potato futures, for example.

Mr. BALDUS. Thank you, Mr. Chairman.

Mr. BERGLAND. Thank you, Mr. Baldus.

Mr. Bedell?

Mr. BEDELL. I also have a comment not directly related to the bill.

As you know, many of my cattle feeders and other people's cattle feeders are having a very difficult time. At least some of my cattle feeders out there feel it would be somewhat better if there were more frequent delivery dates for cattle sold on the futures market.

Also, at least some of them feel that a requirement that livestock that were sold on futures would have to be slaughtered in a given period after they are delivered.

They believe both those things would be helpful.

Have you given consideration to some of these changes? Would you be the ones that make the changes, or do they have to come legislatively?

Mr. RAINBOLT. We would have authority to make changes in the delivery points and delivery months.

The area you are talking about is the live cattle future, I believe, of the Chicago Mercantile Exchange. I received some calls and letters from cattle feeder operators in my home State of Oklahoma, and in other areas, requesting a more frequent delivery of the live cattle contract.

It seemed that they feel that the contract sometimes gets out of line in that gap between trading months.

I have taken that up personally, on an informal basis, with the president of the Chicago Mercantile Exchange. Mr. E. Harris. Mr. Harris informs me that there are a number of changes that are under consideration there at the exchange at this time.

I have communicated that to the cattle people who have contacted me and indicated my willingness to sit down at any joint meeting be-

tween the exchange and cattle feeders in order to discuss that. At this point in time I am told that there have been in the past at the Chicago Mercantile Exchange such suggestions made from within the exchange staff itself.

Our economists think it is a reasonably good idea. Taking the exchange at this point at its word that it is considering these changes, we probably think that the better role is to engage in a discussion designed to get the correct answer in an easier manner than if we went ahead and used the authority that we have under the law to mandate the change.

We can do it, but I think we would rather at this point work with the feeders and the exchange and see if we can't ease them into it as opposed to requiring it.

Mr. BEDELL. Thank you.

Mr. BERGLAND. Gentlemen, we appreciate your coming this afternoon.

The chair would ask that if there is anyone in the gallery who cares to comment on the pending business, let us know now.

If not, the subcommittee is about to recess.

The Chair will announce that on August 25 at 10 o'clock in the morning it is the Chair's intention to convene a meeting of this subcommittee to consider this bill, the amendments to it, and other pending business that has been heard by the subcommittee. I am talking about, for example, the amendments to the Farmers Home Administration charter.

The Chair has instructed the full committee staff or a person from it to prepare a one-paragraph summary of all the pending business and, as best she can, to summarize amendments that are known to be offered. This will be distributed to all members of the subcommittee.

When we return from our scheduled recess, you will have it. So prior to the meeting, you will have a chance to read up on it, in case you were not able to attend all of the sessions that have been held off and on over the last 2 months.

Mr. Baldus?

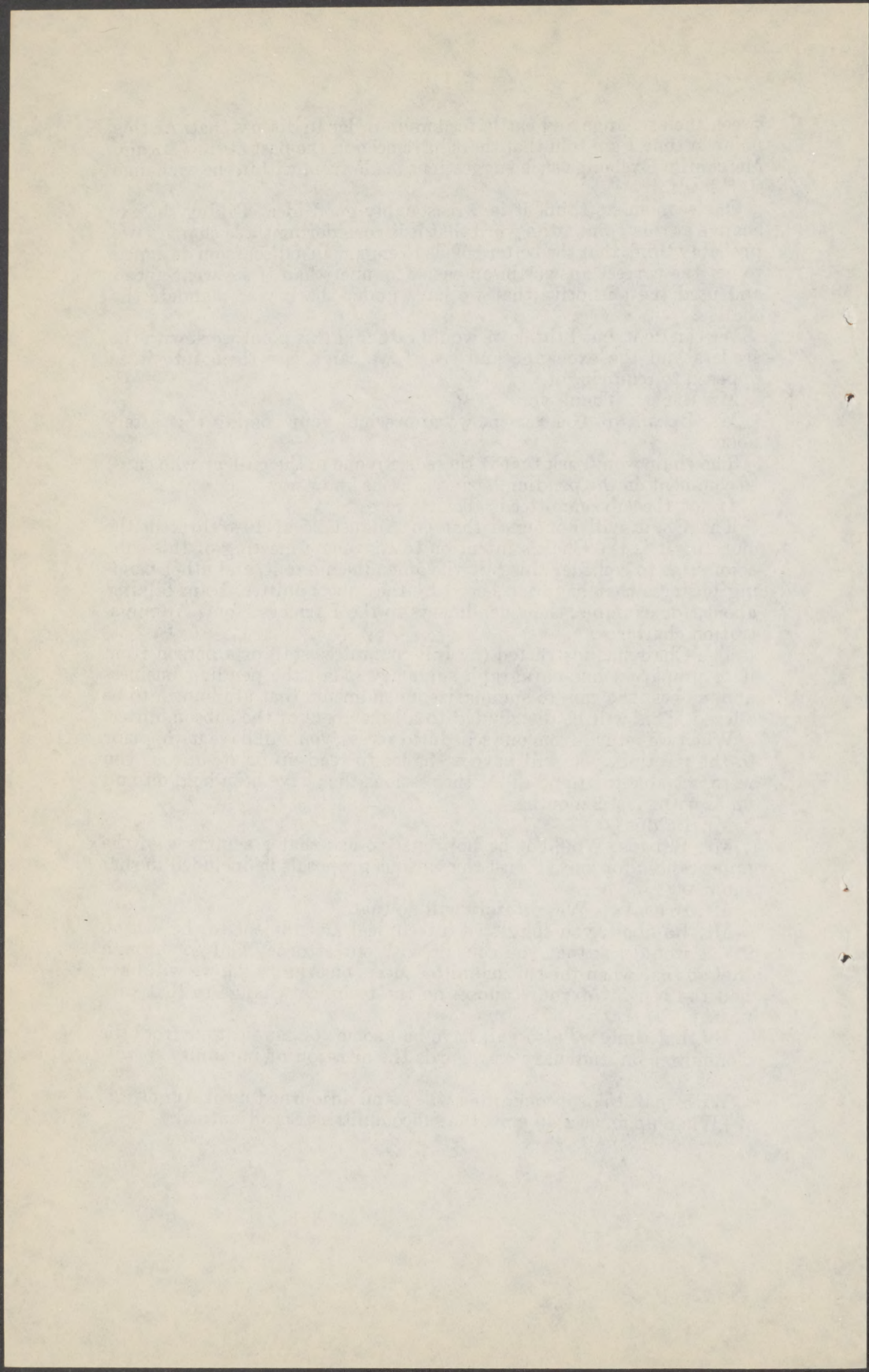
Mr. BALDUS. Would it be improper to ask that a summary of the appearances for and against the various proposals be included in that summary?

Mr. BERGLAND. We certainly will do that.

Mr. Rainbolt, you suggested a technical amendment to the section 217. I would ask that you consult with our attorney and go through that so that when the subcommittee meets on August 25, we will have had the benefit of your counsel on the technical change to that proposal.

By that time, we also will have had some communication from the Committee on Judiciary as regards the question of immunity to witnesses.

With that, the subcommittee will stand adjourned until August 25. [Whereupon, at 2:40 p.m., the subcommittee was adjourned.]



EXTEND EMERGENCY LIVESTOCK CREDIT ACT OF 1974

WEDNESDAY, AUGUST 25, 1976

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

The subcommittee met at 2:10 p.m., pursuant to notice, in room 1302, Longworth House Office Building, Hon. Bob Bergland (chairman of the subcommittee) presiding.

Present: Representatives Baldus, English, Richmond, Hightower, Bedell, Madigan, Jeffords, and Kelly.

Staff present: Robert M. Bor, counsel; John E. Hogan and William A. Imhof, associate counsels; Susan Bell and John M. Lindley, staff assistants.

Mr. BERGLAND. The subcommittee will come to order.

We are gathered today to receive testimony on H.R. 15059, a bill to amend the Emergency Livestock Credit Act of 1974.

[H.R. 15059 and the report from the U.S. Department of Agriculture follow:]

91TH CONGRESS
2^D SESSION

H. R. 15059

IN THE HOUSE OF REPRESENTATIVES

AUGUST 4, 1976

Mr. BERGLAND introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Emergency Livestock Credit Act of 1974.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 8 of the Emergency Livestock Credit Act of
4 1974 (88 Stat. 391, as amended; 7 U.S.C. Prec. 1961)
5 is amended to read as follows:
6 “SEC. 8. The provisions of this Act shall become effective
7 upon enactment, and the authority to make new guarantees
8 shall expire on September 30, 1978.”.

I



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

Honorable Thomas S. Foley
Chairman, Committee on
Agriculture
House of Representatives

August 24, 1976

Dear Mr. Chairman:

This is in reply to your request of August 4, 1976, for a report on H.R. 15059 a bill "To amend the Emergency Livestock Credit Act of 1974."

This Department recommends enactment of H.R. 15059 if amended as set forth below.

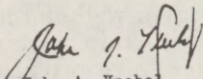
The purpose of this bill is merely to extend the Emergency Livestock Credit Act of 1974 which expires December 31, 1976.

This program has been operating since July 25, 1974. It was extended for approximately a year and a half. Through June 30, 1976, \$683,948,150 has been obligated. Loan defaults by borrowers through June 30, 1976, have been \$488,056. It is impossible to estimate the amount of defaults against the total program. Consequently, no estimate of ultimate losses due to defaults under the extension is available. Furthermore, it is not possible to make a long term estimate of credit requirements under this program. Therefore, the Department recommends that the extension be limited to one year - until December 31, 1977.

We estimate that enactment of this proposed legislation would result in administrative costs of \$570,000 for carrying out the program for the period January 1, 1977, through December 31, 1977.

The Office of Management and Budget advises that there is no objection to the presentation of this report.

Sincerely,


John A. Knebel
Under Secretary

Mr. BERGLAND. Our witness today on the bill H.R. 15059 is Dr. James E. Bostic. He is accompanied by Frank Naylor.

Gentlemen, we are pleased you have come.

We have your letter with regard to this bill.

You may proceed in any manner which you choose.

STATEMENT OF JAMES E. BOSTIC, JR., DEPUTY ASSISTANT SECRETARY FOR RURAL DEVELOPMENT, U.S. DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY FRANK NAYLOR, ASSOCIATE ADMINISTRATOR, FHA

Mr. BOSTIC. Mr. Chairman, I would like to just make one or two comments.

As you know, this bill was passed originally in 1974 and then amended in June 1975.

We believe that this program and the loans which have been made have been helpful to livestock producers, and that this bill should be extended.

We have noted during this current month an increase in the usage of this particular program. In June and July we averaged about \$15 million in loan obligations. In the first 20 days of August, we guaranteed about \$70 million.

Mr. BERGLAND. \$70 million in the first 20 days of August alone?

Mr. BOSTIC. Yes, sir.

So that is additional evidence that we should be seeking an extension of this authority.

Since this legislation was enacted, about 5,900 loans have been made for about \$768 million since 1974.

The program has been used by quite a few livestock producers and we think it has helped some of those individuals.

We think that it should be extended.

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

Mr. Naylor, do you have anything to add to that?

Mr. NAYLOR. Mr. Chairman, the program has worked well and has caused minimal problems. We have good success, I think, in working with the private sector and cooperating in trying to resolve any problems which might have developed there.

With the line of credit feature it seems to be meeting the needs of producers.

Certainly, the agency recommends its extension.

Mr. BERGLAND. Thank you very much, gentlemen.

It was my hope that we could extend this program without change. There is a companion bill in the other body, sponsored I think by the Senator from South Dakota, Mr. McGovern.

The problems of the cattle producers in the northern prairie States are becoming very difficult. We have the hottest and driest weather of record out there. Dispersal of cattle herds is altogether too commonplace. Others are trying to hang on.

This is not a matter of trying to exact a profit in the cattle business. It is a matter of trying to hold body and soul together.

In a number of cases which I know of from conversations with creditors and cattle producers, in the absence of this program they are simply not going to be able to stay in business.

The run on cattle in the marketplace is at or near an alltime high. The prices are depressed. It is going through a very, very difficult period at the moment.

So it would be my hope that we could extend this program for 2 years without a change.

I appreciate your testimony and your coming here this afternoon.

Are there questions of these gentlemen?

Mr. Baldus?

Mr. BALDUS. I would just like to add, if I may, to your remarks and reinforce them.

It is a little difficult for us to remember just how serious the problem is there. When you see corn which you know is 5-feet high normally and is now dried and shriveled up to a foot and a half and trees turning brown because there is not enough moisture there, you know that it is a pretty dry and pretty desperate situation.

I add that to reinforce your remarks, Mr. Chairman, and to impress upon those here the importance of this kind of an emergency program.

Mr. BERGLAND. Thank you.

Mr. Bedell?

Mr. BEDELL. I would just like to thank the Department for its support of this legislation. It is very good legislation and is very important.

Mr. BERGLAND. Thank you, Mr. Bedell.

Gentlemen, I guess you may be excused. We would, however, appreciate your remaining for the business of amending and marking up some of these bills.

We would like to have your expertise at hand if you can remain.

I would at this time invite anyone in the gallery who cares to appear with regard to the bill H.R. 15059, a bill to amend the Emergency Livestock Credit Act of 1974.

Is there anyone here who cares to testify on the matter?

If not, we thank you very much.

The committee will stand in recess subject to the call of the Chair.
[Whereupon, at 2:20 p.m., the hearing recessed.]

