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MINERAL DEVELOPMENT IMPACT ASSISTANCE LOAN
DOCUMENTS PROGRAM

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HEARING
BEFORE THE
SUBCOMMITTEE ON
PUBLIC LANDS AND RESOURCES
OF THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
NINETY-FIFTH CONGRESS

SECOND SESSION

ON

S. 2913

A BILL TO AMEND SECTION 317(c) (1) OF THE FEDERAL LAND
POLICY AND MANAGEMENT ACT OF 1976 TO CONFORM THE
INTEREST RATE THEREIN TO THE YIELD ON CERTAIN TAX
EXEMPT BONDS, AND FOR OTHER PURPOSES

S. 2914

A BILL TO AMEND SECTION 317(c) (1) OF THE FEDERAL LAND
POLICY AND MANAGEMENT ACT OF 1976 TO CONFORM THE
INTEREST RATE THEREIN TO THE YIELD ON CERTAIN
UNITED STATES OBLIGATIONS, AND FOR OTHER PURPOSES

APRIL 26, 1978

Publication No. 95-133



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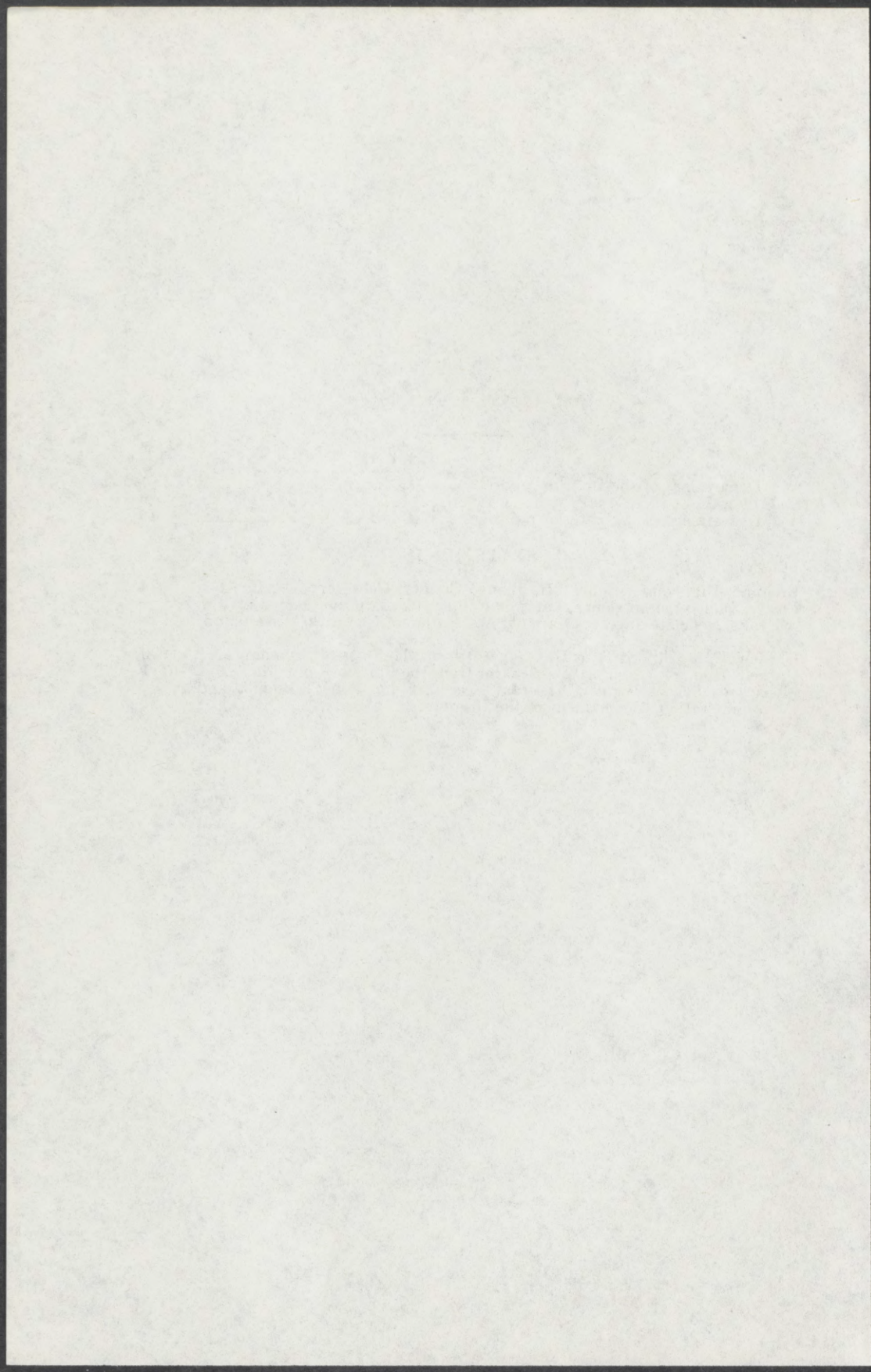
STEVEN P. QUARLES, *Counsel*

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MINERAL DEVELOPMENT IMPACT ASSISTANCE LOAN PROGRAM

WEDNESDAY, APRIL 26, 1978

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS AND RESOURCES,
OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9 a.m., in room 3110, Dirksen Office Building, Hon. Floyd K. Haskell, presiding.

Present: Senators Haskell and Hansen.

Also present: Steven P. Quarles, counsel; and Ted Orf, deputy minority counsel.

OPENING STATEMENT OF HON. FLOYD K. HASKELL, A U.S. SENATOR FROM THE STATE OF COLORADO

Senator HASKELL. The hearing of the Public Lands and Resources Subcommittee will commence. The subject of today's hearing is two bills, S. 2913 and S. 2914, which will amend section 317(c) of the Federal Land Policy and Management Act. S. 2913 is jointly sponsored by Senator Hansen and myself, and S. 2914 is an administration proposal which Senator Hansen and I introduced by request.

The Federal Land Policy and Management Act is a landmark law. For the first time it provides a comprehensive and modern statement of authorities and responsibilities for our Nation's largest land manager, the Bureau of Land Management, which oversees approximately two-thirds of our publicly owned land. As the primary sponsor of this legislation in the Senate, I am pleased to see the Bureau taking pains to implement the law as swiftly as possible. Of course, we always hope for a quicker and smoother implementation process for new laws than can in fact occur. But, by and large, I believe the Bureau deserves good marks in its efforts to operate under this new comprehensive and complex statute.

Section 317(c) of the act has, however, not been implemented. This subsection was offered as an amendment during committee markup of the act by Senator Hansen, and was supported by former Senator Lee Metcalf and me. The Mineral Leasing Act of 1920, as amended by section 317(a) of the Federal Land Policy and Management Act, provides State and local governments with 50 percent of the revenues received by the Federal Government from the leasing of energy minerals on the public lands. In most circumstances, however, this money comes too late. The communities are required to provide more sewer and water facilities, greater police and fire protection, expanded park

lands, new schools, and the other myriad facilities and services necessary to mitigate the adverse impacts of energy development long before that development produces the communities' share of Federal revenues sufficient to pay for the facilities and services. Section 317(c) provides for a loan program to the States and local governments to provide them the "front-end money" to construct facilities and provide services in advance of the so-called energy boom. In essence, the State and political subdivisions would be borrowing now against future mineral royalty entitlements.

Unfortunately, as one of the final acts of the Ford administration, a proposal was submitted to the Congress by the Secretary of the Interior to repeal section 317(c). I am, of course, grateful that my colleagues concurred with me that this was simply a bad idea and that no action was taken on the measure.

President Carter, in submitting the fiscal year 1978 budget pledged support for section 317(c) but also made implementation of the program contingent upon the raising of the interest rate which the provision sets at 3 percent. On January 27, 1977, Senator Hansen, Senator Metcalf, and I wrote Secretary of the Interior Cecil Andrus pledging our support for the raising of the interest rate if that were necessary to assure implementation of section 317(c).

On August 3, 1977, Assistant Secretary of the Interior Guy Martin submitted a draft bill to raise the interest rate. Not only do Senator Hansen and I believe that the interest rate requested by the administration is too high—above the interest rate normally available to the State and local governments when they borrow money—but we also found numerous other proposed changes to limit the impact loan program's size, scope and, in our minds, effectiveness. Although we introduced S. 2914, the administration's bill, I want to emphasize we introduced it by request. We do not favor the administration proposal.

Instead we favor our own bill, S. 2913, which would raise the interest rate to a rate comparable to that now paid by State and local governments when they borrow money and to make other changes suggested by the administration or by other parties which do not reduce the impact loan program or otherwise alter the purposes of section 317(c).

I pledge my best efforts to achieve the early passage of S. 2913 so that the impact loan program can be swiftly implemented.

I will insert in the record at this point copies of the bills and departmental reports.

[The texts of S. 2913 and S. 2914, together with Interior Department reports follow:]

95TH CONGRESS
2D SESSION

S. 2913

IN THE SENATE OF THE UNITED STATES

APRIL 13 (legislative day, FEBRUARY 6), 1978

Mr. HASKELL (for himself and Mr. HANSEN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend section 317 (c) (1) of the Federal Land Policy and Management Act of 1976 to conform the interest rate therein to the yield on certain tax exempt bonds, 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 paragraph (c) of section 317 of the Federal Land
4 Policy and Management Act of 1976 (90 Stat. 2743, 2771;
5 43 U.S.C. 1701, 1747) is amended to read as follows:

6 “(c) (1) The Secretary is authorized to make loans to
7 States and their political subdivisions in order to relieve
8 social or economic impacts occasioned by the development
9 of minerals leased in such States pursuant to the Act of

1 February 25, 1920, as amended. Such loans shall be con-
2 fined to the uses specified for the 54 per centum of mineral
3 leasing revenues to be received by such States and subdi-
4 visions pursuant to section 35 of such Act.

5 “(2) The total amount of loans outstanding pursuant
6 to this subsection for any State and political subdivisions
7 thereof in any year shall be not more than the anticipated
8 mineral leasing revenues to be received by that State pur-
9 suant to section 35 of the Act of February 25, 1920, as
10 amended, for the ten years following.

11 “(3) The Secretary, after consultation with the Gov-
12 ernors of the affected States, shall allocate such loans among
13 the States and their political subdivisions in a fair and
14 equitable manner, giving priority to those States and sub-
15 divisions suffering the most severe impacts.

16 “(4) Loans made pursuant to this subsection shall be
17 subject to such terms and conditions as the Secretary deter-
18 mines necessary to assure the achievement of the purpose
19 of this subsection. The Secretary shall promulgate such reg-
20 ulations as may be necessary to carry out the provisions of
21 this subsection no later than three months after the enact-
22 ment of this paragraph.

23 “(5) Loans made pursuant to this subsection shall bear
24 interest equivalent to the lowest interest rate paid on an
25 issue of at least \$1,000,000 of tax exempt bonds of a State

1 or local government or any agency or subdivision thereof
2 within the preceding calendar year.

3 “(6) Any loan made pursuant to this subsection shall
4 be secured only by a pledge of the revenues received by the
5 State or the political subdivision thereof pursuant to section
6 35 of the Act of February 25, 1920, as amended, and shall
7 not constitute an obligation upon the general property or
8 taxing authority of such unit of government.

9 “(7) Notwithstanding any other provision of law,
10 loans made pursuant to this subsection may be used for
11 the non-Federal share of the aggregate cost of any project
12 or program otherwise funded by the Federal Government
13 which requires a non-Federal share for such project or
14 program and which provides planning or public facilities
15 otherwise eligible for assistance under this subsection.

16 “(8) Nothing in this subsection shall be construed to
17 preclude any forbearance for the benefit of the borrower
18 including loan restructuring, which may be determined by
19 the Secretary as justified by the failure of anticipated mineral
20 development or related revenues to materialize as expected
21 when the loan was made pursuant to this subsection.

22 “(9) Recipients of loans made pursuant to this sub-
23 section shall keep such records as the Secretary shall pre-
24 scribe by regulation, including records which fully disclose
25 the disposition of the proceeds of such assistance and such

1 other records as the Secretary may require to facilitate an
2 effective audit. The Secretary and the Comptroller General
3 of the United States or their duly authorized representatives
4 shall have access, for the purpose of audit, to such records.

5 “(10) No person in the United States shall, on the
6 grounds of race, color, religion, national origin, or sex, be ex-
7 cluded from participation in, be denied the benefits of, or be
8 subjected to discrimination under, any program or activity
9 funded in whole or part with funds made available under
10 this subsection.

11 “(11) All amounts collected in connection with loans
12 made pursuant to this subsection, including interest payments
13 or repayments of principal on loans, fees, and other moneys,
14 derived in connection with this subsection, shall be deposited
15 in the Treasury as miscellaneous receipts.”.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

JUN 13 1978

Honorable Henry M. Jackson
Chairman, Committee on
Energy and Natural Resources
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This responds to your request for our views on S. 2913, a bill "To amend section 317(c)(1) of the Federal Land Policy and Management Act of 1976 to conform the interest rate therein to the yield on certain tax exempt bonds, and for other purposes," and S. 2914, a bill "To amend section 317(c)(1) of the Federal Land Policy and Management Act of 1976 to conform the interest rate therein to the yield on certain United States obligations, and for other purposes."

We recommend enactment of S. 2914, the Administration's proposal, instead of S. 2913.

S. 2913 and S. 2914 are designed to facilitate and insure implementation of the mineral development impact assistance loan program authorized by section 317(c) of the Federal Land Policy and Management Act of 1976 ("FLPMA"). S. 2914, the Administration's proposal, contains various provisions which we believe should be included in an impact assistance loan program.

S. 2914 is intended to target the mineral development impact assistance loan program to a reasonable time period and to community needs which cannot be met from the usual sources of loans. The bill provides that the mineral development impact assistance loan program shall end in 1988; that loans shall be available to States only when credit is not otherwise available at reasonable rates; that program funds shall be used only to provide new or improved public facilities or public services; that program funds may be used to relieve social and economic impacts associated with past mineral development only to the extent that such mineral development was initiated or significantly expanded in the 3-year period preceding enactment of the bill; and that use of loan funds for public services (as opposed to capital facilities) is limited to 5 years.

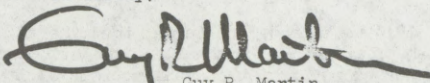
Other provisions of S. 2914 are designed to assure shared responsibility between the States and the Federal government and to minimize the cost of the program. These are: that a loan for a project may not exceed 90 percent of the costs of the project, excluding operating and maintenance costs; that loan maturities shall not exceed 20 years or two-thirds of the estimated useful economic life of the facility to be financed, whichever is less; and that the Secretary of the Treasury may offset the amount of any default by withholding Federal funds that would otherwise be transferred to the States under the Mineral Leasing Act and the Revenue Sharing Act. This last provision stops short of demanding the full faith and credit of a State behind its loans.

S. 2914 provides that the Secretary of the Interior shall make loans to States, and requires those States receiving assistance to allocate program funds to units of local government in proportion to the local governments' needs for the funds. S. 2913, on the other hand, provides for loans to be made directly by the Secretary of the Interior to political subdivisions as well as to States. We believe that S. 2914, the Administration's proposal, provides for equitable distribution of available funds with a minimum of Department intervention in local governments' administration of the loan program.

S. 2913 provides that impact assistance loans shall bear interest at the lowest interest rate paid within the preceding calendar year on an issue of at least \$1 million of tax exempt bonds of a State or local government or any agency or subdivision thereof. The Administration believes that impact assistance loans should bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States with comparable maturities, plus an allowance to cover administrative costs and probable losses under the program.

The Office of Management and Budget has advised that enactment of S. 2914 would be consistent with the Administration's objectives.

Sincerely,


 SECRETARY Guy R. Martin

95TH CONGRESS
2D SESSION

S. 2914

IN THE SENATE OF THE UNITED STATES

APRIL 13 (legislative day, FEBRUARY 6), 1978

Mr. HASKELL (for himself and Mr. HANSEN) (by request) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend section 317 (c) (1) of the Federal Land Policy and Management Act of 1976 to conform the interest rate therein to the yield on certain United States obligations, 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 paragraph (c) (1) of section 317 of the Federal Land
4 Policy and Management Act of 1976 (90 Stat. 2743, 2771;
5 43 U.S.C. 1701, 1747) is amended to read as follows:

6 “(c) (1) (A) The Secretary is authorized to make loans
7 until 1988 to any State to provide new or improved public
8 facilities or public services, or both, which are required as
9 a result of development of minerals leased pursuant to the

1 Act of February 27, 1920, as amended, when such State
2 demonstrates that credit is not otherwise available on rea-
3 sonable terms. Such loans shall be made solely pursuant to
4 this title.

5 “(B) (1) Loans may not be in excess of amounts suf-
6 ficient to finance the planning for and the provision of
7 such basic public facilities, and for the provision of such
8 public services for a reasonable length of time but not to
9 exceed five years, as the Secretary determines are needed
10 to relieve social and economic impacts associated with min-
11 eral development initiated or significantly expanded in such
12 State subsequent to, or within the three-year period preced-
13 ing, the enactment of this provision.

14 “(2) Loans to a State may not exceed 90 per centum
15 of project costs, including both initial planning costs and cap-
16 ital investments, but excluding the costs of operation and
17 maintenance of facilities.

18 “(3) Loan maturities shall not exceed twenty years or
19 two-thirds of the estimated useful economic life of the facility
20 to be financed, as determined by the Secretary, whichever is
21 less.

22 “(4) Such loans shall be made only upon a finding by
23 the Secretary that there is reasonable assurance of repay-
24 ment. Such findings shall be based on a consideration of the
25 adequacy of mineral revenues expected to be received by the

1 State, over the loan period, under section 35 of the Act of
2 February 25, 1920, as amended, to cover required amortiza-
3 tion payments plus interest.

4 “(5) Loan repayments shall be amortized over the life
5 of the loan in accordance with an amortization plan pre-
6 scribed by the Secretary.

7 “(6) The total amount of loans outstanding pursuant to
8 this subsection for any State in any year shall be limited to
9 the anticipated mineral leasing revenues to be received by
10 that State pursuant to section 35 of the Act of February 25,
11 1920, as amended, for the ten years following.

12 “(C) Notwithstanding any other provision of any other
13 Act, financial assistance under this Act may be used for
14 the non-Federal share of the aggregate cost of any project
15 or program otherwise funded by the Federal Government
16 which requires a non-Federal share for such project or pro-
17 gram: *Provided*, That such project or program provides
18 planning or public facilities otherwise eligible for assistance
19 under this Act.

20 “(D) Loans made from the fund shall bear interest at a
21 rate determined by the Secretary of the Treasury, taking into
22 consideration the current average market yield on outstand-
23 ing marketable obligations of the United States with remain-
24 ing periods to maturity comparable to the average maturities
25 of such loans, adjusted to the nearest one-eighth of 1 per cen-

1 tum, plus an allowance adequate in the judgment of the
2 Secretary to cover administrative costs and probable losses
3 under the program.

4 “(E) (1) If the Secretary finds that any State is un-
5 able to meet its obligations pursuant to a loan made under
6 this section because the actual mineral development antic-
7 ipated at the time the loan was made does not occur, and
8 consequently does not provide adequate revenues to enable
9 such State to meet such obligations in accordance with the
10 appropriate repayment schedule, the Secretary may, after
11 review of the information submitted by such State take any
12 of the following actions:

13 “(a) modify appropriately the terms and condi-
14 tions of such loan; or

15 “(b) refinance such loan.

16 “(2) (a) In the event default by a borrower under a
17 loan made under this section, notwithstanding the provisions
18 of subsection (E) (1) of this section, the Secretary of the
19 Treasury, at the request of the Secretary, may offset the
20 amount of the default by permanently withholding Federal
21 funds that would otherwise be transferred to the State under
22 section 35 of the Mineral Leasing Act of 1920, as amended
23 (30 U.S.C. 191); the State and Local Fiscal Assistance
24 Act of 1972 (31 U.S.C. 1221-1264); and the Payments
25 in Lieu of Taxes Act (31 U.S.C. 1601-1607).

1 “(b) Notwithstanding any other provision of law
2 relating to the acquisition, handling, or disposal of property
3 by the United States, the Secretary shall have the right in
4 his discretion to complete, recondition, reconstruct, renovate,
5 repair, maintain, operate, or sell any property acquired by
6 him pursuant to the provisions of this section.

7 “(3) Nothing in this section shall be construed to
8 preclude any forbearance for the benefit of the borrower
9 including loan restructuring, which may be determined by
10 the Secretary as justified by the failure of anticipated min-
11 eral development or related revenues to materialize as ex-
12 pected when the loan was made.

13 “(F) Each State shall provide that financial assistance
14 provided under this subsection be allocated to the maximum
15 extent practicable to units of local government within such
16 State on a basis which is proportional to the extent which
17 such units need such assistance. Procedures for such alloca-
18 tion shall be subject to review and approval by the Secre-
19 tary.

20 “(G) Recipients of financial assistance under this sec-
21 tion shall keep such records as the Secretary shall prescribe
22 by regulation, including records which fully disclose the dis-
23 position of the proceeds of such assistance the total cost of
24 the provision of public facilities or services for which such
25 assistance was used, and such other records as the Secretary

1 may require to facilitate an effective audit. The Secretary
2 and the Comptroller General of the United States or their
3 duly authorized representatives shall have access, for the
4 purpose of audit, to such records.

5 “(II) No person in the United States shall on the
6 grounds of race, color, religion, national origin, or sex, be
7 excluded from participation in, be denied the benefits of,
8 or be subjected to discrimination under, any program or
9 activity funded in whole or in part with funds made available
10 under this Act.

11 “(I) All amounts collected in connection with this loan
12 program, including interest payments or repayments of prin-
13 cipal on loans, fees, and other moneys, derived in connection
14 with this section shall be deposited in the Treasury as mis-
15 cellaneous receipts.”.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

AUG 31 1977

Honorable Walter F. Mondale
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

Enclosed is a draft bill "To amend section 317(c) (1) of the Federal Land Policy and Management Act of 1976 to conform the interest rate therein to the yield on certain United States obligations, and for other purposes."

We recommend that this proposal be referred to the appropriate Committee and that it be enacted.

Section 317(c) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 2771; 43 U.S.C. 1701, 1747) generally authorizes the Secretary to make loans to States and their political subdivisions to meet the impacts of development of Federal mineral resources before sufficient State and local revenues are generated by such development to accommodate the impacts. It provides that all loans shall bear interest at a rate not to exceed 3 percent.

This Department has submitted a proposal to repeal Section 317(c) on January 18. However, the new Administration recognizes the States' need for funds to alleviate certain impacts of anticipated Federal mineral development and also recognizes that the money may help to remove certain obstacles to further necessary coal development under a Federal coal leasing program. Therefore, the Department is hereby withdrawing the proposal to repeal Section 317(c) and is submitting the attached bill in lieu thereof.

The interest rate of 3 percent currently provided for in Section 317(c) (1) is substantially below that at which Federal, State and local governments borrow. Thus, loans under Section 317(c) (1) would amount to a windfall to States and their subdivisions. This low interest rate would in effect create a subsidy. The Treasury would borrow that money at the prevailing interest rate, thus incurring a loss of the difference between a rate of interest up to 3 percent and the current cost of borrowing

the funds. Any difference between the amount the Treasury would pay for money it is borrowing to make the loans and the 3 percent interest rate to the western States would be borne by the taxpayers of all of the States.

We therefore recommend that Section 317(c) (1) of the Federal Land Policy and Management Act of 1976 be amended as shown in the attached draft bill to conform the rate of interest on a loan to the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding issuance of such note and other obligations.

In addition, the draft bill offers other provisions to afford the Secretary control over expenditures. These controls are felt to be necessary for responsible administration of a special purpose Federal loan program.

The bill would limit loans for relief from social and economic impacts resulting from minerals development on the public lands to amounts sufficient to finance construction of basic public facilities, and provision of public services for a reasonable length of time, up to five years. The draft bill would designate States alone as recipients of the loan funds. The Secretary's authority to make loans would extend only until 1988. Loans are to be made for 20 years or less. There are standard provisions for repayment, including a general claim on the States' revenues.

The draft bill also provides that financial assistance under the Act may be used as a matching share. The draft includes provision for modifying terms or refinancing the loan should mineral development not occur as predicted at the time of the loan. There are standard provisions included covering event of default. Assistance provided is to be allocated by States proportionate to the needs of the affected units of local government, with the procedure for so doing subject to the Secretary's approval.

Other provisions include standard requirements for accounting and audit, for equal opportunity, and for deposit of funds collected into the Treasury.

It should be noted that the proposed amendments are structured to fit within the scope of Section 317 as enacted. Implementation of the loan authority given the Secretary by Section 317 as thus amended can solve a number of the problems already evident from rapid development of minerals on Federal lands.

The Office of Management and Budget has advised that there is no objection to the enactment of this draft bill from the standpoint of the Administration's program.

Sincerely,

Guy R. Martin

Guy R. Martin

Assistant Secretary

Enclosure

August 17, 1977

A B I L L

To amend section 317(c)(1) of the Federal Land Policy and Management Act of 1976 to conform the interest rate therein to the yield on certain United States obligations and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (c)(1) of section 317 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 2771; 43 U.S.C. 1701, 1747) is amended to read as follows:

(c)(1)(A) The Secretary is authorized to make loans until 1988 to any State to provide new or improved public facilities or public services, or both, which are required as a result of development of minerals leased pursuant to the Act of February 27, 1920, as amended, when such State demonstrates that credit is not otherwise available on reasonable terms. Such loans shall be made solely pursuant to this title.

(B)(1) Loans may not be in excess of amounts sufficient to finance the planning for and the provision of such basic public facilities, and for the provision of such public services for a reasonable length of time but not to exceed five years, as the Secretary determines are needed to relieve social and economic impacts associated with mineral development initiated or significantly expanded in such State subsequent to, or within the three year period preceding, the enactment of this provision.

(2) Loans to a State may not exceed 90 percent of project costs, including both initial planning costs and capital investments, but excluding the costs of operation and maintenance of facilities.

(3) Loan maturities shall not exceed 20 years or two-thirds of the estimated useful economic life of the facility to be financed, as determined by the Secretary, whichever is less.

(4) Such loans shall be made only upon a finding by the Secretary that there is reasonable assurance of repayment. Such findings shall be based on a consideration of the adequacy of mineral revenues expected to be received by the State, over the loan period, under section 35 of the Act of February 25, 1920, as amended, to cover required amortization payments plus interest.

(5) Loan repayments shall be amortized over the life of the loan in accordance with an amortization plan prescribed by the Secretary.

(6) The total amount of loans outstanding pursuant to this subsection for any State in any year shall be limited to the anticipated mineral leasing revenues to be received by that State pursuant to section 35 of the Act of February 25, 1920, as amended, for the 10 years following.

(C) Notwithstanding any other provision of any other act, financial assistance under this Act may be used for the non-Federal share of the aggregate cost of any project or program otherwise funded by the Federal Government which requires a non-Federal share for such project or program, Provided, That such project or program provides planning or public facilities otherwise eligible for assistance under this Act.

(D) Loans made from the Fund shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United

States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, plus an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program.

(E) (1) If the Secretary finds that any State is unable to meet its obligations pursuant to a loan made under this section because the actual mineral development anticipated at the time the loan was made does not occur, and consequently does not provide adequate revenues to enable such State to meet such obligations in accordance with the appropriate repayment schedule, the Secretary may, after review of the information submitted by such State take any of the following actions:

(a) Modify appropriately the terms and conditions of such loan; or

(b) Refinance such loan.

(2) (a) In the event default by a borrower under a loan made under this Section, notwithstanding the provisions of subsection (E) (1) of this section, the Secretary of the Treasury, at the request of the Secretary, may offset the amount of the default by permanently withholding Federal funds that would otherwise be transferred to the State under Section 35 of the Mineral Leasing Act of 1920, as amended, 30 U.S.C. 191; the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. §1221-1264; and the Payments in Lieu of Taxes Act, 31 U.S.C. §1601-1607.

(b) Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of property by the United States, the Secretary shall have the right in his discretion to complete, recondition, reconstruct, renovate, repair, maintain, operate, or sell any property acquired by him pursuant to the provisions of this section.

(3) Nothing in this section shall be construed to preclude any forbearance for the benefit of the borrower including loan restructuring, which may be determined by the Secretary as justified by the failure of anticipated mineral development or related revenues to materialize as expected when the loan was made.

(F) Each State shall provide that financial assistance provided under this subsection be allocated to the maximum extent practicable to units of local government within such State on a basis which is proportional to the extent which such units need such assistance. Procedures for such allocation shall be subject to review and approval by the Secretary.

(G) Recipients of financial assistance under this section shall keep such records as the Secretary shall prescribe by regulation, including records which fully disclose the disposition of the proceeds of such assistance the total cost of the provision of public facilities or services for which such assistance was used, and such other records as the Secretary may require to facilitate an effective audit. The Secretary and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records.

(H) No person in the United States shall on the grounds of race, color, religion, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this Act.

(I) All amounts collected in connection with this loan program, including interest payments or repayments of principal on loans, fees, and other moneys, derived in connection with this section shall be deposited in the Treasury as miscellaneous receipts.

Senator HASKELL. I will ask the Honorable Larry Meierotto, Acting Assistant Secretary for Policy, Budget and Administration of the Department of the Interior, to go ahead and testify.

STATEMENT OF LARRY MEIEROTTO, DEPUTY ASSISTANT SECRETARY FOR POLICY, BUDGET AND ADMINISTRATION, DEPARTMENT OF THE INTERIOR

Mr. MEIEROTTO. Thank you, Mr. Chairman, I appreciate the opportunity to present to the Senate the administration's views on S. 2913 and S. 2914. The purpose of both of these bills is to facilitate and insure implementation of the impact assistance loan program authorized by section 317(c) of the Federal Land Policy and Management Act of 1976. S. 2914, the administration's proposal, differs in several respects from S. 2913. I would like to point out why the administration favors its approach.

S. 2914, the administration's bill, authorizes the Secretary of the Interior to make loans to States to enable them to provide public facilities and services required as a result of mineral development pursuant to the Mineral Leasing Act of 1920. The administration's bill requires States receiving assistance to allocate program funds to units of local government in proportion to the local governments' needs for the funds.

S. 2913, Senator Haskell's bill, provides for loans to be made directly by the Secretary to political subdivisions as well as to States. The administration believes that its proposal would provide for equitable distribution of available funds, with only minimum departmental intervention in the day-to-day administration of the loan program. This Department would thus not be dealing with individual community applicants.

The administration's bill provides that the loan program shall end in 1988; that loans shall be available to States only when credit is not otherwise available at reasonable rates; that program funds shall be used only to provide new or improved public facilities or public services; that program funds may be used to relieve social and economic impacts associated with past mineral development only to the extent that such mineral development was initiated or significantly expanded in the 3-year period preceding enactment of the bill; and use of loan funds for public services (as opposed to capital facilities) is limited to 5 years. These provisions are intended to target the proposed program to a reasonable time period and to community needs which cannot be met from the usual sources.

The administration's bill includes several provisions which are designed to insure minimum cost to the Treasury. These provisions are: That a loan for a project may not exceed 90 percent of the costs of the project, excluding operating and maintenance costs, so that the State would contribute to total project costs; and that loan maturities shall not exceed 20 years or two-thirds of the estimated useful economic life of the facility to be financed, whichever is less.

S. 2914 also specifies that in the event of default by a borrower, the Secretary of the Treasury may offset the amount of the default by withholding Federal funds that would otherwise be transferred to the state under the Mineral Leasing Act and the Revenue Sharing Act. This provision stops short of demanding the full faith and credit of a

state behind its loans. We believe that this provision also allows for a reasonable sharing of responsibility between the States and the Federal Government.

Another significant difference between S. 2913 and S. 2914 concerns the interest rates at which the Federal Government would make impact assistance loans. As you are aware, the administration's proposal provides that loans are to be made to States at Federal borrowing cost.

This is consistent with interest rates charged under the coastal energy impact program. At this time, the subject of interest rates is being considered as part of the administration's overall review of impact assistance programs. We anticipate the completion of this review shortly and will be pleased to forward the results to your committee when the review is completed.

This concludes my prepared statement. I will be happy to answer any questions.

Senator HASKELL. Thank you very much for appearing. I wonder if you would mind sticking around while we hear from the National Association of Counties so we can get their viewpoint. Perhaps, then questions to you might be more pertinent.

Mr. MEIEROTTO. I would be pleased to, Mr. Chairman.

Senator HASKELL. Mr. Brennan, it is always a pleasure to have you here. The first time you came was about 5 years ago. If you would introduce for the benefit of our reporter your associates, that would be helpful.

STATEMENT OF BILL BRENNAN, COMMISSIONER, RIO BLANCO COUNTY, COLO.

Mr. BRENNAN. Thank you, Senator. I have with me Commissioner Elmo Foster from Laramie County, Wyo., and staff of NACO, Jim Evans on my right over here.

Senator, I would like to present this statement followed by Mr. Foster's which will go into some more detail in specific areas.

Mr. Chairman, the National Association of Counties is pleased that the Subcommittee on Public Lands and Resources is holding these hearings on S. 2913 to implement the public lands energy impact loan program authorized by section 317(c) of the Federal Land Policy and Management Act of 1976.

NACO believes that energy development is one of the most critical issues facing this Nation. This legislation sponsored by you, Mr. Chairman, and Senator Clifford Hansen of Wyoming, will assist county governments, along with the State and Federal Governments provide the services necessary for adequate energy development.

Several case studies that we believe are representative of the social and economic impacts facing county governments due to proposed energy developments in the West.

NACO has done extensive research concerning the county planning and development activities necessary to cope with growth caused by Federal energy development activities.

We would like the subcommittee to have copies of three separate case studies prepared by the National Association of Counties' Research Foundation: (1) "Controlling Boomtown Development," a case study of Sweetwater and Uinta Counties, Wyo.; (2) "Preparing for Anticipated Growth," a case study of Green County, Pa.; and (3) "Development Impact of the Kaiparowitz/New Town Project," a case study of Kane County, Utah.

These studies, and the experience in Rio Blanco County, Colo., and Laramie County, Wyo., demonstrate the serious social and economic impacts on county government when energy development takes place.

In addition to reviewing these studies, NACO urges the subcommittee to review the results of the current efforts of the Federal Office of Technology Assessment to study coal leases under the Mineral Lands Leasing Act. Both the Federal Coal Leasing Amendments of 1975—Public Law 94-377—and the Federal Lands Policy and Management Act—Public Law 94-579—require the Office of Technology Assessment to analyze receipts of the Federal Government from these leases.

NACO believes the analysis of these lease funds is an essential aspect of the OTA study. This analysis, however, should not only include a projection of the future Federal lease revenues from a Federal perspective, but it should include an analysis of the distribution and use of these funds at the State and local levels.

This analysis is important because the Coal Leasing Act amendments, amended the Mineral Lands Leasing Act to increase the State share to 50 percent of Federal mineral lease funds. That act, together with the Federal Lands Policy and Management Act—Public Law 94-579—also eliminated restrictive requirements for the use of these funds and instead directed States to establish a priority use for subdivisions of the State socially or economically impacted by energy developments on the Federal lands.

This linkage of the mineral leasing funds to development of coal and other Federal energy leases is an important element for general purpose local governments to be able to participate and provide the facilities and services required by Federal energy developments.

The NACO studies have demonstrated that the local property tax base of county governments is inadequate to meet the financial requirements for law enforcement, social and medical services, roads, et cetera, required for expanded coal and energy developments—especially in public land counties.

The 94th Congress clearly recognized this linkage when it established a priority for the use of the mineral leasing funds and authorized use of the funds for general local government services.

Section 317 of the Federal Lands Policy and Management Act also provided for loans to local governments “in advance” of energy impacts, with these loans to be paid off with future mineral lease funds. These programs have been reflected in the Federal budget for fiscal 1978. The Office of Technology Assessment study could have a bearing on how they are implemented.

NACO believes the subcommittee should investigate the following questions concerning this issue.

1. What portion of the Federal mineral leasing receipts were made available to general purpose local governments prior to the amendments in the 94th Congress?
2. What portion of these receipts are now being made available to general purpose local governments?
3. What mechanisms have the States enacted to establish the required priority for subdivisions socially or economically impacted by Federal coal and other energy developments?

4. Will States deduct the energy impact loan amounts from mineral leasing funds counties would ordinarily receive under provisions of the Mineral Leasing Act?

5. Will the Mineral Lands Leasing Act loan program be implemented in time to help local governments provide needed local planning, services, and facilities required by increased energy development?

Enactment of the legislation sponsored by you, Senator Haskell, and you, Senator Hansen, will be an important step to make sure loan funds will be available when they are needed.

We urge you to ask the Office of Technology Assessment to consider these questions in their study efforts so that this information will be available in the implementation of the energy impact loan program.

Thank you, Mr. Chairman, for this opportunity to present testimony for the National Association of Counties. We are available to answer any questions on specific provisions in the proposed legislation.

I would like to turn to Mr. Foster for his specific statement.

Senator HASKELL. We are delighted to have you. We will hear everybody and then ask questions. Is that all right with you?

First I would like to ask Senator Hansen if he has a statement.

STATEMENT OF HON. CLIFFORD P. HANSEN, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator HANSEN. Yes, Mr. Chairman. I do have a statement. Let me say, Mr. Chairman, and to our distinguished panel as well, I have been at an earlier meeting this morning and I am sorry I could not have been here right at 9. I do join with you in welcoming to the committee this morning two knowledgeable, extremely experienced, and very skilled members of county government.

I might add, parenthetically—Elmo, you may not know this—but back in 1943 I persuaded the State senator from Teton County to introduce legislation which made it possible for counties in Wyoming to pay dues to NACO. Prior to that time, it was against the law. It may have even been unconstitutional, I have forgotten. But anyway we got the necessary legislation enacted to enable Wyoming to join with other counties in supporting the very worthwhile effort you have carried on so diligently and successfully.

Mr. Chairman, the distinguished late Senator from Montana, Mr. Metcalf, you, and I were sponsors of Public Law 94-579 amendments. We are pleased to see the administration support this concept in principle.

Early last year we asked Secretary Andrus to seek funding for the loan provisions in section 317(c) of the Federal Lands Policy and Management Act. We also asked guidelines and regulations be written to help the many communities and political subdivisions obtain loans to address the multiple problems that face many of these areas as energy fuels are extracted from the Federal estate, State, and private lands.

The provision, section 317(c), permits these communities to borrow against the future return of mineral royalties and allows these areas access to the dollars needed up front when the need is the greatest before production or extracting the revenues returned.

Mr. Chairman, we ask these questions in a letter which I would ask be printed in the record along with the Secretary's response of February 23, 1977, which indicated support of the concept.

Senator HASKELL. Without objection, that will be done.
[The letters referred to by Senator Hansen follow:]

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., January 27, 1977.

Hon. CECIL ANDRUS,
Secretary, Department of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: As co-authors of the mineral revenue sharing section of Public Law 94-579, the Federal Land Policy and Management Act, we are writing to urge prompt implementation of the provision authorizing loans to States and subdivisions for impact alleviation projects (section 317(c)).

This section permits States and political subdivisions to borrow now against future mineral royalty entitlements so that there will be available the necessary "front-end" money to deal with immediate and urgent impact problems. Section 317 also gives State legislatures more flexibility in deciding how this income will be spent.

The legislatures of several States experiencing impact problems are now in session or will be convening soon for limited periods of time. Proposals to allocate the States' 50-percent share of royalties and to deal generally with energy impact problems will be high-priority concerns during these legislative sessions.

In order for members of these State legislatures to do the best job of applying the provisions of section 317 to existing and anticipated impact problems in their States, they need to know how the impact loan program will be administered.

We urge you to develop Federal guidelines, at the earliest possible date, that would indicate how the loan program would work.

Further, we urge you to recommend to the President that funding for the loan program be included in the revised executive budget.

The need for loan provisions is not lessened by increased mineral receipts. These increases are not realized immediately and the impact is being felt now. This is the whole rationale for the loan provision.

We are aware that the previous administration felt the three percent maximum interest rate was too low. We would be prepared to support a change in the law to allow interest equal to the prime rate paid by the Federal Government.

With kind regards,
Sincerely,

CLIFFORD P. HANSEN, U.S.S.
LEE METCALF, U.S.S.
FLOYD K. HASKELL, U.S.S.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 23, 1977.

Hon. CLIFFORD HANSEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HANSEN: Thank you for your letter of January 27 concerning section 317 of the Federal Land Policy and Management Act of 1976.

I agree with the principle of providing some form of assistance to States and their political subdivisions where activities under the Mineral Leasing Act create unplanned social and economic burdens. The problem is frequently magnified by the long delay in local tax revenue increases after the impacts have occurred.

As you know, the budget submitted by the previous administration included no funds for section 317(c) loans and proposed repeal of that subsection. However, implementation of section 317(c) is currently under consideration by the Department of the Interior and the Office of Management and Budget as part of the process of developing 1978 budget amendments to be proposed by President Carter.

Officials of the Department have consulted with representatives of the western Governors, the National Governors' Conference and local officials concerning section 317(c) and other forms of impact assistance. These working relationships will be maintained throughout the design and implementation of a program pursuant to section 317(c).

We will continue to keep you informed as we progress.

Sincerely,

CECIL D. ANDRUS, Secretary.

Senator HANSEN. Thank you, Mr. Chairman. I welcome my long-time friend, County Commissioner Elmo Foster.

STATEMENT OF ELMO FOSTER, COMMISSIONER, LARAMIE COUNTY, WYO., ACCOMPANIED BY JIM EVANS, ASSOCIATE DIRECTOR, NATIONAL ASSOCIATION OF COUNTIES, WASHINGTON, D.C.

Mr. FOSTER. Thank you, Mr. Chairman, and Senator Hansen. I feel it a privilege to be able to come here and appear before you. I have eight things here and I would like to present them. NACO's preference would be for the low interest rate in the S. 2913 bill.

However, we do not oppose use of the prime rate if necessary to fund this program. We believe it is critical to provide the loan funds as up-front development money. NACO protested the linkage in S. 2914 to the general revenue sharing and payments in lieu of taxes for the repayment of loans if default occurs because mineral leasing is stopped. It would be a double burden on the local government. Repayment should be limited to the Mineral Leasing Act itself.

Loans must be available to counties impacted no matter where the energy activity takes place, such as Uinta and Laramie Counties. The repayment amounts must not be deducted by States from the counties' shares of current Mineral Leasing Act funds.

Under the priority provision for the local communities, the counties are to receive funds for social and economic impacts. In Colorado, counties now receive up to \$200,000 per year of mineral leasing funds. Wyoming is not included in such a thing as that.

The loan amounts should not be deducted from the payment in lieu of formula; only direct allotment of mineral leasing funds should be deducted. The committee should be aware that counties now receive only a small portion of the mineral lease funds.

The committee should investigate the disposition of the 50-percent share of the mineral lease funds to see that States give a priority use to local communities socially and economically impacted by energy development activities as required by the Federal Land Policy and Management Act.

NACO supports provisions in both bills that State loans would be for both planning and project costs. Loans would not exceed 90 percent funding for a project. Loans would be repaid from mineral leasing Act funds within 20 years. Loans would be available to use as matching funds for other programs, Federal programs.

That is about the sum of it. Thank you.

Senator HASKELL. Thank you very much, Mr. Foster. I would like to emphasize that, although Senator Hansen and I introduced the administration's bill, it was by request and that does not mean we endorse the bill. We obviously prefer our own bill.

Our bill has one particular variation that I do not believe has been addressed. We allow loans both to States and local government whereas the administration allows it only to States and then to be distributed by the States to local governments. That is one area on which I would like to hear from both of you gentlemen as well as the administration and I am sure Senator Hansen has other areas. Could you gentlemen comment on that particular difference?

Mr. BRENNAN. Senator, I think that is the critical point of both bills. The implementation to give the money to the local governments.

For instance, Colorado last year received back from the Federal Government \$14.7 million from the Mineral Leasing Act.

Those moneys were distributed into different funds. Twenty-five percent of that money went to the State school funds. Ten percent went to the conservation fund. Fifteen percent went to the new impact assistance program.

If, for instance, Rio Blanco County wanted to borrow \$4 million, could Rio Blanco County come and borrow the \$4 million or is Rio Blanco County going to have to go to the State to borrow this money, which I foresee is going to be the bottleneck.

Where these funds are already allocated to these different funds, in the sense we are borrowing money that is already allocated to go to these specific funds, whether or not we can sell the Governor or whoever is responsible at the State level to OK these funds, is going to be the problem of the whole thing, as I see it.

Senator HASKELL. Thank you, Mr. Brennan. Mr. Foster, what would be your opinion?

Mr. FOSTER. I believe we should have it provided directly to the counties. It gets entangled in the States, if they have to set up another agency and we get it lost if we go that way. It is seldom you ever get it back down to the counties when you have it set up.

Senator HASKELL. I wonder if Mr. Meierotto would mind stepping up here. I would like to get the administration viewpoint on that particular issue.

Mr. MEIEROTTO. Mr. Chairman, we have taken the view of having funds go directly to the States and the States allocate according to how they see the needs. From an administrative standpoint I think we would have a problem, or we would have to look at the cost of administering the act with dealing with so many local units of government and so many hidden entities.

If we go to the States we are dealing with, say, a dozen States. If we work with all of the counties and the various councils of government, we may be talking about 400 different units we would be dealing with. Consequently the cost of our administration of the program would go up.

As I said, we have had the position in the past, Mr. Chairman, of dealing directly with the States and apportion as to how they feel the impacts are.

Senator HASKELL. Your cost of administration would go up and the States would go down. So it might be a tradeoff.

Mr. EVANS. Could I add one comment? As Commissioner Foster indicated, one of our concerns is that the current history of the Mineral Leasing Act program itself, very few dollars actually get through or pass through to general purpose local government. That is one of the reasons why this testimony supported the provision in your bill, that local communities can apply directly for impact assistance. It could be coordinated with the State program but the opportunity ought to be available for direct application.

Senator HASKELL. I think the questions set forth in Mr. Brennan's testimony, he would suggest the Office of Technology Assessment be asked. I will ask that staff prepare a letter where we do ask those questions of OTA.

I think that has quite a direct impact on how we do this thing.

Mr. BRENNAN. I agree with that.

Senator HANSEN. Mr. Chairman, I would like to compliment the distinguished witnesses for their testimony and to underscore the points they have made. One, the rate of interest that is to be paid. That is critically important.

I appreciate the high priority you gave it in your testimony. Second, in Wyoming, I am not certain of the situation nationwide, but in Wyoming we have constitutional limitations as I recall that govern the bonding capacity of a unit of government. It cannot exceed a certain percentage of assessed evaluation.

Obviously, Mr. Chairman, one of the goals that we sought to achieve in the bill, you and I introduced on our own initiative—not by request—is to make certain as we do in subsection (c), subsection (6), the loan will be secured only by a pledge of the revenues received by the State or political subdivision.

That clearly differentiates and separates the repayment responsibility insofar as State and county government is concerned for the overall limitation we have. That is of concern to you, too, is it not, Elmo?

Mr. FOSTER. Yes.

Senator HANSEN. Otherwise, the opportunity a county might have to take advantage of front-end money would be greatly minimized if there were ongoing bond issues or schools or hospitals or whatever, they reduce greatly the ability of a county, I should say, to use the money that is so critically important early on.

I think also there is merit in the opportunity that our bill has and I would ask if that is also shared by the members of the panel? I think you did indicate it. Let me read part of that:

Notwithstanding any other provision of law, loans made pursuant to this subsection may be used for the non-Federal share of the aggregate cost of any project or program otherwise funded by the Federal Government which requires a non-Federal share for such project or program and which provides planning or public facilities otherwise eligible for assistance under this subsection.

It occurs to me as I recall the problems of county government, oftentimes the ability of a county to take advantage of a Federal program is restricted by the matching funds that are required. When a county is strapped, as indeed we know they are in Wyoming, when this impact hits, when people move in and everything needs to be done quickly, you just cannot come up with that kind of dough to match and qualify for Federal funds that may have been tailored specifically for the purpose of one that is clearly of evidence in the county.

I would ask you, Elmo, is that about your opinion? That this provision by being able to use these funds will help?

Mr. FOSTER. Yes.

Mr. BRENNAN. That is a very good point.

Senator HANSEN. I think our witnesses have done an excellent job in making a good case for our bill, Mr. Chairman.

Senator HASKELL. I think so, too. I would like to ask one question of the administration. Our understanding of the President's position is he stood ready to implement this program with just one change, and that was the interest rate and we, and by "we" I mean Senator Hansen and the late Senator Metcalf and myself, agreed to raise that interest rate. We were considerably dismayed when the admin-

istration submitted a bill in August where significantly reduced the scope of the program.

Maybe you had nothing to do with this. The President tells us one thing and then something else comes from the Department of the Interior. I wondered if you had any explanation for this difference.

The President says all we need to do is change the rate of interest. Senator Hansen and the late Senator Metcalf and I agree. Now you folks come in with a bill which substantially reduces the scope of the program. Do you have any answer for that?

Mr. MEIEROTTO. I don't know if I can shed much light on that other than we have had a commitment to this program. We have included it in fiscal year 1979 budget currently pending before the Congress.

Senator HASKELL. In view of the history of this, and speaking for myself—and I imagine Senator Hansen might react the same way—we are really not interested in doing much more than changing the interest rate here. Senator Hansen, Senator Metcalf, and I agreed the interest rate would be changed but not the scope of the program. I am afraid you have an unsympathetic committee. I have to let you know that.

Mr. MEIEROTTO. Yes, Senator.

Senator HASKELL. I agree with Senator Hansen. I agree that our witnesses have done an excellent job. I have no further questions.

Senator HANSEN. I have no further questions.

Mr. BRENNAN. I would like to emphasize, Senator, the implementation of this money is just as important as the money itself. The mechanism is local forms of government.

Senator HASKELL. I understand that. We certainly thank all of you for appearing. The hearing will now be adjourned.

[Whereupon, at 9:35 a.m., the hearing was adjourned.]

[Subsequent to the hearing, the Department of the Treasury supplied the following:]

DEPARTMENT OF THE TREASURY,
OFFICE OF THE GENERAL COUNSEL,
Washington, D.C., June 12, 1978.

HON. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Department would like to volunteer comments on S. 2913, "To amend section 317(c)(1) of the Federal Land Policy and Management Act of 1976 to conform the interest rate therein to the yield on certain tax-exempt bonds, and for other purposes."

Under existing law, a portion of the Federal receipts from the development of mineral resources on Federal lands is earmarked to the State in which the Federal lands are located. Section 317(c) of the 1976 act authorizes the Secretary of the Interior to make loans to State and political subdivisions in order to relieve social or economic impacts occasioned by the development of mineral resources on Federal lands. Such loans bear interest at a rate not to exceed 3 percent and are repayable from the earmarked receipts. The introductory remarks of the sponsors of the bill and budget documents indicate that (1) The program has not been implemented because of the 3-percent interest rate, (2) a supplemental appropriation of \$40 million for fiscal year 1979 has been proposed for later transmittal pending enactment of an amendment which would base the interest rate on current market yields on outstanding Treasury obligations, (3) the administration has proposed legislation (S. 2914) which would make the necessary amendments to the interest rate provision and which contains other amendments to limit loans to cases of demonstrated need and to more adequately protect the Government's interests, and (4) S. 2913 is intended as an alternative to the administration's bill.

S. 2913 would amend section 317(c) to provide that loans "shall bear interest equivalent to the lowest interest rate paid on an issue of at least \$1,000,000 of tax-exempt bonds of a State or local government or any agency or subdivision thereof within the preceding calendar year." The introductory remarks of the sponsors of the bill indicate concern that under the administration-proposed Treasury yields interest rate formula, States utilizing the program would be required to pay higher interest rates than they could obtain on their own in the market. It should be recognized that this result is consistent with the objective of the program. The purpose of the program is to assure that an inability to borrow prior to receipt of the earmarked mineral revenues does not preclude the provision of public facilities made necessary by the mineral development. Thus, borrowers that can obtain more favorable rates on their own should not rely on Federal loans but should seek financing in the private market. This will minimize the demands for Federal loans and minimize Federal competition with and duplication of the activities of private lenders.

The interest rate amendment proposed in S. 2913 is technically deficient and would be extraordinarily difficult to administer. Market interest rates reflect the credit rating of the borrower and the maturity of the loan. Under normal market conditions, the lowest interest rates are on bonds of shortest maturity and highest quality, and highest interest rates are on bonds of long maturity and poor quality. Thus, under the "lowest interest rate" language contained in the bill, all borrowers would receive an interest rate associated with very short-term borrowings regardless of the maturity of the proposed loans, which are expected to be long term. Moreover, because of the various pricing practices and sales techniques used in the municipal market, the nominal "interest rate" on a municipal bond issue may be substantially different from the true interest rate or the "net interest cost" to the borrower. In order to discharge properly his responsibility to determine the "lowest interest rate paid" the Secretary of the Interior would have to divert substantial resources to monitor the large volume of issues in the municipal bond market. In 1977 there were over 5,000 issues of tax-exempt bonds.

The administration bill has amendments regarding loan to value ratios, loan maturities, findings of reasonable assurance of repayment, and withholding Federal payments in event of default. These amendments are essential in order to minimize Federal exposure to loss. S. 2913 does not contain those safeguards.

In view of the foregoing, the Department would be strongly opposed to S. 2913 and would recommend instead prompt enactment of the administration's bill.

The Office of Management and Budget has advised that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Sincerely yours,

HENRY C. STOCKWELL, Jr.,
Deputy General Counsel.

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