So finally I return to my third and most basic worry. I worry that the established society, out of both timidity and smugness, will try to avoid if not suppress serious address to our agenda.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

ORDER FOR DEPARTMENT OF TRANSPORTATION CONFERENCE REPORT TO BE THE PENDING BUSINESS TOMORROW MORNING

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate convene tomorrow, the Department of Transportation conference report be the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

Mr. KENNEDY. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 9 a.m. tomorrow.

The motion was agreed to; and (at 7 o'clock and 11 minutes p.m.) the Senate recessed until tomorrow, Friday, December 18, 1970, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 17 (legislative day of December 15), 1970:

U.S. DISTRICT COURTS

Albert J. Engel, of Michigan, to be a U.S. district judge for the western district of Michigan.

DIPLOMATIC AND FOREIGN SERVICE

Leonard J. Saccio, of Connecticut, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Colombia.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The following-named persons to be members of the Board of Directors of the Overseas Private Investment Corporation for the terms as indicated.

For a term of 1 year

Robert F. Buck, of Washington.
Clifford H. N. Yee, of Hawaii.

For a term of 2 years

Allie C. Felder, Jr., of the District of Columbia.
Daniel Parker, of Wisconsin.

For a term of 3 years

Gustav M. Hauser, of New York.
James A. Suffridge, of Virginia.
Bradford Mills, of New Jersey, to be President of the Overseas Private Investment Corporation.
Herbert Salzman, of New York, to be Executive Vice President of the Overseas Private Investment Corporation.

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

The following-named persons to be members of the Board of Directors of the National Corporation for Housing Partnerships for the terms indicated:

For a term of 1 year commencing October 28, 1970: Peter John Bertoglio, of California.
For a term of 3 years commencing October 28, 1970: Ray A. Watt, of California.

U.S. DISTRICT COURTS

Robert J. Kelleher, of California, to be a U.S. district judge for the central district of California.
H. Kenneth Wangelin, of Missouri, to be a U.S. district judge for the eastern and western districts of Missouri.
William H. Webster, of Missouri, to be a U.S. district judge for the eastern district of Missouri.

HOUSE OF REPRESENTATIVES—*Thursday, December 17, 1970*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Come ye and let us walk in the light of the Lord.—Isaiah 2: 5.

O God, who art the strength of all who put their trust in Thee and the joy of every loving heart, we thank Thee for the happiness and hope which pass around the world at Christmastime. Grant that no obsession with things may keep us from the values these advent days represent. In the midst of the commercialism of this season help us to lift our eyes to Thee and to become conscious of Thy presence without whom there would be no Christmas and with whom Christmas is always a reality.

This day may we put first things first, last things last, and thus serve Thee and our country with all our hearts, in the spirit of Jesus Christ our Lord. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks,, announced that the Senate had passed without amendment a bill and joint resolutions of the House of the following titles:

H.R. 6400. An act for the relief of Reddick B. Still, Jr., and Richard Carpenter;
H.J. Res. 1416. Joint resolution fixing the time of assembly of the 92d Congress; and
H.J. Res. 1417. Joint resolution extending the dates for transmission to the Congress of the President's Economic Report and of the report of the Joint Economic Committee.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 19885. An act to provide additional revenue for the District of Columbia, and for other purposes; and
H.R. 19911. An act to amend the Foreign Assistance Act of 1961, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 19885) entitled "An act to provide additional revenue for the District of Columbia and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. EAGLETON, Mr. MATHIAS, and Mr. SPONG to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 19911) entitled "An act to amend the Foreign Assistance Act of 1961, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. FULBRIGHT, Mr. SPARKMAN, Mr. MANSFIELD, Mr. GORE, Mr. CHURCH, Mr. AIKEN, Mr. CASE, Mr. COOPER, and Mr. WILLIAMS of Delaware to be the conferees on the part of the Senate

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6114) entitled "An act for the relief of Elmer M. Grade."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17809) entitled "An act to provide an equitable system for fixing and adjusting the rates of pay for prevailing rate employees of the Government, and for other purposes."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 4. An act to establish the Big Thicket National Park in Texas.

CEREMONY HONORING SPEAKER McCORMACK

(Mr. ALBERT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ALBERT. Mr. Speaker, one of the most deserved and touching ceremonies I have ever witnessed took place in the caucus room of the Cannon House Office Building today. On this occasion, the employees of the House of Representatives honored the Speaker by giving him a book signed by all of them and presented in his name a plaque to be called "The John W. McCormack Annual Award of Excellence" on which each year the name of the House employee, who performs the most valuable service for the House, will be inscribed. This plaque will be hung in a conspicuous place on the House side of the Capitol and will be a permanent part of the House and its heritage.

The employees paid the Speaker a tribute which expressed both their high regard and deep affection. In responding, the Speaker made a remarkably beautiful spontaneous speech which brought tears to the eyes of many in attendance. It was evident that every-

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one present from the lowliest employee to the ranking officials of the House loved our great Speaker and was saddened that he will not be with them next year. They all appreciate his decency, his humility, his consideration, and his kindness. He has certainly been a friend of the House employees.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. ALBERT. I yield to the gentleman from Michigan.

Mr. GERALD R. FORD. Mr. Speaker, I thank the distinguished majority leader for yielding. It was my privilege to be at the ceremony when the award was made to the Speaker in recognition of his great service to the country and his very special consideration for all of the employees of the House.

I share the views expressed by the gentleman from Oklahoma. I congratulate the employees for the superb job they have done, and I also congratulate them on recognizing the Speaker of the House for his accomplishments as Speaker and his great feeling toward them individually and collectively.

Mr. ALBERT. Mr. Speaker, I thank the gentleman from Michigan.

JAPANESE PROTEST TEXTILE TRADE STAND

(Mr. DORN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DORN. Mr. Speaker, not only is the present trade situation with Japan unfair to the American jobholder, but also those who support the Mills trade bill are continually met with unfair tactics.

The New York Times this morning carried on its financial page a feature story of riots and demonstrations and threats against the Sato government by Japanese textile workers.

Also Mr. Speaker, the following is a UPI story which needs the careful attention of the Members of this Congress who resent attempts abroad to influence legislation before the Congress:

JAPANESE PROTEST TEXTILE TRADE STAND

TOKYO.—Japanese textile workers today took to the streets to protest the stand Japan has taken in textile negotiations with the United States.

About 2,000 textile workers held a peaceful rally in a downtown Tokyo park and marched through the streets waving flags and proclaiming the Japanese government has adopted a humiliating attitude in the textile negotiations.

THE PRESIDENT IS RIGHT ON INDOCHINA

(Mr. SIKES asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SIKES. Mr. Speaker, the President is to be commended for making it clear at his recent press conference that he is prepared to take steps that are necessary to protect American forces still on duty in Indochina. The people of our country have made it clear that they do not want an escalation of the war, but I find no reason to believe that they want the United States to let ourselves be pushed around to satisfy Hanoi. As the number of U.S. ground forces in that area decreases, it becomes more difficult to protect those who remain and to assist the South Vietnamese forces to assume the burdens of war. Naturally, it is tempting to Hanoi to take advantage of this situation. Anything that looks like victory for the Communists would hurt the standing of the United States worldwide, downgrade the reputation of our forces in Asia, and raise questions about the ability of the South Vietnamese to fill the gap. The President is bringing American forces home at a rapid rate and it is possible this will expose weaknesses which will be tempting to Hanoi. If it is necessary to bomb North Vietnam to prevent the Communists from taking advantage of that situation, we must not hesitate to do so. We cannot afford a bloody debacle during the withdrawal of our forces, nor will the United States abandon those who survive among the 1,500 Americans missing in Southeast Asia. We have to take what steps we can to insure their survival and eventual release. There is no good time to get soft in dealings with Communists. They always take it as a sign of weakness which they can exploit.

CONGRESS MUST INVESTIGATE CHARGES OF ARMY SNOOPING

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, by now no doubt every Member of this body has heard of yesterday's allegation that members of Army intelligence have conducted snooping missions against two Members of Congress and a former Governor. These charges require immediate investigation by appropriate House committees. If they are based on fact, those responsible for such an incredible act of military arrogance must be disciplined immediately and severely.

I would hope these charges would prove unfounded. If they are not, they would represent an insidious antidemocratic arrogance of the worst kind. Those engaged in such activities would be guilty of contributing to the destruction of the very free society they are sworn to defend.

If the Army, or indeed, any agency of Government can assume for itself the right to determine the propriety of Government officials' political views, then no American citizen—public or private—can be free from intimidation. If that happens, there would be little left to distinguish the United States from any other heavy-handed conformist state.

This Congress must take every measure necessary to insure that the military bureaucracy it has created confines itself to defending the country. It has no business defining political orthodoxy for either public official or private citizen.

THE PRESIDENT'S VETO OF THE MANPOWER BILL

(Mr. McCARTHY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCARTHY. Mr. Speaker, Charles Dickens, author of the immortal Christmas Carol, could not have conceived of a more Scrooge-like performance than that which took place yesterday at 1600 Pennsylvania Avenue. At a time when 40 percent of the innercity youths are unemployed and millions of Americans are unemployed because of the economic policies of this administration, the President of the United States vetoed a $9.5 billion manpower bill that would have put men to work immediately.

I discussed this with the mayor of Buffalo and members of his staff. They were prepared to enter an application at an early date for $200 million, immediately available to put the hardcore unemployed to work in needed jobs in environmental facilities, hospitals, police departments, and other municipal facilities.

But the President of the United States cited this provision as the main reason for vetoing the bill. I hope this House and the other body will make an effort to override this veto before we adjourn.

VETO OF MANPOWER BILL

(Mr. SCHEUER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SCHEUER. Mr. Speaker, the President's veto of the $9½ billion manpower bill demonstrates the administration's insensitivity to what is wrong in America and how to make it right. At a time when 40 percent of urban ghetto youths are unemployed, when nationally the numbers of jobless are at record highs, when the economy is in depression doldrums, the President rejects one of the most powerful employment weapons the Congress has ever authorized.

He says he does not want to create dead end public service jobs that would make Government less efficient. This is an almost total misconception of the demonstrated benefits of public service employment. I am the author of the New Careers program, which the President's own Department of Labor could tell him has been extremely successful in providing thousands of jobs as police and hospital aides, teaching assistants, and welfare aides. Ask the hospitals if they are less efficient because of these paraprofessional workers. Ask the paraprofessionals if these are dead end jobs. They will tell you they are not, that their public service is greatly improved, that the workers' feet are firmly planted on a career ladder that gives them the opportunity for continual advancement.

The New Careers program was part of this bill the President has vetoed. This manpower program promised to help take people out of a dependency, welfare, taxeater status and make them prideful, independent taxpayers.

The Congress should promptly pass the manpower bill over the President's veto.

ANNIVERSARY OF WRIGHT BROTHERS' FLIGHT

(Mr. HECHLER of West Virginia asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, this morning Apollo 11 astronauts, Neil Armstrong and Michael Collins, spoke at a ceremony at which the Apollo 11 command module "Columbia," along with Apollo 11 lunar samples, were placed on display just north of the Smithsonian Institution's Arts and Industries Building. Speaking also at the ceremony were Mayor Walter E. Washington and Acting Administrator of the National Aeronautics and Space Administration, George Low, and present were our colleagues the gentleman from Pennsylvania (Mr. FULTON) and the gentleman from California (Mr. GOLDWATER). I was pleased also that Charles Michael Murphy, serving as my page in the House of Representatives, was present at the ceremonies; he is a student at Huntington East High School, Huntington, W. Va.

Today is the 67th anniversary of the flight of the Wright Brothers at Kitty Hawk, N.C. Acting NASA Administrator George Low has furnished us with some interesting comparisons between the Wright Brothers' flight and the flight of Apollo 11. The Wright Brothers' flight lasted 12 seconds, and the Apollo 11 flight lasted 156 hours. The Wright Brothers' plane weighed 605 pounds, and the Apollo 11 weighed 6½ million pounds at liftoff. The Wright Brothers' plane flew at 10 feet per second, as against 35,000 feet per second for the Apollo 11. The Wright Brothers' plane went 15 feet high, while Apollo 11 went up about 242,000 miles. The Wright Brothers' plane used 3 pounds, 3 ounces of gasoline, while the Apollo 11 burned 6 million pounds of liquid hydrogen, liquid oxygen, and kerosene. The Wright Brothers' plane flew for 120 feet, while Apollo 11 flew about 950,000 miles. There were five spectators who saw the Wright Brothers' flight, while it is estimated that 500 million people—one-sixth of the world's population—witnessed the flight of Apollo 11 on July 19–20, 1969.

SPECIAL REQUEST TO FILE SUPPLEMENTARY VIEWS

Mr. FRASER. Mr. Speaker, I ask unanimous consent to file supplementary views to accompany House Report 91–1749 to be printed as part 2 thereof.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

Mr. HALL. Mr. Speaker, reserving the right to object——

The SPEAKER. The gentleman reserves the right to object. The gentleman asked unanimous consent to file supplementary views.

Mr. HALL. I heard the request, Mr. Speaker.

May I ask the gentleman how long it has been since the primary views were filed?

Mr. FRASER. They were filed 2 days ago.

Mr. HALL. How much time was allowed by the committee in order to file supplementary views?

Mr. FRASER. None at all.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

Mr. McMILLAN. Mr. Speaker, will the gentleman yield?

Mr. HALL. I yield to the gentleman under my reservation, Mr. Speaker.

Mr. McMILLAN. The gentleman was furnished with a mimeographed copy of the report before it was filed, and he had sufficient time to advise me if he wanted to file a supplementary report and the gentleman did not make any such request. Instead of him objecting to the report when it was filed and filing a supplementary report at the proper time, I understand the copy he had was submitted to the RLA officials who were being checked by the subcommittee instead of his giving us his request to file a supplementary report. Is that correct?

Mr. FRASER. I first had a copy of the report on Tuesday, which it later turned out was the day the chairman filed it. The next day I indicated I wanted to file supplementary views. I was advised by the parliamentarian that in order to do that, I would have to make a request, which I am making this morning.

Mr. McMILLAN. After the investigator completed his report and contacted every member of the subcommittee by phone to see if they would review his work. It was a week before I filed the report, and the clerks contacted every member of the subcommittee, and asked them to read the report. You were the only member who wanted a copy of the report, so we made additional copies and delivered it to your office.

Mr. FRASER. That is right. I first learned of the report last Monday and immediately asked for a copy. I got it on Tuesday, which was the first time I had a chance to see it, and that is the day the report was filed by the chairman, a fact I did not discover until the next day.

Mr. McMILLAN. This report has been back from the Printing Office for a period of 2 days. I feel that now is the wrong time to submit additional views since our report has already been submitted and printed.

Mr. FRASER. Within 24 hours of getting a copy of the report; that is, on Wednesday, I indicated my interest in filing supplementary views. I then discovered the report had been titled the day before. I learned yesterday afternoon that this is the procedure to follow and that is the reason I am asking unanimous consent to be allowed to file supplementary views.

Mr. McMILLAN. May I see a copy of the report before the gentleman files it?

Mr. FRASER. I would be delighted to comply with the gentleman's request. I put a copy in the mails to him last night so I assume it arrived in the mail this morning. I also stated I would be seeking this consent.

Mr. McMILLAN. I would like to see a copy of the report.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

Mr. HALL. Mr. Speaker, further reserving the right to object, in view of the colloquy between the two gentlemen under my reservation, of objection, do I understand that the gentleman from Minnesota is withdrawing his request until the chairman sees a copy of the gentleman's supplementary views and then would remake his request for such unanimous consent.

Mr. FRASER. I understand the arrangement to be that if I get the consent to file such supplementary views, I will show them to the chairman before they are filed.

Mr. HALL. Mr. Speaker, I think the cart is before the horse.

Mr. McMILLAN. Mr. Speaker, if the gentleman from Missouri will yield further, I think the gentleman from Minnesota ought to withhold his request until I see the report.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

Mr. HALL. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

PROCEDURAL OPERATIONS OF THE COMMITTEE ON THE DISTRICT OF COLUMBIA

(Mr. FRASER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRASER. Mr. Speaker, the colloquy that we have just heard relates to a very serious problem which exists in the District of Columbia Committee.

I serve as a member of the select committee which has one staff member. That staff member, apparently, has been instructed to write out and file a series of reports in connection with matters which he has been investigating, but in which in only one case has the committee itself been involved through hearings.

Mr. Speaker, one report was filed on behalf of the subcommittee and on behalf of the full committee without my knowledge and without notice to me that such a report was being drafted. That was the report on Clifton Terrace.

The second report which was on District of Columbia education was prepared and was to be filed. The staff member told me that it was prepared. I asked for the opportunity to see it. However, the next thing I knew it had been filed without my having an opportunity to see it.

Mr. Speaker, we are discussing the third report this afternoon. It deals with the Redevelopment Land Agency. In this case after I learned the report was prepared I immediately made such a strong protest——

The SPEAKER. The time of the gentleman from Minnesota has expired.

Mr. FRASER. Mr. Speaker, I ask unanimous consent to proceed for 30 additional seconds.

The SPEAKER. The Chair will state to the gentleman from Minnesota that under the 1-minute rule the Chair cannot recognize the gentleman for a longer period of time.

Mr. FRASER. Mr. Speaker, I ask unanimous consent that I may have 30 additional seconds.

The SPEAKER. The Chair would like to hear the unanimous-consent request.

Mr. FRASER. Mr. Speaker, I ask unanimous consent that I may proceed for 30 additional seconds.

The SPEAKER. The Chair does not recognize the gentleman for that purpose because under the 1-minute rule the time of the gentleman has expired.

The Chair recognizes the gentleman from California (Mr. ANDERSON).

Mr. FRASER. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. I thank the gentleman for yielding.

Mr. Speaker, in connection with the third report which was the subject of the discussion today, when I learned it was to be prepared and filed, I made such a strong protest on Monday that on Tuesday I was given a copy of it, which was the first opportunity I had had to see it, and saw what it contained. The next day my staff contacted the committee staff and conveyed to the committee staff that I would like to file supplementary views. However, we then learned that the chairman had already filed the report the day before. Thus, my only opportunity to file my supplementary views comes through the procedure which the chairman is opposing. I should add that as of today neither the ranking minority member, the gentleman from Minnesota (Mr. NELSEN), or the minority staff had been shown the report.

Mr. Speaker, a problem does exist on the District of Columbia Committee with reference to its procedures, one that deserves the attention of the entire House. At the appropriate time I hope to take further action that will remedy this unfortunate and unfair situation.

I thank the gentleman from California for yielding.

HON. WILLIAM O. COWGER

(Mr. CARTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARTER. Mr. Speaker, for 4 years it has been my honor and pleasure to serve with my distinguished colleague from Kentucky, the Honorable WILLIAM O. COWGER. BILL served as mayor of Louisville for 4 years. During his tenure Louisville was named an All-American City. He is recognized as the greatest mayor the city of Louisville ever had. He has served honorably and well as Congressman from the Third District of Kentucky. He is not leaving the political arena, but will continue in his own aggressive, persevering, effective, and intelligent manner.

SINGING QUAKERS OF FRIENDS UNIVERSITY PERFORM AT LIGHTING OF NATIONAL CHRISTMAS TREE

(Mr. SHRIVER asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. SHRIVER. Mr. Speaker, when President Nixon delivered his annual Christmas message to the Nation last night and lit the National Christmas tree on the ellipse, signaling the opening of the Pageant of Peace, the Singing Quakers of Friends University from Wichita, Kans., presented a program of appropriate carols of the season.

Dr. Cecil J. Riney is director of this nationally known and recognized university choir from my congressional district in Kansas. Accompanying the Singing Quakers to Washington is Dr. Roy Ray, president of Friends University.

I take this opportunity to congratulate the Singing Quakers for their performance last night under adverse weather conditions. It is a privilege to have them in Washington. In addition to their participation in the nationally televised ceremony last night, they performed this morning in the rotunda of the Senate Office Building and later today will present a final concert in Washington's National Cathedral.

We can take pride in the students who make up the Singing Quakers choir. They indeed represent what is good about Kansas and our Nation.

IT IS TIME TO RESUME DIPLOMATIC RELATIONS

(Mr. FINDLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FINDLEY. Mr. Speaker, the time has come for two great nations, the United States and United Arab Republic—Egypt—to resume normal diplomatic relations.

The severance in relations which occurred during the 7 Days War is now in its fourth year. Its continuation handicaps the United States in its effort to be a force for peace and justice in the Middle East, because it makes awkward the communication, both public and private, so essential to understanding and cooperative action.

In both nations new leaders have taken office since the break occurred, and I sense a greater inclination toward cooperation today than at any time in 10 years. Secretary of State Rogers, the architect of the cease-fire in the Middle East, has reaffirmed America's desire for good relations with all states in the area. He has assured all parties that whenever and wherever the Arab States which have broken off diplomatic relations with the United States are prepared to restore them, we shall respond in the same spirit.

Certainly, sentiment on Capitol Hill in Washington has moderateed in recent years and normal diplomatic relations would, I believe, be welcomed by a majority of both Houses of the Congress.

The people of the United States recognize that Egypt has always been, and will continue to be, so to speak, the political center of gravity in the Arab world, and therefore of vast importance to our country. Our interests in the Middle East are not confined to Israel, and therefore it is highly important that we achieve the maximum understanding with the one country which is the acknowledged leader of all the Arab States and is so important to the aspirations of all the people in the Middle East.

In a letter to Secretary of State Rogers, I have today proposed that our Government state clearly and in the warmest possible terms its desire to resume full diplomatic relations early in the new year.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 17255, CLEAN AIR ACT AMENDMENTS

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight to file a conference report on the bill (H.R. 17255) the Clean Air Act amendments.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 19911, AMENDING FOREIGN ASSISTANCE ACT

Mr. MORGAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 19911) to amend the Foreign Assistance Act of 1961, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania? The Chair hears none, and appoints the following conferees: Messrs. MORGAN, ZABLOCKI, HAYS, FOUNTAIN, ADAIR, MAILLIARD, and FRELINGHUYSEN.

STONE GATE TO UNION STOCK YARDS AS NATIONAL HISTORICAL LANDMARK

(Mr. MIKVA asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. MIKVA. Mr. Speaker, I wish to commend the Amalgamated Meat Cutters & Butcher Workmen, AFL–CIO, and its distinguished secretary-treasurer, Patrick E. Gorman, for its public spirit in leading an effort to preserve the stone gate to the Union Stock Yards as a national historical landmark.

All of us who grew up in Chicago and whose families lived there thought of the stockyards as a natural fixture, I suppose. It was as much a part of our surroundings as Lake Michigan. It was, until recent years, a living link with the past, its daily operations telling us in vivid detail how our city grew and prospered.

Now all that is gone. New methods have caused the abandonment of the stockyards' function, the centralized slaughter of food animals. The area is to be turned over to commercial development.

Yet, our cultural heritage remains and must be remembered. Preservation of the stone gate on Exchange Avenue near Halsted would give us a continual reminder of our city's beginnings and of a colorful era of youthful civic and national growth.

I am pleased, indeed, to join with the Meat Cutters Union and Mr. Gorman in urging the preservation of the stone gate and its designation as a national historical landmark.

ATTEMPTED DEFECTION OF SIMONAS KUDIRKA

(Mr. HAYS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYS. Mr. Speaker, there has been considerable coverage in the Washington Star about the attempted defection of Simonas Kudirka to an American Coast cutter. There has been almost nothing in the Washington Post about it.

I do not know whether they do not want to offend their Soviet friends or what. But this morning Mr. Fulton suggested that the United States ought to offer to trade the Chicago seven and others to the Soviet Union for Mr. and Mrs. Kudirka. I told him I did not think that the bait was very attractive, but if he really wanted to whack up a deal, I suggested trading the Washington Post to them for Mr. and Mrs. Kudirka.

PRINTING OF ENVIRONMENTAL REPORT

Mr. DENT. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 91–1772) on the concurrent resolution (H. Con. Res. 771) for the printing of environmental report and ask for immediate consideration of the concurrent resolution.

The clerk read the concurrent resolution as follows:

H. CON. RES. 771

Resolved by the House of Representatives (the Senate concurring), That there shall be printed for the use of the Committee on Government Operations, House of Representatives, five thousand additional copies of the hearings by the Subcommittee on Conservation and Natural Resources in September 1969 entitled "Effects of Population Growth on Natural Resources and the Environment."

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

OUR AMERICAN GOVERNMENT AND HOW IT WORKS: 1001 QUESTIONS AND ANSWERS

Mr. DENT. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 91–1773) on the concurrent resolution (H. Con. Res. 785) authorizing the printing as a House document the book entitled "Our American Government and How It Works: 1001 Questions and Answers" and ask for immediate consideration of the concurrent resolution.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 785

Resolved by the House of Representatives (the Senate concurring), That,

SECTION 1. With the permission of the copyright owner of the book, "Our American Government and How It Works: 1001 Questions and Answers," by Wright Patman, Member of Congress, published by Bantam Books, Incorporated, there shall be printed as a House document, as soon as practicable, for maximum usefulness to Members of the Ninety-second Congress, with emendations, the pamphlet, entitled "Our American Government. What Is It? How Does It Function?" and there shall be printed one million eighty-four thousand additional copies of such document, of which two hundred and six thousand copies shall be for the use of the Senate, and eight hundred and seventy-eight thousand copies shall be for the use of the House of Representatives.

SEC. 2. Copies of such document shall be prorated to Members of the Senate and House of Representatives for a period of sixty days, after which the unused balance shall revert to the respective Senate and House document rooms.

The SPEAKER. The gentleman from Pennsylvania is recognized.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Iowa.

Mr. GROSS. Can the gentleman say whether this document entitled "Our American Government. What is it? How Does It Function" has been revised to describe to the citizens of the United States how a lameduck session functions on Christmas Eve?

Mr. DENT. We have not prepared any material on that particular subject, but if the gentleman from Iowa would do his usual good job in preparing such a statement, I shall try to have it printed.

Mr. GROSS. I thank the gentleman.

The SPEAKER. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING OF HEARINGS BEFORE SPECIAL SUBCOMMITTEE ON EDUCATION ENTITLED "DISCRIMINATION AGAINST WOMEN"

Mr. DENT. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 91–1774) on the concurrent resolution (H. Con. Res. 790), to provide for the printing of 5,000 additional copies of parts I and II of the hearings before the Special Subcommittee on Education of the Committee on Education and Labor entitled "Discrimination Against Women," and ask for immediate consideration of the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 790

Resolved by the House of Representatives (the Senate concurring), That five thousand additional copies of parts I and II of the hearings before the Special Subcommittee on Education of the Committee on Education and Labor of the House of Representatives, Ninety-first Congress, second session, on section 805 of H.R. 16098, entitled "Discrimination Against Women", be printed concurrently for the use of the Special Subcommittee on Education.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING REPRINTING OF HOUSE REPORT NO. 91–1673

Mr. DENT. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 91–1775) on the resolution (H. Res. 1311), authorizing reprinting of House Report No. 91–1673, and ask for immediate consideration of the resolution.

The Clerk read the resolution, as follows:

H. RES. 1311

Resolved, That House Report Numbered 91–1673, entitled "For the Benefit of All Mankind—A Survey of the Practical Returns From Space Investment", be reprinted with ten thousand copies for the use of the Committee on Science and Astronautics.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING ADDITIONAL POSITIONS ON THE U.S. CAPITOL POLICE FORCE FOR DUTY UNDER THE HOUSE OF REPRESENTATIVES

Mr. HAYS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 91–1776) on the resolution (H. Res. 1293), authorizing the establishment of six additional positions of sergeant and one additional position of lieutenant on the U.S. Capitol Police force for duty under the House of Representatives, and for other purposes, and ask for immediate consideration of the resolution.

The Clerk read the resolution, as follows:

H. RES. 1293

Resolved, That (a) in addition to the number of positions on the United States Capitol Police force, and of personnel detailed to such police force from the Metropolitan Police force of the District of Columbia, existing on the date of adoption of this resolution, but subject to subsection (c) of this section, there are hereby authorized to be established six positions of sergeant, and one position of lieutenant, on the United States Capitol Police force, for duty under the House of Representatives.

(b) Each appointment to any such additional position shall be made by the Capitol Police Board, subject to prior approval of the Committee on House Administration, without regard to political affiliation and solely on the basis of fitness to perform the duties of the position. Each person appointed to any such position shall have, prior to such appointment, at least one year of police experience or of equivalent experience.

(c) The number of positions of private on the United States Capitol Police force for

duty under the House of Representatives authorized by House Resolution 796, Eighty-ninth Congress, adopted June 29, 1966, is reduced by six.

SEC. 2. Until otherwise provided by law, the contingent fund of the House of Representatives is made available to carry out the purposes of this resolution.

The SPEAKER. The Chair recognizes the gentleman from Ohio.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. HAYS. Mr. Speaker, I will yield to the gentleman from Missouri, but I would like first to say a word of explanation. I do not want to be accused of trying to slip something through.

This will create six additional positions of sergeant. The Chief of Police has testified that in the Metropolitan Police force there is one sergeant for every eight privates. That will bring his force to one sergeant for every 14 privates. It is not quite as desirable as he would like it, but he thinks he can get along with it.

It will cost $30,624 a year additional, and it will reduce the number of privates by six, so that there will be no more police, but there will be six fewer privates and six more sergeants.

I yield now to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I appreciate the gentleman yielding. The gentleman has answered the first part of my question. I appreciate his explanation. I think it is adequate.

Now, at the bottom of page 1 and the top of page 2, it says "Without regard to political affiliation and solely on the basis of fitness to perform the duties of the position." The bill then goes on with other facts. Will the gentleman tell the House, before this is passed by unanimous-consent action how we are coming along with that portion of the endeavor to upgrade the Capitol Police?

Mr. HAYS. I will say to the gentleman that I will have to speak from memory, because I do not have the statistics here, but we have a substantial increase in the number of so-called professional police as against part-time students and patronage people and others. The proportion, I think it is fair to say—and I would stand subject to correction by the gentleman from Ohio (Mr. DEVINE) if he knows any different—is increasing as we go along in favor of more professional people and fewer of the others.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 1181, PROVIDING FOR POTATO AND TOMATO PROMOTION PROGRAMS

Mr. SISK. Mr. Speaker, pursuant to rule XX of the Rules of the House of Representatives and at the direction of the Committee on Agriculture, I move to take from the Speaker's table the bill (S. 1181) to amend section 8c(6)(I) of the Agricultural Marketing Agreement Act of 1937, as amended, to permit projects for paid advertising under marketing orders, to provide for a potato research and promotion program, and to amend section 8e of the Agricultural Marketing Agreement Act of 1937, as amended, to provide for the extension of restrictions on imported commodities imposed by such section to imported raisins, olives, and prunes, with the Senate amendments to the House amendments thereto, disagree to the Senate amendments to the House amendments, and request a conference with the Senate thereon.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, do I understand that to this bill the other body added tomatoes to potatoes for purposes of checkoff?

Mr. SISK. If the gentleman would permit me to comment, the Senate passed the potato part of the bill, and they passed the dairy part of the bill, and they passed the tomato part. They struck out one title regarding general legislation that we had in, and they also struck out title IV of the House bill, which dealt with the raisins, olives, and prunes.

Mr. GROSS. They struck out that section?

Mr. SISK. That is right.

Mr. GROSS. But they did add tomatoes?

Mr. SISK. If I can set the record straight, the House bill did contain tomatoes, so they have not added anything to the bill. All they have actually done is stricken out two of the sections of the bill as it passed the House.

Mr. GOODLING. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Speaker, I regret I failed to hear what the gentleman said. Will he repeat his original request, please?

Mr. SISK. I made a motion to send the bill to conference. The bill I have in mind is S. 1181, and the motion, under rule XX of the House, and pursuant to that and the direction of the committee, is to send it to conference.

The SPEAKER. The question is on the motion offered by the gentleman from California.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GOODLING. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 214, nays, 145, not voting 75, as follows:

[Roll No. 420]

YEAS—214

Abbitt	Andrews, N. Dak.	Boland
Abernethy	Barrett	Brademas
Adams	Belcher	Brasco
Albert	Bell, Calif.	Brinkley
Alexander	Bennett	Brooks
Anderson, Calif.	Berry	Brotzman
Anderson, Tenn.	Bevill	Brown, Calif.
Andrews, Ala.	Blatnik	Brown, Ohio
	Boggs	Broyhill, N.C.
		Burke, Mass.
Burleson, Tex.	Hathaway	Pike
Burlison, Mo.	Hays	Poage
Burton, Calif.	Hébert	Podell
Byrne, Pa.	Heckler, Mass.	Preyer, N.C.
Cabell	Henderson	Price, Ill.
Caffery	Hicks	Pryor, Ark.
Carney	Holifield	Pucinski
Carter	Howard	Quie
Casey	Hungate	Quillen
Celler	Ichord	Randall
Chappell	Jarman	Rhodes
Clark	Johnson, Calif.	Roberts
Cohelan	Jones, Ala.	Rodino
Colmer	Jones, N.C.	Roe
Conte	Jones, Tenn.	Rogers, Colo.
Corman	Karth	Rogers, Fla.
Culver	Kastenmeier	Rooney, Pa.
Daniels, N.J.	Kazen	Rousselot
Davis, Ga.	Kuykendall	Ruth
de la Garza	Kyl	St Germain
Dent	Kyros	Saylor
Donohue	Latta	Shipley
Downing	Leggett	Sikes
Eckhardt	Lennon	Sisk
Edmondson	Lloyd	Skubitz
Edwards, Calif.	Lowenstein	Slack
Eilberg	McCarthy	Snyder
Evans, Colo.	McCloskey	Springer
Evins, Tenn.	McClure	Stafford
Fallon	McFall	Staggers
Fascell	McMillan	Steed
Feighan	MacGregor	Steiger, Wis.
Fisher	Madden	Stephens
Flood	Mahon	Stubblefield
Flowers	Mann	Sullivan
Flynt	Mathias	Symington
Foley	Matsunaga	Talcott
Forsythe	Melcher	Taylor
Fountain	Mikva	Teague, Calif.
Fraser	Miller, Calif.	Teague, Tex.
Frey	Mills	Thompson, Ga.
Friedel	Mink	Thompson, N.J.
Fulton, Pa.	Mollohan	Thomson, Wis.
Fuqua	Monagan	Tiernan
Galifianakis	Morgan	Ullman
Garmatz	Morse	Van Deerlin
Gaydos	Murphy, N.Y.	Vigorito
Gettys	Myers	Waggonner
Gibbons	Natcher	Wampler
Gonzalez	Nelsen	Watson
Gray	Nichols	Watts
Green, Oreg.	Nix	White
Green, Pa.	Obey	Whitten
Griffin	O'Neal, Ga.	Wiggins
Griffiths	O'Neill, Mass.	Williams
Gubser	Passman	Wilson, Charles H.
Hamilton	Patman	Wright
Hammer-schmidt	Patten	Wyatt
Hanley	Pepper	Wyman
Hanna	Perkins	Yatron
Hansen, Idaho	Pettis	Young
Hansen, Wash.	Philbin	Zwach
	Pickle	

NAYS—145

Adair	Dickinson	McClory
Addabbo	Dorn	McDade
Arends	Dulski	McDonald, Mich.
Ashbrook	Duncan	McEwen
Ashley	Dwyer	Mailliard
Beall, Md.	Edwards, Ala.	Marsh
Betts	Erlenborn	Martin
Biaggi	Eshleman	Mayne
Biester	Findley	Michel
Bingham	Fish	Miller, Ohio
Bow	Ford, Gerald R.	Minish
Bray	Frelinghuysen	Minshall
Broomfield	Giaimo	Mizell
Brown, Mich.	Goldwater	Moorhead
Buchanan	Goodling	Morton
Byrnes, Wis.	Gross	Mosher
Cederberg	Grover	Nedzi
Chamberlain	Gude	O'Hara
Clancy	Haley	Pelly
Clawson, Del	Hall	Pirnie
Cleveland	Halpern	Poff
Collier	Harsha	Pollock
Collins, Tex.	Harvey	Price, Tex.
Conable	Hastings	Railsback
Conyers	Hechler, W. Va.	Rarick
Corbett	Helstoski	Reid, Ill.
Coughlin	Hogan	Reid, N.Y.
Cowger	Hosmer	Reuss
Cramer	Hunt	Riegle
Crane	Hutchinson	Robison
Cunningham	Jacobs	Rooney, N.Y.
Daniel, Va.	Johnson, Pa.	Rosenthal
Davis, Wis.	Jonas	Roybal
Delaney	Keith	Ruppe
Dellenback	King	Ryan
Denney	Koch	Sandman
Dennis	Landgrebe	Schadeberg
Derwinski	Long, Md.	Scherle
Devine	Lujan	

Scheuer	Stanton	Whalley
Schmitz	Steele	Whitehurst
Schneebeli	Steiger, Ariz.	Widnall
Schwengel	Stratton	Wilson, Bob
Scott	Taft	Wold
Sebelius	Vanik	Wylie
Shriver	Waldie	Yates
Smith, Calif.	Ware	Zablocki
Smith, Iowa	Weicker	Zion
Smith, N.Y.	Whalen	

NOT VOTING—75

Anderson, Ill.	Esch	Meskill
Annunzio	Farbstein	Mize
Aspinall	Ford,	Montgomery
Ayres	William D.	Moss
Baring	Foreman	Murphy, Ill.
Blackburn	Fulton, Tenn.	O'Konski
Blanton	Gallagher	Olsen
Bolling	Gilbert	Ottinger
Brock	Hagan	Powell
Broyhill, Va.	Harrington	Purcell
Burke, Fla.	Hawkins	Rees
Burton, Utah	Horton	Reifel
Bush	Hull	Rivers
Button	Kee	Rostenkowski
Camp	Kleppe	Roth
Carey	Kluczynski	Roudebush
Chisholm	Landrum	Satterfield
Clausen,	Langen	Stokes
Don H.	Long, La.	Stuckey
Clay	Lukens	Tunney
Collins, Ill.	McCulloch	Udall
Daddario	McKneally	Vander Jagt
Diggs	Macdonald,	Winn
Dingell	Mass.	Wolff
Dowdy	May	Wydler
Edwards, La.	Meeds	

So the motion was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Annunzio for, with Mr. Farbstein against.

Mr. Edwards of Louisiana for, with Mr. Daddario against.

Mr. Long of Louisiana for, with Mr. Clay against.

Mr. Blanton for, with Mr. Baring against.

Mr. William D. Ford for, with Mr. Aspinall against.

Mr. Fulton of Tennessee for, with Mr. Macdonald of Massachusetts against.

Mr. Hagan for, with Mr. Ottinger against.

Mr. Moss for, with Mr. Powell against.

Mr. Dingell for, with Mr. Stokes against.

Mr. Stuckey for, with Mr. Wolff against.

Mr. Rivers for, with Mr. Gallagher against.

Mr. Kluczynski for, with Mr. Gilbert against.

Mr. Hull for, with Mr. Harrington against.

Mr. Carey for, with Mr. Hawkins against.

Mr. Meeds for, with Mr. Diggs against.

Mr. Kee for, with Mrs. Chisholm against.

Mr. Blackburn for, with Mr. Camp against.

Mr. Horton for, with Mr. Vander Jagt against.

Mrs. May for, with Mr. Winn against.

Mr. Wydler for, with Mr. Anderson of Illinois against.

Mr. Dowdy for, with Mr. Burke of Florida against.

Mr. Landrum for, with Mr. Broyhill of Virginia against.

Mr. Montgomery for, with Mr. Brock against.

Mr. Olsen for, with Mr. Mize against.

Mr. McCulloch for, with Mr. Burton of Utah against.

Until further notice:

Mr. Satterfield with Mr. Ayres.
Mr. Rostenkowski with Mr. Reifel.
Mr. Rees with Mr. Bush.
Mr. Purcell with Mr. Langen.
Mr. Murphy of Illinois with Mr. Button.
Mr. Tunney with Mr. Don H. Clausen.
Mr. Udall with Mr. Kleppe.
Mr. Lukens with Mr. Foreman.
Mr. Meskill with Mr. McKneally.
Mr. O'Konski with Mr. Roth.
Mr. Roudebush with Mr. Esch.

Mr. CULVER, Mr. LOWENSTEIN, and Mr. ROE changed their votes from "nay" to "yea."

Mr. SCHMITZ changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints the following conferees: Messrs. POAGE, FOLEY, VIGORITO, SISK, BELCHER, TEAGUE of California, and WAMPLER.

FOR THE RELIEF OF PERCY ISPAS AVRAM

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the bill (S. 2102) for the relief of Percy Ispas Avram, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the bill as follows:

S. 2102

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the periods of time Percy Ispas Avram has resided in the United States and any State since his lawful admission for permanent residence on December 15, 1962, shall be held and considered to meet the residence and physical presence requirements of section 316 of the Immigration and Nationality Act.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 19885, DISTRICT OF COLUMBIA REVENUE ACT OF 1970

Mr. McMILLAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 19885), District of Columbia Revenue Act of 1970, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina? The Chair hears none, and appoints the following conferees: Messrs. MCMILLAN, ABERNETHY, FUQUA, CABELL, NELSEN, BROYHILL of Virginia, and HARSHA.

CONFERENCE REPORT ON H.R. 17825, OMNIBUS CRIME CONTROL ACT OF 1970

Mr. CELLER. Mr. Speaker, I call up the conference report on the bill (H.R. 17825) to amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 16, 1970.)

Mr. CELLER (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER. The gentleman from New York is recognized for 1 hour.

Mr. CELLER. Mr. Speaker, I am extremely pleased to present to the House a conference report on H.R. 17825. The resolution of the differences between the House and the other body has taken a great many meetings and a great deal of hard negotiation. The conference report, I believe, represents an important step forward in the Federal effort to substantially improve the criminal justice system in this Nation. Enactment of the conference report will be a signal to the States and local governments of the seriousness and of the commitment of the Federal Government to this goal.

The conference report on H.R. 17825 has two main parts. The first is concerned with amendments to the law enforcement assistance program. The second deals with additional subjects matters added to the bill by the other body.

It may be helpful to itemize several of the important provisions of the conference report. These include:

First, appropriations authorization for the current and 2 succeeding fiscal years at levels provided in the Senate version: $650 million, fiscal 1971; $1.5 billion, fiscal 1972; and $1.75 billion, fiscal 1973.

Second, a program for the construction, acquisition, and renovation of corrections facilities on the basis of need, not on the basis of population as provided in the House bill. The conference substitute also adopts the principle of the House bill in earmarking a portion of future funds for the corrections program.

Third, a requirement that LEAA approval of State plans be based on an express finding that areas of high crime incidence and high law enforcement activity receive adequate assistance.

Fourth, a requirement that the States contribute—or "buy in"—one-quarter of the non-Federal share of funding for law enforcement programs of local government. This key element in the House bill is retained in the conference substitute but its operable date is deferred until July 1, 1972. The principle that the States must contribute to defray the financial burdens borne by local government is a fundamental major element in assuring State responsibility under the block grant approach of law enforcement assistance.

Fifth, a revision of the matching ratios with provision for a higher level of Federal contribution up to 75 percent of program costs. Thus, the State or local matching requirements are reduced to 25 percent beginning in the current fiscal year which should afford immediate and substantial relief to financially hard-pressed State and municipal governments.

Although the House bill authorized Federal expenditures under discretionary

grants up to 90 percent of program costs, the conference substitute provides that both block grant funds and discretionary grant funds carry the same matching ratios; namely, 75 Federal, 25 State or local.

Sixth, the conference substitute adopts the Senate version with respect to the troika form of management of the LEAA. The House version abolished the troika and substituted a single Administrator. The Senate amendment which retained the three-member Administration vested all administrative responsibility in the Administrator who was designated as executive head of the agency. It further provided that all policy determinations shall be exercised by the Administrator with the concurrence with at least one of the associates. Although the conference substitute does not go as far as the House bill in modernizing LEAA management, it does eliminate the requirement of unanimity which has hampered effective administration to date.

Seventh, the conference substitute provides for the reallocation of block grant funds as discretionary grants whenever a State has failed to have a plan approved either because it submitted no plan or because the plan it submitted was unacceptable. It also permits reallocation of block grant funds when a State fails to comply with the assurances it has given in its plan, the provisions of the act, or LEAA regulations.

Eighth, the conference substitute also contains a variety of miscellaneous provisions designed to improve the training and educational programs of LEAA. These include: authority to establish and support a training program for State and local prosecuting attorneys and authority to establish law enforcement internships.

ADDITIONAL SUBJECT MATTERS COVERED IN THE CONFERENCE SUBSTITUTE

The Senate amendment added a number of titles to the law enforcement assistance amendments approved by the House. The conference substitute adopts five of these additional titles. These include:

First. Amendment to the Gun Control Act of 1968 designed to impose stricter sentencing with respect to persons who use a firearm to commit, or who carry a firearm unlawfully during the commission of a Federal felony.

Second. Amendment to the Criminal Appeals Act to broaden and clarify the right of the Government to appeal dismissals of criminal cases.

Third. Protection of Members of Congress—the creation of a Federal offense to kill, kidnap, or assault any Members of Congress or member-of-Congress-elect.

Fourth. Protection of the President—creation of Federal penalties for unauthorized entry into any building or the grounds thereof where the President is or may be temporarily residing.

Fifth. Reinstatement of the Wiretap Commission which had been created in 1968 but repealed in the Organized Crime Control Act of 1970.

Mr. Speaker, the amendments to the law enforcement assistance program contained in the conference substitute will substantially increase the level of Federal investment in the criminal justice system. The proposed changes are also intended to stimulate and encourage State and local innovation and improvement. Of particular promise is the new program for the construction, acquisition, and renovation of corrections facilities.

A primary objective of these amendments is to make the entire law enforcement assistance program far more responsive to local crime problems and to insure far greater participation by local governments in the planning process. The law enforcement assistance effort represents, to me, the most promising technique by which the Federal Government can contribute to reducing the level of violence and crime in the streets in this Nation.

I urge my colleagues to support the conference report.

Mr. POFF. Mr. Speaker, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Virginia.

Mr. POFF. Mr. Speaker, I rise merely to announce the unanimous support of members of the conference for the conference report, and I join with the gentleman from New York (Mr. CELLER) in urging adoption of the report.

The report is a compromise. But unlike many compromises, this compromise I believe to be better than either the House bill or the Senate substitute. Many of the rough edges have been made smooth and many of the unworkable provisions have been made workable.

There were about 50 points in disagreement between the House and the other body. I cannot in this brief time discuss all of those points and their resolution, much less discuss the points on which there was agreement between the two Houses. Rather, I will attempt to focus upon the more significant issues relating to the Law Enforcement Assistance Administration.

It was generally agreed that the present system of administering the law enforcement assistance program was cumbersome. Every decision, whether it concerned administration or policy, had to be made by unanimous consent of a three-man board, commonly referred to as the "troika." Although the House bill would have completely abolished the troika and substituted a single Administrator, the conferees decided on a middle position between the House bill and the present law. The conferees decided to retain the troika but to bestow a greater responsibility upon the chief Administrator by granting him all administrative powers. With respect to other functions, powers, and duties, the Administrator would also govern provided that he had the consent of at least one of the two Associate Administrators. If the Administrator should not obtain such consent, it was contemplated by the conferees that the impasse would be resolved by the Attorney General.

The conference adopted the House version of the bill relative the provision concerning the composition of planning agencies. The conference substitute provides that State planning agencies and regional planning units within the State shall be representative of law enforcement agencies, units of general local governments, and public agencies maintaining programs to reduce and control crime. The intent of such provision when it passed the House and the intent of the conferees is that the various entities enumerated be included on the State or regional planning agency. The provision does not mean that such State or regional planning unit be composed only of these entities. Thus there is no intention to exclude from such planning units representation of other interests. Rather the provision sets a minimum mandatory requirement for the composition of such planning units.

The House bill provided an authorization to make grants for the establishment of criminal justice coordinating counsels for units of general local government. The Senate substitute had a similar provision to limit such grants to units of general local government having a population of 250,000 or more. Such limitation is not as narrow as it may seem to the uninitiated because section 601(d) of the act defines units of general local government to include counties as well as cities and towns.

Because of the financial straits of both the States and cities, the conferees adopted more liberal matching fund formulas. With regard to most law enforcement programs funded under the present act, the Federal share may be up to 60 percent of the cost. This pertains to both block grants and discretionary grants. The conference substitute provides that the Federal share may be up to 75 percent of the cost. It is important to note that the new requirement—like many other provisions of the bill—pertains to the present fiscal year. Although this fiscal year is nearly half over, the administration of the more liberal requirements will not be as difficult as it might seem, because most of the block grants and discretionary grants are made in the second half of the fiscal year.

The conference also adopted a provision which requires that beginning in fiscal year 1973, at least 40 percent of the Federal share of the funding of any program or project be from money expressly appropriated by the State or local government in the aggregate for such programs or projects—as opposed to donated services or property. This is the so-called hard-match requirement and it pertains equally to block grants and discretionary grants. If a State or local government appropriates money to participate directly in an LEAA program, that is obviously a hard match. But what if the State or local government transfers personnel to participate in LEAA programs or projects? That is not a hard match. It can only be considered a hard match, if the State or local government were to appropriate money to fill the vacancies created by the transfer. The controlling purpose of the hard-match provision is the desire to stimulate new State and local money for imaginative and innovative State and local anticrime programs. This purpose is already ensconced in section 303(10) of the law. The hard-match requirement puts teeth into that legislative purpose.

I exhort LEAA to be diligent in overseeing State and local financing of programs so that the will of Congress in this regard may be carried out. I think it noteworthy that other provisions of the conference substitute will provide criminal penalties for misrepresentation of material facts in seeking assistance from LEAA.

The House conferees agreed to three criminal penalty provisions added by the Senate to provide additional protection beyond those already available in the Federal criminal courts against embezzlement or stealing of funds, assets, and property which are the subject of LEAA grants or contracts. The Senate added those provisions "out of an abundance of caution," since it seems clear that provisions of present law already cover some or all of these actions. Referring to page 52 of Senate Report 91–1253, sections 1001 and 371 of title 18 of the United States Code and the case of *United States* v. *Thompson*, 366 F. 2d 167 (6th Cir. 1966), cert denied, 389 U.S. 973 (1967), these new penalty provisions will be important supplements to existing Federal laws and will go far to protect against misuse of LEAA funds. It is expected that the Justice Department will vigorously enforce these provisions.

The House bill provided that no State plan should be approved unless the plan provides for the allocation of an adequate share of assistance to deal with law enforcement problem in areas of high crime incidence. The Senate version provided that no State plan should be approved unless it provided for the allocation of an adequate share of benefits of assistance to areas characterized by high law enforcement activity. The conference compromise provided that no State plan should be approved unless it provide for the allocation of adequate assistance to areas characterized by both high crime incidence and high law enforcement activity. It was feared that reliance solely upon the single standard of high crime incidence might invite an artificial statistical crime wave. On the other hand it was noted that the provision of the other body which focused upon high law enforcement activity would also include crowded correctional facilities in sparsely populated low-crime areas and thus obscure the purpose of this provision. The conference compromise makes clear that this provision focuses upon areas of high law enforcement activity but only if those areas also have a high crime incidence.

Under present law, a State when it receives a block grant from LEAA must "pass through" 75 percent of the funds to units of general local government. Present law does not indicate whether the local government or the State government is obligated to supply the non-Federal match with regard to the Federal dollars that are passed through to units of general local government. Experience has indicated that only five or six States assumed part of the non-Federal expense of these programs. The House bill required that the State provide at least one-fourth of the non-Federal funding required for federally assisted local programs. The major criticism of the House provision was not philosophical but pragmatic. Such criticism, while recognizing the merits of the so-called buy-in provision, was based upon the present financial problems confronting the States. To ease the practical impact of this provision while honoring its purpose, the conference did four things:

First, it deferred the requirement to buy-in until fiscal year 1973.

Second, it reduced the non-Federal share on most programs from 40 to 25 percent, thus reducing the buy-in requirement from one-fourth of 40 percent to one-fourth of 25 percent.

Third, it relaxed the requirement as of fiscal year 1973 that each State pass through 75 percent of its block grant funds. It substituted a formula which would allow a State to pass through to local governments a portion of the block grant commensurate with the proportionate performance of local governments. This flexible pass-through provision would mean that 45 of 50 States could pass through less than 75 percent of the block grant funds, as is now required. And, of course, the less passed through, the smaller the impact of the buy-in requirement.

Fourth, whereas the House bill would have required that the State buy into each local program, the conference agreed that the State may buy in on an aggregate basis. The conference was particularly impressed with the example provided by the State of Illinois which is now buying in on an aggregate basis.

The House bill accorded discretionary grants preferential status in that it would have permitted a Federal share up to 90 percent of the cost; whereas the block grant ceiling generally was 60 percent. In short, under the House bill a city would prefer a discretionary grant to a block grant passed through from the State. But the conference substitute reversed the preference. It made the Federal share 75 percent in both situations. But for a local government, this equality will be altered by the buy-in provision. When a local government receives block grant funds passed through from the State, the State will be helping to pay the non-Federal share. In short, a local government will now have a financial preference for block grants because of the buy-in provision.

Finally, I want to note the tremendous thrust this bill will give to corrections reform. Under the present block grant program in part C, about 29 percent of the funds are allocated to corrections. The new program for corrections provides an additional sum not less than 20 percent of the amount allocated for part C.

Mr. MAYNE. Mr. Speaker, I rise in support of adoption of the conference report, and congratulate the conferees from both bodies on their diligence in producing this final version of the Omnibus Crime Control Act of 1970 for enactment, before the end of this Congress. I am pleased to have cosponsored this legislation, and to have supported its enactment.

The authorization for funding the law enforcement assistance programs of the Department of Justice expired midnight June 30, 1970. The pending legislation will enable these very valuable and meritorious programs to be continued and expanded, hereby assisting the efforts of government at all levels to control crime.

I am especially pleased that the conferees have agreed to defer until fiscal year 1973 the effect of provisions in the bill which would have diverted to discretionary grants funds which would normally be distributed through block grants to a State planning agency and through that agency to local law enforcement projects, if that State failed to contribute 25 percent of the non-Federal funding for local law enforcement projects seeking Federal assistance.

The original language of this provision would have in effect disqualified Iowa and many other States from receiving block grants under the LEAA program, for the Iowa General Assembly could not have enacted the necessary authorization or appropriations legislation contributing State funds to local projects in time to qualify the State for continued receipt of LEAA funds under this new requirement.

I brought this problem to the attention of the House when the bill was before this body on June 29, and proposed an amendment deferring the effect of the new requirement for State contribution until fiscal year 1973. Although my amendment was defeated narrowly on a teller vote, 23 to 26, the Senate later deleted the State contribution provision entirely and it became a matter for the conference committee to resolve.

On December 8, I wrote to the distinguished chairman of the House Judiciary Committee, the gentleman from New York (Mr. CELLER), with copy to each of the other House conferees on this bill, and restated the problem, urging that the conference either accept the Senate amendment deleting the State contribution requirement or adopt the amendment I had proposed on the House floor, deferring application of the State contribution requirement for 2 years.

I am sure that the State of Iowa, its congressional delegation, and law enforcement officials throughout the State as well as in other States which would have had the same problem, are very appreciative of the action of the House conferees in accepting as they did modification of the State contribution provision to defer its application to after June 30, 1972, as I had proposed in the House on June 29.

Mr. PEPPER. Mr. Speaker, you of course know of the concern of the House Select Committee on Crime about the quality of the criminal justice system in this country. Since the Law Enforcement Assistance Administration is the most important Federal funding agency in the war against crime in America, the 1970 amendments that are now before us are extremely critical. Under this conference report, LEAA is authorized over the next 3 years to spend over $3 billion in the waging of this war. The Judiciary Committees of both Houses are to be applauded for their fine work and diligence in strengthening the Omnibus Crime Control and Safe Streets Act of 1968 by these amendments.

These amendments raise the Federal share in anticrime programs, require the

States to make greater efforts in the war against crime and increase the authorization for LEAA to $650,000,000 in fiscal year 1971 and $1.1 billion in fiscal year 1972 and $1.5 billion in fiscal year 1973.

Certainly several of the new directions that will now be taken with respect to increased funding of correctional institutions and larger allocations to high crime areas are steps in the right direction. It would be my hope that this body will continue to closely scrutinize the administration of these funds by LEAA. As has been pointed out to us in several hearings around the country, the administrative structure of this agency leaves much to be desired. If the amendments vesting personnel and administrative powers in the top Administrator fail to achieve their desired end, then it would be my hope that a fresh look be taken as to the most efficient and effective organizational structure for that agency.

Mr. Speaker, these amendments are a helpful step in the war against crime and should be passed.

Mr. RODINO. Mr. Speaker, it is with gratification that I rise in support of the conference report of H.R. 17825.

I am deeply convinced that the enactment of this legislation will be a major step forward in mustering the combined resources of our Federal, State, and local governments in the war against crime.

As a member of the conference committee I can attest to the diligence and devotion shown by Members of both the House and Senate from each of the two political parties who have labored hard and long to reconcile differences and produce a truly effective program.

The major thrust of the bill is to reform the law enforcement assistance program and improve its capability in meeting the urgent needs for law enforcement in urban areas. The conference report contains authorization for the current fiscal year in excess of the amount requested by the administration and appropriated by the committee. It also provides authorization for appropriations in excess of $2 billion for the 2 succeeding fiscal years.

A major part of the conference substitute are those provisions developed in the House bill which provide a far-reaching and expanded program of construction, renovation, and acquisition of correction facilities. The method of allocation of funds for this program is identical to that contained in the House bill; namely, allocation on the basis of need rather than on the basis of population.

The conference substitute also carries forward other important items which the House earlier had approved by an overwhelming vote of 343 to 2 on June 30. These items include the requirement that LEAA approval of a State will not be based on an express finding that the State has given adequate assistance to areas of high crime incidence and high law enforcement activity.

Also included is the requirement that the States contribute or "buy in" 25 percent of the non-Federal funding required under the act. The conference substitute defers this requirement until July 1, 1972. Nevertheless, the principle of State financial responsibility is established. This requirement should help to significantly defray the financial burdens borne by the cities, and at the same time heighten State involvement in implementing and monitoring law enforcement programs and projects.

A third important aspect of the conference substitute which will bring immediate respite to municipal and county governments is the provision in the conference substitute modifying the matching requirements under the act. The conference substitute provides, effective in the current fiscal year, that the Federal share of most programs financed under block grants as well as discretionary grants shall be 75 percent; the resulting 25 percent match is to be furnished by State or local government. Compared to the present 60–40 matching ratio, this promises some immediate relief to municipal and county governments who are facing financial crises.

There are other provisions in the House bill which required compromise in order to arrive at a final conference agreement. One such item is the administrative management over the law enforcement assistance program itself. I believe the provisions in the House bill which abolished the three-man board system, commonly referred to as the "troika," with the substitution of a final administrator representing the most sensible approach. The conference substitute, however, adopts the Senate version which vests in the administrator all authority over administrative matters but requires the concurrence of at least one of the associate administrators for determinations of policy. The Senate amendment, while it falls short of the solution in the House bill, nevertheless promises an important improvement over the present system with its requirement of unanimity.

Mr. Speaker, the enactment of this legislation will be, I am certain, among the major achievements of the 91st Congress. In developing the Omnibus Crime Control and Safe Streets Act 2 years ago we recognized that most crimes are local in nature and within the jurisdiction of State and local law enforcement agencies. We also recognized that Congress and the entire Federal Government has a clear responsibility to do all in its power to strengthen local and State law enforcement agencies.

In enacting H.R. 17825, we are demonstrating again to State and local governments that their law enforcement agencies have our full backing and support.

As a resident of the city of Newark, N.J., which unhappily was listed by the FBI as first in the crime index of cities with population of over 250,000, this legislation has a special significance to me and to my constituents. Yet, the significance of this legislation goes beyond the jurisdictional limits of my city and all of the other urban areas infiltrated with crime. Its deepest significance lies in the fact that it will assist in ridding our entire society of the terror and fear which crime has spread among all of our citizens.

Mr. CELLER. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CELLER. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous matter in the RECORD on the conference report just agreed to.

The SPEAKER pro tempore (Mr. ALBERT). Is there objection to the request of the gentleman from New York?

There was no objection.

CONFERENCE REPORT ON S. 2193, OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Mr. PERKINS. Mr. Speaker, I call up the conference report on the bill (S. 2193), to authorize the Secretary of Labor to set standards to assure safe and healthful working conditions for working men and women; to assist and encourage States to participate in efforts to assure such working conditions; to provide for research, information, education and training in the field of occupational safety and health, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 16, 1970.)

Mr. PERKINS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement of the managers be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. HALL. Mr. Speaker, reserving the right to object, may I ask the gentleman from Kentucky if there are copies of this conference report available?

Mr. PERKINS. The conference report was printed in the RECORD yesterday, under the rules of the House. It is in the RECORD delivered today.

Mr. HALL. Mr. Speaker, would the gentleman answer "yes" or "no"? Are copies available on the floor for Members during this consideration?

Mr. PERKINS. Copies are available on the floor, because all a Member has to do is open up the CONGRESSIONAL RECORD.

The gentleman from Minnesota (Mr. QUIE) has the page in the RECORD, and I yield to the gentleman.

Mr. QUIE. It is page 41965 of the RECORD for December 16, 1970.

Mr. HALL. Mr. Speaker, further reserving the right to object, the fact remains that we do not have the usual printed copies of the conference report available at the various desks for the Members; is that not true?

Mr. PERKINS. We do not have the report at your desk, but I have an extra copy here I will give to the gentleman

now and, as I said, it has been printed in the RECORD.

Mr. HALL. This is what comes from allowing printing under the rules and filing prior to midnight. It brings about an obvious impossible job of printing from an overburdened Government Printing Office, when they cannot possibly grind out all of this material in time for us intelligently to do our homework and consider it and express a judgment on the floor of the House of Representatives. As further proof Members should note where the printed record of legislative debate is cutoff in the issue for yesterday.

Mr. PERKINS. Will the gentleman yield to me further?

Mr. HALL. Will be glad to yield.

Mr. PERKINS. Let me say to my distinguished colleague that the report was filed yesterday at approximately 1 p.m. If I had known, I would have been delighted to deliver you a copy earlier. I regret that I did not.

Mr. HALL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The gentleman from Kentucky is recognized.

Mr. PERKINS. Mr. Speaker, I yield myself 10 minutes.

(Mr. PERKINS asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. PERKINS. Mr. Speaker, I am pleased to present to the House the conference report on the occupational health and safety legislation. This report has been signed by 18 of the 20 conferees that participated in this conference.

This was not an easy conference. In fact, it was a difficult one. We had some five sessions, several of which lasted 7 hours or more. There was substantial give and take on both sides. There were many issues on which one side or the other, and often both, felt very strongly. The end result was a conference report, however, that is fair and equitable to everyone—a conference report of which we can all be proud.

I want to pay tribute to the members of the conference committee. I want to pay particular tribute to the distinguished subcommittee chairman, the gentleman from New Jersey (Mr. DANIELS). He worked for many, many months bringing this legislation to this point where we now hope it can become law. This is landmark legislation, touching almost every industry in the country that is engaged in interstate commerce.

I want to pay tribute, also, to our minority members, Congressmen STEIGER, QUIE, ESCH, and ERLENBORN, who worked diligently with the majority trying to resolve all these difficult issues and to bring about a report which will go down in the history as a major advance providing major benefits and protections to all the working people in this country.

We owe a great debt of gratitude to Congressmen DANIELS, STEIGER, and QUIE. They persevered, day in and day out, to help us arrive at an agreement in conference.

We have here today a conference report that every Member in this Chamber can support.

Mr. Speaker, I shall review the major differences resolved in the conference report.

THE PROMULGATION OF STANDARDS

A major concession on the part of the managers representing the House of Representatives was with respect to the procedure to be used in the development and promulgation of the health and safety standards. The Members of this body will recall that the Senate bill provided for promulgation of these standards by the Secretary of Labor. The House amendment authorized their promulgation by a National Occupational Safety and Health Board. In the procedures provided for the establishment and promulgation of standards there were many similarities in the Senate bill and the House amendment. For instance, both the Secretary and Board were permitted to begin rulemaking on their own motion or on the basis of petitions. Some of the procedural differences resulted mainly, however, from the choice of the respective bodies as to who should do the rulemaking. The chief difference lay in the fact that the procedure for setting standards under the House amendment were under the formal rulemaking procedures also provided in the Administrative Procedure Act. The House receded on the procedure for promulgating standards. We accepted the Secretary of Labor as the promulgator of the standards and we adopted the informal rulemaking procedures which the Senate bill authorized.

We accepted a provision that hearings should be required only when requested by interested parties, and did not require a hearing on every proposed standard as the House amendment would have required. There were important Senate concessions even in this area, however. The Senate receded with respect to a provision in their bill which would have permitted a shortened rulemaking procedure for the issuance of existing proprietary standards. In addition, in adopting the Senate language the House insisted on an amendment under which employers may petition for a temporary order granting a variance from a standard promulgated by the Secretary. Such an order is to be granted only if the employer shows he is unable to comply with a standard for specific and limited reasons, the unavailability of professional or technical personnel, or of necessary materials or equipment, or because necessary construction or alteration of facilities cannot be completed in the time required. The economic implications of a standard for an employer are not to be considered in the determination as to whether a variance is to be allowed. The employees of such an employer are entitled to notice and hearing on such an order. Such an order may be issued in any given case for a maximum of 1 year and may not be renewed more than twice.

INSPECTION

The differences in the two versions of the bill with respect to inspection by the Secretary of Labor were not major, save in two respects. The Senate bill would have required an employer to make periodic self-inspections to be followed by a certification of the results to the Secretary of Labor. This would have faced an employer with the unfortunate choice of admitting a violation of a standard which would have subjected him to a citation under the act or subjecting himself to a charge of having made a false statement if he did not accurately report the condition or situation that was a violation of a standard under this act. The conferees adopted the principle of self-inspection. The Secretary may now provide for such self-inspection by regulation, but no certification of the results may be required.

Under the provisions of the Senate bill both a management and an employee representative had to be given an opportunity to accompany an inspector. The conferees adopted this principle rather than the provision of the House amendment under which an employee representative would have been given the opportunity to accompany an inspector only if the employer or his representative also accompanied the inspector.

CITATIONS FOR VIOLATIONS

The Senate bill provided that if, upon inspection or investigation, the Secretary or his authorized representative "determines" that an employer has violated mandatory requirements under the act, he shall "forthwith" issue a citation. The House amendment provided that if on the basis of any inspection or investigation the Secretary "believes" that an employer has violated such requirements, he shall issue a citation to the employer. The conference report provides that if the Secretary "believes" that an employer has violated such requirements he shall issue the citation with "reasonable promptness." In the absence of exceptional circumstances any delay is not expected to exceed 72 hours from the time the violation is detected by the inspector.

The Senate bill kept separate the proceedings for the issuance of the citation from those with respect to the imposition of penalties for violations. The House amendment combined proposed penalties with the issuance of the citation. The conference report follows the provisions of the Senate bill in this respect.

The House amendment prohibited issuance of a citation more than 3 months after the occurrence of any violation. The Senate bill had no such statute of limitations. The Senate receded with an amendment changing the 3 months to 6 months.

The Senate bill gave employees the right to appeal the time allowed for abatement of a violation and provided that the Commission should prescribe rules of procedure giving employees the opportunity to participate as parties. The House amendment restricted the right of appeal in such cases to the employer. The House receded with an amendment which provides that the employer shall have a right to reopen the proceedings for a rehearing in the event it is impossible to comply with the abatement re-

quirements with the period provided for in the citation.

JUDICIAL PROCEEDINGS

Both the Senate bill and the House amendment provided for judicial review of Commission decisions. The Senate bill provided appeal rights to any person adversely affected or aggrieved by an order of the Commission. The House amendment limited appeal rights to the employer and the Secretary. The House amendment provided for judicial review in the court of appeals for the circuit where the violation occurred or where the employer had his principal office. The Senate bill also permitted review in the District of Columbia Court of Appeals. The House receded.

The Senate bill provided for administrative action to obtain relief for an employee discriminated against for asserting rights under this act, including reinstatement with back pay. The House bill contained no provision for obtaining such administrative relief; rather it provided civil and criminal penalties for employers who discriminate against employees in such cases. With respect to the first matter, the House receded with an amendment making specific the jurisdiction of the district courts for proceedings brought by the Secretary to restrain violations and other appropriate relief. With respect to the second matter dealing with civil and criminal penalties for employers, the House receded.

PENALTIES

The Senate bill provided that there shall be assessed a civil penalty of not more than $1,000 for each violation. The House amendment was similar unless the violation was determined not to be of a serious nature in which case a civil penalty of up to $1,000 was discretionary. The Senate bill provided for civil penalties of not more than $1,000 for each day in which an imminent danger order or final order of the Commission was violated. The House amendment also provided for a penalty of up to $1,000 for each day in which an order which has become final was violated. The Senate receded on each point.

The Senate bill provided criminal penalties for willful violations—not more than $10,000 and/or 6 months doubled after first conviction. The House amendment provided for a civil penalty of up to $10,000 for willful or repeated violations. The Senate receded on civil penalties and the House receded on criminal penalties with an amendment which requires that the willful violation of the standard or the rule, regulation or order result in death to an employee, for the employer to be subject to the criminal penalties provided in the subsection.

The House amendment provided no penalty for giving advance notice of any inspection to be conducted under the act. The Senate bill provided a fine not to exceed $1,000 and imprisonment for not more than 6 months or both for giving advanced notice. The House receded.

PROCEDURES TO COUNTERACT IMMINENT DANGERS

The Senate bill authorized the Secretary to seek a court order to remove or correct an imminent danger and require the withdrawal of endangered persons other than "those necessary to correct the danger, maintain the operating capacity of a continuous process operation or permit a safe and orderly shutdown." The Senate bill contained no limitation on the duration of such a temporary restraining order, although the 10-day limit in the FRCP was applicable. The Senate bill permitted the Secretary to issue an administrative imminent danger shutdown order where there was insufficient time to obtain a court order. The House amendment authorized the Secretary to seek court orders to restrain conditions or practices which caused imminent dangers. A temporary restraining order under the House amendment was to remain in effect only 5 days. The House amendment contained no provision permitting the Secretary to issue an administrative imminent danger order. The Senate receded with an amendment adopting with minor changes the limitations on court authority mentioned in the quotation above.

EFFECT ON OTHER LAWS

There was a major difference in the two bills in the treatment of the proposed effect on other preexisting health and safety statutes. I think it appropriate to quote the conference report on this point.

The Senate bill said the act should not apply to working conditions with respect to which other Federal agencies exercise statutory authority affecting occupational safety and health, while the House amendment excluded employees whose working conditions were so regulated. The House language had an additional exclusion relating to employees whose safety and health were regulated by State agencies acting under section 274 of the Atomic Energy Act of 1954. The House receded on the first point; the Senate receded on the second.

The Senate bill provided that safety standards under any law administered by the Secretary of Labor—Walsh-Healy, Service Contract Act, Construction Safety Act, Arts and Humanities Act, and Longshore Safety—would be superseded when more effective standards are promulgated under this act, but until then they were deemed standards under the present act. The enforcement process of this act was thus added to the enforcement procedures of those other acts. The House amendment repealed and rescinded standards under the Walsh-Healy, the Service Contracts, and the Arts and Humanities Acts. All construction industry employers were exempted from this act and the entire industry brought under the Construction Safety Act. That act was amended to make the enforcement provisions of this act applicable. Unlike the Senate bill which left the hearing of contract violation cases with the Secretary, the House amendment provided the hearing of such cases by the Safety and Health Commission. The House receded.

The conferees intend that the Secretary develop health and safety standards for construction workers covered by Public Law 91-54 pursuant to the provisions of that law and that he use the same mechanisms and resources for the development of health and safety standards for all the other construction workers newly covered by this act, including those engaged in alterations, repairs, painting and/or decorating.

It is understood by the conferees that in any enforcement proceedings brought under either this act or under such other acts, the principle of collateral estoppel will apply.

The Secretary was intended to have alternatives available to him. That is he may elect to pursue the procedure for enforcement laid out in either act and may seek to have imposed the penalty authorized by either act. He may not, however, pursue enforcement under one act and then—whether having failed or succeeded—attempt to pursue the procedure provided in the other act. The provisions for contract termination and blacklisting may be applied, of course, in appropriate cases and their imposition will not preclude the possibility of a civil penalty, in addition.

DUTIES OF EMPLOYERS AND EMPLOYEES

The Senate bill required workplaces to be free from "recognized hazards." The House amendment required such places to be free from "any hazards which are readily apparent and are causing or likely to cause death or serious bodily harm." The House provision was adopted with the Senate's "recognized hazard" term replacing the House's "readily apparent hazard."

The Senate bill required each employee to comply with occupational health and safety standards and the rules, regulations, and orders issued under this act. The House amendment had no comparable provision. The House receded.

The Senate bill made provision for the establishment of a National Institute for Occupational Safety and Health, and also established a National Commission on State Workmen's Compensation Laws, the latter to undertake a study and evaluation of the effectiveness of workmen's compensation statutes. Both the Institute and the Commission were accepted by the conference.

There are other less important differences as to which the Members can enlighten themselves by reading the CONGRESSIONAL RECORD of this morning at page 41965 through page 41978.

May I say in conclusion that I never have been more proud of the work of any conference than I am of this one. I urge my colleagues to lend their support to this most important legislation.

Mr. PERKINS. Mr. Speaker, I yield 10 minutes to the distinguished gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Speaker, I join the overwhelming majority of my colleagues who signed the conference report on the occupational safety and health legislation in urging its approval.

Many months ago, in the minority views on the safety and health bill reported by our committee, we declared, and I quote:

We had every confidence that in this session of Congress we would see the enactment of effective Federal legislation to bring about safe and more healthful working conditions in this country. That confidence was

born of the fact of President Nixon's having recommended this legislation in three separate messages to Congress, including a special one devoted exclusively to the urgent and unique problem of job safety and health.

Our hope was sustained over the months by clear indications from majority members that while reasonable men might differ, any differences could be worked out so that we might achieve the goal of enacting a genuinely effective law to reduce job hazards.

I feel that in the conference report before us we have not only achieved that goal, but also produced a measure, which to a substantial degree, is consistent with the recommendations of President Nixon.

Most of the factors essential to a satisfactory occupational safety and health law are included in the conference report. It establishes a mechanism for creating a body of effective safety and health standards appropriate to each category of American enterprise. But it also provides for many immediate safeguards while these standards are being developed, as well as expedited procedures for dealing with emergency situations. Imminent dangers likely to cause death or serious harm if their elimination is not undertaken quickly are more than adequately taken care of.

Nevertheless, despite the scope of these provisions, due process is jealously maintained throughout. At every stage of the procedures which the measure provides, employers are given every necessary opportunity to present their position, not only through the administrative mechanisms of hearings, grants of variances, and extensions of time for compliance, but through judicial review by the Federal courts.

The report also permits the States to develop and administer their own safety and health program where these are consistent with the requirements laid down in the measure. Moreover, financial aid is authorized for such States as meet these requirements, and small business loans are made available to employers who need such assistance in rendering their work places safe and healthful. The gathering of meaningful statistics and provisions for research into the casual connections between work and health and safety are not ignored, but to the contrary occupy a significant place among the programs contemplated by this legislation.

Mr Speaker, it pleases me a great deal to advise the House, that the measure now before us has the complete support of the President and his administration. Immediately following the termination of the deliberations of the House and Senate conferees I received the following letter from the Secretary of Labor:

DEAR CONGRESSMAN QUIE: I wish to convey to you and the members of Congress the Administration's support for the Occupational Health and Safety legislation reported by the Conference Committee last evening.

In my judgment this bill reflects the major positions taken by this Administration during the entire legislative process and represents a significant achievement in the field of health and safety for America's working men and women.

Specifically I am enthusiastic about the significant steps taken by the Congress to provide for fair procedures by means of the establishment of the Occupational Safety and Health Review Commission as an independent adjudicatory body and by the bill's exclusive court procedure for the restraining of conditions constituting an imminent danger to health and safety. In addition, I intend to utilize the expertise made available under the legislation through the use of advisory boards in the establishment of health and safety standards. The important addition of a new Assistant Secretary for Health and Safety in this Department is a contribution which this Administration intends to exploit to its fullest by the appointment of an outstanding executive to fill that post.

The efforts of both Houses of Congress and the constructive compromise struck by their conferees have resulted in meaningful legislation which I am proud to support.

Sincerely,

JAMES D. HODGSON,
Secretary of Labor.

I believe it is a good compromise. I do not believe it is the best compromise that we could have secured. Rather than going into the various parts of the compromise which the chairman went into, and which I believe the gentleman from Wisconsin (Mr. STEIGER)—who did such an outstanding job on the Republican side—will also go into, I would like to just talk a little bit about conference committees and how we operate over there.

As you know, the President yesterday vetoed the manpower and public service employment bill. He vetoed it because we did not reach as good an agreement as we should have in the conference committee. Had we reached an adequate compromise, not demanding the position of the House but an adequate compromise on the public service employment portion of that bill, I do not believe there would have been a veto.

Now, we came close enough here on a good compromise so I doubt there would be a veto, because, as I say, obviously the administration strongly supports this bill, but I do believe we could have come a little closer to the position of the House if in one instance the House conferees had stood by the position of the House. And this is what the Senate expected us to do, first, before they would compromise on that question of the Secretary of Labor setting standards, or a board of experts setting standards. As you know, we gave in, and there is no provision for a board of experts setting standards.

The Secretary of Labor will be, as now in the conference report, setting standards. However, he can appoint advisory committees to help him devise the proper standards. This he is ready to do.

Since the House did not at that time vote to stand by the House position we then could not secure a compromise offer on the part of the Senate which they were ready to do.

Now, that has happened on more than one occasion. I mentioned it on the manpower and public service employment bill.

Now, I raise this to my colleagues in the House because I think there is a problem that confronts us when Members of the Congress who are conferees who personally do not agree with the action of the House do not stand by the action of the House. The Senator from New York, who serves on the conference committee, is a good example of the way House conferees should conduct themselves. He has many times stated that he stood by the position of the Senate even though he did not personally agree with it. It makes a problem, as you know, when the Senators stand adamantly by the position of the Senate, but House conferees cave easily and accept the Senate position without compromise.

I just mention that point because I think we should bear this in mind, because many times in the future the House Committee on Education and Labor members will be going to conference. It may be necessary to instruct the conferees before they go. I raise the point because the House may end up with an EEOC bill before we adjourn, and we may need to instruct the conferees, if that happens.

I will yield to the gentleman from Kentucky (Mr. PERKINS) if the gentleman wants to respond to that.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. QUIE. I yield to the gentleman.

Mr. PERKINS. Mr. Speaker, I do not think the inference should be left with the Members of the House that the chairman of the conferees deserted the House position.

Mr. QUIE. No, I would say to my colleagues that on this occupational and health and safety bill, the chairman of the committee stood by the position of the House. In fact it was the leadership of the chairman of the committee that enabled us to come back with this good compromise and in this regard, I say it is a good compromise. He took it upon himself to stand by the position of the House. I know many Members on our side were wondering after the Steiger-Sikes substitute was adopted whether the chairman would or not. We were pleased that he did, and very strongly.

There is no criticism at all of the chairman on this bill. But if at least one other on his side had supported him an even better compromise would have been before us.

I just want to raise it now so that it can be discussed. Legislative reform has passed but we may have to take some action on this in the future.

Mr. STEIGER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. QUIE. I yield to the gentleman.

Mr. STEIGER of Wisconsin. Mr. Speaker, I want to join with the distinguished gentleman from Minnesota. I think he is correct in his analysis. I do think it is important for the House to know two things. One—and in this I completely agree with the gentleman from Minnesota—that in this conference committee the distinguished chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS) did, in fact, do an outstanding job in working to hold to the House position. I think the House owes to him a debt of gratitude for his posture in this conference.

But, second, it is also quite clear that the Committee on Education and Labor tends to operate as a free agent in a conference committee, and it does not tend at least on the part of the majority of the conferees on the majority side to act in behalf of the position of the House—but it tends to act on its own behalf or

within its own framework of reference. That is the problem about which the House must be concerned, in my judgment, and I think the gentleman from Minnesota has done a service to the House in raising it today on this particular conference report.

Mr. QUIE. I would say that I want to raise it on this conference report which I accept and I have no feeling of being critical of the chairman of the committee when I raised it because I can assure the Members that we would not have got a conference report even with the six out of eight Republicans who signed the conference report, if it had not been for his leadership.

Mr. SCHERLE. Mr. Speaker, will the gentleman yield?

Mr. QUIE. I yield to the gentleman.

Mr. SCHERLE. Mr. Speaker, I would like to take this opportunity to pursue the colloquy concerning the decision made by the conferees regarding occupational health and safety.

I, too, have noticed the discrepancy when conferees of the House do meet with the other body that we have a tendency of capitulating on almost everything in contention. We did it on manpower—we've done it on numerous other matters of disagreement. Without trying to castigate anybody for what happened, I do think that this side of the aisle, once we saw what was happening in the conference committee, should have determindley maintained the position of the House and declined to sign the conference report, our committee should have insisted on a facsimile of the fine substitute that was authored by the gentleman from Wisconsin (Mr. STEIGER) and the gentleman from Florida (Mr. SIKES).

We did not salvage a blessed thing in conference and I believe we will really be doing the people of this country a disservice if we adopt the conference report today.

Mr. QUIE. Mr. Speaker, I know the gentleman from Iowa feels that way about it. But the point is that in signing the conference report, others of us feel this was a good enough compromise to bring back.

As I mentioned, I think we could have and should have done better on the House position. But some of the most important parts of this legislation passed in the House did prevail. The question really comes to whether it should be the Secretary of Labor or the Board who sets standards. There is a deep feeling about that, but I do not think the difference is as great as some of the more substantive parts of the bill—where the House position prevailed—and on those I was very pleased.

Mr. HENDERSON. Mr. Speaker, will the gentleman yield?

Mr. QUIE. I yield to the gentleman.

Mr. HENDERSON. Mr. Speaker, I would like to ask the gentleman if the conference report provides for 35 supergrade positions for new functions authorized in the legislation.

Mr. QUIE. I yield to the gentleman from Wisconsin (Mr. STEIGER) to answer that question in detail, but my understanding is that the answer is in the affirmative.

Mr. STEIGER of Wisconsin. Section 30 of the conference report which is found on page 41974 of the CONGRESSIONAL RECORD does list the additional supergrade positions. This was a provision found not in the House bill but the bill that passed the other body, and the House acceded to the Senate positon. There is, in addition to that, section 29, an addition to the Secretary of Labor. That, too, was in the Senate version and not in the House version.

Mr. HENDERSON. Mr. Speaker, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from North Carolina.

Mr. HENDERSON. I think it is time and timely that as chairman of the Manpower and Civil Service Subcommittee, which has the responsibility for authorizing supergrades for the various departments and agencies through the Civil Service Commission, I point out that if this is going to be the procedure, the Department of Labor, which will get these additional 35, will be called before our subcommittee and thier entire supergrade structure reviewed next year. I thank the gentleman for yielding.

Mr. QUIE. I imagine they will note the gentleman's statement in the RECORD.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr QUIE. I yield to the gentleman from Iowa.

Mr. GROSS. As a member of the subcommittee chaired by the gentleman from North Carolina (Mr. HENDERSON), I want to join in his comments and say to the gentleman that I think the House conferees exceeded their authority in sticking 35 supergrades in this bill and, as far as I am concerned, our subcommittee will do anything and everything possible to eliminate 35 supergrades here provided.

Mr. PERKINS. Mr. Speaker, I yield 10 minutes to the distinguished author of the bill, the gentleman from New Jersey (Mr. DANIELS).

Mr. DANIELS of New Jersey. Mr. Speaker, I support the conference report on S. 2193, the first comprehensive job safety bill ever to be brought before this body for final passage. This is landmark legislation which directly affects the lives of America's 80 million workingmen and women.

S. 2193 will authorize the Secretary of Labor to set standards to assure safe and healthful working conditions for working men and women, to assist and encourage States to particpate in efforts to assure such working conditions, and to provide for research, information, education, and training in the field of occupational safety and health.

Fifteen days of hearings before the Select Subcommittee on Labor in this session vividly pointed out the urgent need to end the carnage in our factories and farms which annually claims 14,500 lives and cause 2.2 million injuries. Passage of S. 2193 will emphasize the commitment of the Federal Government to insure that America's workers will be able to work in surroundings free from hazards and insidious pollutants.

There were 105 points of disagreement between the House and Senate versions of S. 2193 when the bills went into conference. The conferees spent 5 days working to find the fair and reasonable compromise contained in this conference report.

During debate on the House floor we heard fears expressed that if much authority under the act were vested in the Secretary of Labor, he could be policeman, judge and jury. Mindful of the House concern, the conferees agreed that the Secretary of Labor would only promulgate occupational safety and health standards and issue citations with reasonable promptness when he believes that an employer has committed a violation.

An occupational safety and health review commission composed of three members appointed by the President for 6-year terms is charged with the responsibility to hear appeals and set penalties for violations.

As an additional safeguard of the rights of employers and employees, the conference report provides for judicial review of commission decisions in the court of appeals. The review criteria is based on substantial evidence, thus guaranteeing to all parties adequate due process of law.

The Senate bill provides for administrative closing of worksites for 72 hours without a court order in cases where an inspector determines an imminent danger exists. The House Conferees, cognizant of the concern of its Members over arbitrary action by inspectors, insisted on the House language requiring the Secretary to obtain a court order before any worksite can be closed.

Another point where the Senate bill and House amendment differed was in the case of penalties. The Senate version included mandatory penalties for all violations which were not of a de minimis nature. The House bill had provisions for both mandatory and discretionary penalties for violations. Again, your managers retained the House version.

Where the Senate provided for criminal penalties for willful violations, the House amendment provided for no such criminal procedures. However, in conference it was resolved that the only criminal penalties would be for a willful violation of standards, rules, regulations or orders resulting in the death of an employee.

The conference report presented to this body today emphasizes the preventative rather than the punitive aspect of job safety regulation. Your managers are most pleased that the legislation includes excellent provisions for research into health hazards, for monitoring pollutant levels, for a national institute for occupational safety and health, and for a national commission to undertake an effective study and objective evaluation of state workmen's compensation laws and report its findings and recommendations to the Congress and the President no later than July 31, 1972.

Mr. Speaker, the House of Representatives has an opportunity today to approve the conference report on S. 2193 and set in operation the first omnibus job safety and health law in this Nation's history. The conference report is a fair and reasonable compromise with

the matters in difference between the Senate and House passed bills, and we present to this body an equitable and balanced occupational safety and health bill which I strongly support. I trust that this conference report will meet with the unanimous approval of all of my colleagues.

Mr. BURTON of California. Mr. Speaker, will the gentleman yield?

Mr. DANIELS of New Jersey. I am happy to yield to the gentleman from California, who has worked so long and hard on this very important legislation.

Mr. BURTON of California. I would like at this point in the deliberations to commend our distinguished colleague from New Jersey, Congressman DANIELS.

The passage of the Daniels occupational health and safety bill will certainly be recorded as landmark legislation in terms of improving the well-being of the men and women of this country. No one man can be credited any more than our able and hard-working and effective chairman, the gentleman from New Jersey, the Honorable DOMINICK DANIELS.

Mr. DANIELS of New Jersey. Mr. Speaker, I thank the gentleman from California for his kind remarks.

Mr. Speaker, I would like to take this opportunity to commend all the members of my subcommittee for their work and their contribution in bringing about this very important piece of legislation for America's working men and women. Particularly I would like to commend the distinguished gentleman from Kentucky, the chairman of the full Committee on Education and Labor, the Honorable Mr. PERKINS, for his leadership in conference and in bringing about a reasonable settlement of the matters in dispute between both bodies.

In addition thereto, I would like to single out several members of the conference who did yeoman work in bringing this conference report to us today, including the gentleman from Maine (Mr. HATHAWAY) the gentleman from California (Mr. BURTON) and the gentleman from Wisconsin (Mr. STEIGER) our distinguished colleague who made many valuable contributions and whose imprint is found throughout this legislation.

I also wish to commend the distinguished gentleman from Minnesota, Mr. QUIE.

I would like to mention the names of all the members, but the particular gentlemen whose names I have mentioned have worked most diligently in bringing about this conference report.

Mr. AYRES. Mr. Speaker, it is indeed gratifying that after the arduous labors of the past 3 years we have finally succeeded in passing a Federal occupational safety and health statute which reflects a broad consensus among the Members of both Houses of Congress. In my opinion, and I am certain that opinion is shared by most of us, the conference report approved in this Chamber and in the other body, will prove a highly effective measure in providing strong protections for our Nation's workers as they face the hazards which now accompany every industrial occupation. And what is equally important, these protections will be achieved without sacrificing due process.

Those whom the new measure will require to adhere to safety and health standards prescribed by the Federal Government, the employers of America, are treated with both realism and equity in the procedures by which the statute will be administered. No impossible demands are made upon them—and where impossibilities of compliance arise, means exist for dealing with the problem. I congratulate my fellow committee members on the ingenuity with which they resolved some of these difficulties.

Above all, I wish to emphasize that the new measure also represents the attainment of a goal sought by our President from almost the beginning of his administration. A substantial portion of its specific provisions are entirely consistent with the President's recommendations both in principle and often in detail. And I am delighted that the administration, speaking through the Secretary of Labor, gave its unqualified approval and support to the results produced by the House and Senate conferees. This assures that their report will become law, and thus that our country will have taken a giant step forward in making the place where the American worker spends a large part of his life, as safe and as healthful as human intelligence and good will can make it.

Mr. PERKINS. Mr. Speaker, I yield 10 minutes to the distinguished gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER of Wisconsin. Mr. Speaker, I appreciate the distinguished gentleman from Kentucky, the chairman of the committee, yielding this time.

When the House considered the occupational health and safety bill, the distinguished gentleman from Florida (Mr. SIKES) and I had before this House a substitute bill for that reported by the Committee on Education and Labor.

The House, as all Members are aware, adopted the so-called Steiger-Sikes substitute by a vote of 220 to 172. What we have before us in this conference report I believe is a legitimate and honest compromise between the so-called Williams bill as adopted by the other body and the Steiger-Sikes substitute adopted in the House.

There is more than enough credit to go around to Members on both sides of the aisle and to those like the Secretary of Labor and his Under Secretary, and to the President, who have called for and consistently worked for this legislation.

It is fair to say, Mr. Speaker, I believe, that there is no more important labor bill in this session of Congress than this one. The conference report contains many of the provisions of the bill which the gentleman from Florida (Mr. SIKES) and I introduced in September and which did pass this body.

The conference committee reported the bill will provide a fair and effective means for the setting of and enforcing of standards and, among other provisions, much needed research in the area of occupational safety and health, diseases and injuries. In reflecting the wishes of the House in regard to the important substantive provision of the bill, with the exception of the standard setting board, the conference committee bill does contain provisions which are either identical to or substantially the same as the House-passed bill in the area of the general duty requirement, the test for judicial review of standards, the issuance of citations, the imminent danger provisions, the penalty provisions, and the establishment of an independent occupational safety and health appeals commission to handle administrative adjudications.

Mr. KYL. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. I am happy to yield to the gentleman from Iowa.

Mr. KYL. Will the gentleman from Wisconsin take just a moment to evaluate the provisions of this act as they relate to the construction industry?

Mr. STEIGER of Wisconsin. I shall be happy to.

As the gentleman knows, in the House-passed bill we had a provision which would have had all construction handled under Public Law 91–54, the Construction Safety Act. The conference committee recommendation is not as good, in my judgment, as that passed by the House. In fact, of all industries in this Nation the construction industry is treated less well under the provisions of the conference report.

I would refer the gentleman from Iowa to page 41975, in which there is a discussion of the construction safety concept.

What we have now under this conference report is, first, the continuation of the Construction Safety Act, Public Law 91–54, to cover contractors who have Government contracts. Then we have this omnibus safety and health bill to cover all non-Government contracts.

There is a danger of there being dual standards and a duplicating enforcement procedure. But I believe the conference report, may I say to the gentleman from Iowa, has a protection, particularly in the language I will read now:

> The conferees intend that the Secretary develop health and safety standards for construction workers covered by Public Law 91–54 pursuant to the provisions of that law and that he use the same mechanisms and resources for the development of health and safety standards for all the other construction workers newly covered by this Act, including those engaged in alterations, repairs, painting and/or decorating.

The report goes on to say:

> It is understood by the Conferees that in any enforcement proceedings brought under either this Act or under such other Acts, the principle of collateral estoppel will apply.

So one cannot go one route and then change his mind and decide he wants to go another.

Mr. KYL. Mr. Speaker, will the gentleman yield further?

Mr. STEIGER of Wisconsin. I am happy to yield further.

Mr. KYL. Would the gentleman in the well and the chairman of the committee go so far at this point as to say in the RECORD that it is the purpose, the intent of the committee of conference to indicate to the administrative branch that there should be no duplication and

that the dual law now on the books so far as construction is concerned must be treated administratively so there is no undue burden placed upon this one industry.

Mr. STEIGER of Wisconsin. I would answer the gentleman from Iowa by saying yes. It would be my best judgment that it is the intent of the conferees—and the distinguished gentleman from Kentucky can correct me if he disagrees—first, there should be no duplication; second, there should be as little burden on that industry in terms of how it is operated as there is on any other industry; and third, I think we should all agree that the Secretary of Labor in working with the advisory committee created under Public Law 91–54 can work toward an effective coordination between the two acts.

Mr. PERKINS. Mr. Speaker, will the gentleman yield to me?

Mr. STEIGER of Wisconsin. I yield to the chairman.

Mr. PERKINS. I think the gentleman from Wisconsin has correctly stated the intent of the conferees. We did not take the House provision on construction safety but took the Senate provision. At the same time we used language in the statement of the managers to make clear that with respect to the imposition of penalties for the violation of a standard promulgated, pursuant to Public Law 91–54 by an employer covered by that act where the Secretary proceeded under one act and failed—or succeeded—he then could not resort to the penalty proceedings in the other act with respect to a construction contractor covered by Public Law 91–54.

Mr. SCHERLE. Will my distinguished colleague yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Iowa.

Mr. SCHERLE. Is my understanding correct that if the Secretary of Labor assesses a civil penalty or if under the jurisdiction of the court there is a criminal penalty for a violation of a Government construction contract, the provisions of the occupational health and safety bill 2193 will apply?

Mr. STEIGER of Wisconsin. If I understood the gentleman's question correctly, you are asking me if there is a civil penalty. Is that correct?

Mr. SCHERLE. In one case and, of course, a criminal penalty if it is so adjudicated by a court.

Mr. STEIGER of Wisconsin. I am not sure I can correctly answer you. Let us back up for a minute. As we have drafted the conference report, the Secretary makes a choice. He can decide in the case of a Government contract to rely exclusively on Public Law 91–54, in which case he goes into court for an adjudication of the penalty. Non-Government contracts are covered under the omnibus act.

The gentleman from New Jersey was seeking recognition in order to clarify that further.

Mr. SCHERLE. If my colleague from Wisconsin will yield, I would like to continue this colloquy with the gentleman from New Jersey for the primary reason of establishing legislative history. Would the gentleman from New Jersey care to reply?

Mr. DANIELS of New Jersey. I would like to point out that the Senate version in the Senate bill contains civil as well as criminal penalties for violation of standards. The House bill merely provided for civil penalties and only a criminal penalty for willful violation. As a result of a compromise, the conferees agreed on civil penalties only and a criminal penalty of $10,000 and/or 6 months in prison on the first conviction and $20,000 and 1 year on a conviction after that but only if the violation results in the death of an employee.

Mr. STEIGER of Wisconsin. May I say that that does not answer the distinguished gentleman from Iowa's question. What he is interested in is the question as to whether or not if there is a civil penalty applied for a Government construction contract firm, then where does he go?

Mr. SCHERLE. Will this be under the Construction Safety Act or will it be adjudicated under the occupational health and safety bill, which is compromise legislation?

Mr. DANIELS of New Jersey. If the Secretary proceeds under the Government Construction Health and Safety Act, then it is confined to that act.

I think the gentleman from Wisconsin answered that question earlier that if the Secretary——

The SPEAKER pro tempore. The time of the gentleman from Wisconsin has expired.

Mr. PERKINS. Mr. Speaker, I yield the distinguished gentleman 5 additional minutes.

Mr. DANIELS of New Jersey. If the Secretary elects to proceed under the construction public safety provision and a decision is made thereunder, it becomes more or less res adjudicata so far as proceeding under this particular bill that we are considering today.

Mr. SCHERLE. Mr. Speaker, if the gentleman from Wisconsin will yield further, and in order to simplify my question, I am trying to find out if the Secretary of Labor assesses a civil penalty for a violation under a Government construction contract, does adjudication apply to this compromise legislation?

Mr. STEIGER of Wisconsin. My answer to the gentleman is that the Secretary does not apply penalties. He decides either to use Public Law 91–54, which is the courts, or he decides to go the route of this bill which is the Commission. He cannot go both ways. The construction industry in my judgment would be treated in a manner that ensures that he makes a decision whichever way he wants to go. The Secretary does the inspection, but the Commission would have to enforce it and assess a civil penalty for a violation of the standards.

Mr. SCHERLE. And, would that be covered under this compromise legislation?

Mr. STEIGER of Wisconsin. He can proceed under this act; that is correct.

Mr. SCHERLE. And the construction industry would be entirely removed from the legislation which is now law with reference to construction safety?

Mr. STEIGER of Wisconsin. No; they would not be removed, but the Secretary has the choice as to which route he wants to take. That is why I do not think the construction industry was treated equitably under the conference report.

Mr. SCHERLE. Let me say in conclusion that I feel sorry for the construction industry, particularly the way they were treated in this conference committee. I would hope that some decisive legislation will be implemented shortly after the next Congress convenes to establish uniform standards so at least these unfortunate people will know exactly where they stand and what they can expect insofar as rules, regulations and guidelines are concerned.

Mr. STEIGER of Wisconsin. I think it is the express intent of the conference that the Secretary of Labor will proceed initially under this act; and the Commission's findings of fact will be binding upon the Secretary as well as upon the employer in determining whether an additional remedy should be imposed pursuant to other statutory authority.

Mr. HATHAWAY. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. Yes, I am happy to yield to the gentleman from Maine.

Mr. HATHAWAY. I want to make one observation on the construction safety occupational health and safety operation. I presume that the Secretary in the case posed by the gentleman from Iowa (Mr. SCHERLE) could get an injunction under one of the sections of this bill and could have a contract canceled and still have a civil penalty imposed by the Commission. But under the doctrine of collateral estoppel if he lost an issue in any one of these tribunals he would forever be barred from raising that issue again. Am I correct in that observation?

Mr. STEIGER of Wisconsin. That is correct. I do not think there is any question about it.

May I say, Mr. Speaker, in the remaining moments of my own time that there is much else that deserves comment. I shall include in my remarks, following the remarks delivered here on the floor, an analysis of some of the specific provisions of the conference report.

Mr. Speaker, on balance, I am satisfied that the conference report is closer to the House bill than that passed by the other body, that it upholds the most important concepts contained in the so-called Steiger-Sikes substitute and it is for that reason that this conference report ought to be adopted today and quickly signed into law by the President of the United States.

Mr. PERKINS. Mr. Speaker, will the gentleman yield to me?

Mr. STEIGER of Wisconsin. Certainly.

Mr. PERKINS. Mr. Speaker, I feel that I would really be derelict if I failed to compliment the distinguished gentleman from Wisconsin for his untiring persevering efforts in trying to bring the best legislation possible to this Chamber.

The work that the gentleman has put forth in connection with the Occupational Health and Safety Act was impressive. He helped as much as any other

Member in this Chamber to bring it about.

Mr. STEIGER of Wisconsin. I thank the gentleman for his gracious comments.

Mr. Speaker, in this session of Congress the House and Senate have passed for the first time in our Nation's history comprehensive occupational safety and health legislation. The conference committee reported bill, which is now before the House, represents an unprecedented response by Congress to the need to help save the lives and protect the health of the working men and women throughout this great Nation.

One of the primary purposes of the bill is to set up a mechanism by which fair and effective occupational safety and health standards can be promulgated so that the many employers and employees throughout the Nation may be guided in their attempts to establish and maintain a safe and healthful work environment.

The conference reported bill is clearly based on the premise of this House that it is with the cooperation of both employers and employees that the act can most effectively meet the challenge of reducing and perhaps eliminating most of the occupational deaths, tragic injuries and diseases which take a large annual toll in terms of the human suffering and loss to the economy caused by these tragedies.

I feel that the conference reported bill is basically sound and provides fair and adequate procedures for the development of standards and their enforcement; I urge the House to vote favorably for the adoption of the conference reported bill.

APPLICABILITY

The coverage of this bill is as broad, generally speaking, as the authority vested in the Federal Government by the commerce clause of the Constitution. The terms of this bill will apply to all businesses having an effect on commerce except where another Federal agency other than the Department of Labor is exercising statutory authority to prescribe or enforce occupational safety and health standards or regulations. The bill also provides that occupational safety and health standards published under the various procurement laws and the Maritime Safety Act, which are administered by the Department of Labor, shall remain standards under those acts, at least for the time being. It is not the intent of the draftsmen of this legislation that double proceedings occur under one of those acts and under the omnibus Occupational Safety and Health Act which we are considering here today. For example, a proceeding could be pending before the Secretary of Labor for safety violations under the Construction Safety Act while at the same time a proceeding is pending before the Occupational Safety and Health Review Commission under the comprehensive Occupational Safety and Health Act.

Let me add a comment on what may appear to be an inconsistency between the last sentence of section 4(b)(2) and the expedited procedures set out in section 6 to adopt early interim standards. The last sentence in section 4(b)(2) is included to insure that standards under existing laws will not be repealed by this enactment and will remain effective until superseded by the promulgation of standards under section 6a. At that time the newly promulgated standards will become standards under this Act and existing laws, thereby preserving remedies available under existing laws. To construe this provision otherwise would be to make the early standards-setting procedures in section 6(a) meaningless or a mere redundancy.

DUTIES

The conference bill takes the approach of this House to the general duty requirement that an employer maintain a safe and healthful working environment. The conference-reported bill recognizes the need for such a provision where there is no existing specific standard applicable to a given situation. However, this requirement is made realistic by its application only to situations where there are "recognized hazards" which are likely to cause or are causing serious injury or death. Such hazards are the type that can readily be detected on the basis of the basic human senses. Hazards which require technical or testing devices to detect them are not intended to be within the scope of the general duty requirement. It is also clear that the general duty requirement should not be used to set ad hoc standards. The bill already provides procedures for establishing temporary emergency standards. It is expected that the general duty requirement will be relied upon infrequently and that primary reliance will be placed on specific standards which will be promulgated under the act. After all, as I have already indicated, one of the primary purposes in enacting this legislation stems from the need to provide employers with health standards so that they might better protect the health and safety of the worker by providing the necessary machinery and protective devices in the workplace.

STANDARDS

The conference committee-reported bill provides for the promulgation of early standards by the Secretary of Labor without any hearing. However, these early standards would be limited to national consensus standards and established Federal standards. These early standards could only be adopted pursuant to the authority in section 6(a) within the first 2 years following the day of enactment, and when adopted, would become effective immediately upon publication in the Federal Register.

The permanent standard-setting machinery is contained in the conference committee bill under section 6(b). The provisions require the Secretary to establish permanent standards by rule. It is contemplated by the draftsmen that the Secretary will base his decision upon a record which has been contributed to by public and private organizations as well as interested individuals. The permanent standard-setting machinery provides for a hearing upon request of an interested person following to judicial review, as are other standards promulgated under section 6, by an appropriate Federal court of appeals. The Secretary's standard will only be sustained by the court if it is supported by "substantial evidence on the record considered as a whole." Thus, the Secretary must have a record upon which to base his findings and to serve as the basis for judicial review. The act does not provide for an independent board for standard-setting as did the House bill. However, the court review based upon substantial evidence provides a sufficient element of fairness to satisfy me that conference report should be accepted.

As in the House-passed bill, the conference committee reported bill provides that upon publication of a permanent standard, the Secretary may provide for a delay in the effective date of that standard. Such a delay may not exceed 90 days. However, this is not intended to exclude the possibility that a particular standard may provide for graduated requirements to take effect progressively on specific dates even though the intervals between the effective dates of such graduated requirements may exceed 90 days. For example, a standard applicable to a particular industry could provide that, 90 days after issuance, the sound level in the workplace may not exceed X decibels; that 6 months after issuance, the sound level may not exceed X–5 decibels; and that, 1 year after issuance, the sound level may not exceed X–10 decibels.

TEMPORARY EMERGENCY STANDARDS

Section 6(c) provides for the expedited procedure for promulgating emergency standards in accordance with the desires of this House. It is intended that this procedure not be utilized to circumvent the regular standard-setting procedures. It should be used only for those limited situations where such emergency standards are necessary because employees are exposed to grave danger from substances or agents determined to be toxic or physically harmful agents, or new hazards. Section 6(c)(1)(B) makes it clear that it is also necessary that the Secretary determine that such a standard is necessary to protect employees from such danger. Thus, where the state of the act is incomplete or in some way lacking so that a determination cannot be made as to whether such a standard will protect employees, in such instances the Secretary would utilize the regular standard-setting procedures as provided in subsection 6(b) and not the emergency standard-setting authority.

INSPECTIONS AND INVESTIGATIONS

Under the bill the Secretary of Labor would be responsible for conducting inspections and investigations. There are two particular provisions regarding inspections on which I will comment. Subsection 8(e) requires the Secretary, in inspecting a facility, to make use of the knowledge of employees or their representatives by allowing them to accompany him and/or consult with him throughout the inspection. This provision, as well as a similar provision in the House bill, is intended as a specific aid to the Secretary and should be utilized by him for that purpose.

Section 8(f)(1) applies to situations where employees or their representative believe, in good faith and on a reasonable basis, that a violation of a standard exists which threatens significant physical harm, or that an imminent danger exists. It is expected that the Secretary will use his good judgment in determining whether there are reasonable grounds to believe that a violation exists and will not permit this procedure to be used as an harassment device.

Section 8(f)(1) also requires the Secretary to conduct such inspections as soon as practicable. This language requires the Secretary to act expeditiously. It also is intended to prevent serious disruptions in the systematic conduct of the Secretary's inspection program.

There may be other priorities which involve violations of a serious nature that are known and must be processed ahead of a given employee-requested inspection.

ENFORCEMENT

After an inspection or investigation, a citation may be issued for a violation of any safety or health requirement of the act. In the Senate bill, this citation had to be issued "forthwith." The term, "forthwith," lent itself to an interpretation that would require the issuance of a citation on-the-spot before leaving the premises. The conference committee, however, changed this procedure to require the issuance of a citation with "reasonable promptness" after the completion of an investigation. The "reasonable promptness" standard will allow an investigator, before he issues a citation, to refer to regulations and guidelines issued by the Secretary, consider what is an appropriate abatement period in light of precedent, and consult with other officials about the facts of the case. The period, however, should be a brief interval between an inspection and the issuance of a citation, normally not exceeding 72 hours. The change brings the present language more in line with the citation provisions contained in the House bill.

Under the "penalties" provision, the distinction contained in the House bill between "serious" violations and "nonserious" violations is retained. Thus, there is no requirement that a penalty be assessed when the violation is not a serious one, but a penalty must be assessed where the violation is serious in nature.

ADVANCE NOTICE

The bill prohibits the giving of advance notice of an inspection "without authority from the Secretary or his designee," and violation of the provision carries a fine of not more than $1,000, or imprisonment of not more than 6 months, or both. It is clear from the language that giving advance notice of inspections is not prohibited where the Secretary believes such notice will further the interests of the act. However, there will be some cases where it will be important that no prior notice be given and therefore the penalty is provided for giving unauthorized notice.

PENALTY COLLECTION

It should also be made clear that the provision for judicial review and enforcement of the Commission's orders contained in section 11 are exclusive. Section 17(m) authorizing actions in the name of the United States for the collection of penalties should be construed narrowly and is intended to be limited to any collection process which may be necessary in order to actually collect the penalty.

RESEARCH AND TRAINING

As I mentioned at the outset, the need for research in the area of occupational injuries and diseases is one of the primary objectives to be achieved by this legislation. In accord with this objective, the conference bill provides, as did the House-passed bill, for extensive research by the Secretary of Health, Education, and Welfare. This broad authority is contained in section 20 of the bill and section 22 specifically provides for the creation of a National Institute for Occupational Safety and Health Research in the Department of Health, Education, and Welfare. Among other specific directives to the Secretary of Health, Education, and Welfare, the bill requires the Secretary of Health, Education, and Welfare to publish current listings of workplace related toxic substances. Such a list should be of significant assistance in providing the information necessary for a broad based attack on the problem.

I am proud to have been able to play a part in the development of this historic legislation. As I have indicated, my colleagues and our staffs in the Congress who have labored to produce this legislation deserve the thanks of all working men and women throughout our land. And foremost in the list of those who deserve credit for this legislation is President Nixon, who not only presented to the Congress his own comprehensive occupational safety and health legislation, but also on numerous occasions reminded the Congress of the urgency and necessity for such legislation.

I believe that special credit should also be given to the long and tireless efforts of the men charged with the primary responsibility for administering the law, Secretary of Labor James Hodgson, and Under Secretary Larry S. Iberman who have given strong endorsement to the conference report.

Mr. PERKINS. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Florida, Mr. SIKES.

Mr. SIKES. Mr. Speaker, again I pay my respects to my good friend, the distinguished gentleman from Wisconsin (Mr. STEIGER), for his long and arduous efforts to insure the passage of a good bill in this field.

Now, at the conclusion of a great deal of work by many people, the House is being asked to make a difficult choice. The bill which has been brought to us by the conferees is not—and I repeat—is not as good a bill as the bill which passed the House. That bill passed with a vote of 383 to 5, and that should have been reason enough for the conferees to insist on the House bill and bring it back to us, but this is not being done.

Let it be understood that the bill on which the conferees have agreed is a better bill than the bill reported by the House committee, and it is a better bill than the one passed by the Senate. Industry generally recognizes this, and is prepared to live with the results, but this bill is not as good as the House bill in many significant respects, and it is not clear in other respects, and that can prove to be a dangerous situation.

The bill has shortcomings which I think are serious. The plan in the House bill for a separate board of experts to administer the health and safety program has been dropped. That was one of the most important features of the House bill. It should be obvious that a better program would result from the establishment of such a board with the responsibility to give full consideration to the many important and manifold requirements of this program. Certainly it is preferable to placing this important and needed program under the Secretary of Labor, who already has a great many responsibilities and obligations.

There are other weaknesses. Some of them are acute. Some of them have been discussed. I want to stress the fact that the construction industry will now find itself operating under two health and accident safety programs, and it takes no wizard to comprehend the serious complexities of operating under two Government programs. It is almost inconceivable that this situation should be allowed to develop.

Unfortunately, the parliamentary situation is such that the House now is forced to vote for or against this bill rather than to send it back to conference. This is an unhappy state of affairs. Most of us are agreed that we want an accident, health, and safety program. Most of us have worked zealously to bring such a program into being. But many of us want a better bill than the one we now have before us. I find it difficult to accept the necessity for completing action on the bill at this time. There will be another Congress. There is no reason to deduce that the next Congress would refuse to accept its responsibility in this field, and that it would not give adequate consideration to the need for legislation of this type. That would be a safer course of action and there need not be much time lost.

But I know that is not what is about to happen. A lot of the people who fought for a better bill are prepared now to throw in the sponge and concede the game. And I know that when the leadership on both sides of the aisle join forces it is not difficult to predict the results.

Now let me say, in all fairness, I respect the work of the people like my good friend, the gentleman from Kentucky (Mr. PERKINS), the chairman of the committee, and others on the committee. I know they have worked very hard to bring a good bill from the conference. I realize that many of the provisions of the House bill are contained in the bill before us. The bad part is that so many needed sections of the House bill were deleted. Nevertheless this is a better bill than the Senate-passed bill, and a better bill than the House committee bill.

Mr. STEIGER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to the distinguished gentleman.

Mr. STEIGER of Wisconsin. Mr. Speaker, I appreciate the statement of the distinguished and able gentleman from Florida. I hope the House knows how much it meant to have you as one of those who carried such a heavy load in this whole field.

The work of the House in that substitute is a tribute to the work of the gentleman from Florida. This House owes you a debt of gratitude, and I personally owe you a debt of gratitude. I am glad, may I say, that you did point out to the House that there is a tremendous amount of House language contained in this conference report.

Mr. SIKES. I appreciate that statement, coming at it does from a close and very respected friend.

I will conclude by saying that I think it is unfortunate that we came so close and quit too soon. That is why I am going to have to vote against the bill, although I want very much to see such a program in operation.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to my very good friend whom I admire and respect very much.

Mr. PERKINS. Mr. Speaker, let me say to my distinguished colleague, the gentleman from Florida, that I disagree on your statement that we quit too soon. We were 7 straight hours at the last conference meeting at which we devoted most of our time to the broad question. We attempted at various times during the 5 days to obtain a Senate concession on this point. When people tell you unequivocally, this is it—and they go out and caucus and come back and tell you this is it—and you ask them again and again and they still are adamant; well, then somewhere along the line you have to get a bill. I want to assure the gentleman that we did our best. We brought back the best bill we could compliment him for his interest in this legislation. I know his only interest is in doing justice to everybody.

Mr. SIKES. I would never want by anything I say to indicate any lack of confidence in my friend or lack of appreciation for his efforts. However, I too, have sat on many House-Senate conferences and I have experienced instances where the Senators have said, "This is it—you are going to take what we offer or you are not going to get a bill." In those cases, I find a little extra measure of patience, and a delay of another day or two can work wonders.

Mr. PERKINS. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Iowa (Mr. SCHERLE).

Mr. SCHERLE. Mr. Speaker, there are few matters of greater importance to both employers and working people than that of on-the-job safety and health. Presently there is legislation which we are about to give final approval to which would extend the Federal Government, through the Labor Department, into every factory, every plant, and every place of employment in the United States.

Last year, the Nixon administration proposed new safety legislation which took into consideration many of the comments from the previous year's testimony and hearings. The administration approach was viewed by many in the business community as a more reasonable method of handling the problem of industrial safety. One of the features of that approach was to establish an independent board to set and interpret safety standards, leaving the enforcement to the concerned departments.

This was mirrored in the message President Nixon sent to the Congress on August 6, 1969, with his own proposal:

> The Comprehensive Occupational Safety and Health Act . . . will correct some of the important deficiencies of earlier approaches . . . it will separate the function of setting safety and health standards from the function of enforcing them. Appropriate procedures to guarantee due process of law and the right to appeal will be incorporated. The proposal will also provide a flexible mechanism which can reach quickly to the new technologies of tomorrow.
>
> Under the suggested legislation, maximum use will be made of standards established through a voluntary consensus of industry, labor, and other experts. No standard will be set until the views of all interested parties have been heard. This proposal would also encourage stronger efforts at the State level, sharing enforcement responsibility with States which have adequate programs. Greater emphasis will also be given to research and education, for the effects of modern technologies on the physical well-being of workers are complex and poorly understood . . .
>
> (This legislation) . . . can do much to improve the environment of the American worker. But it will take much more than new Government efforts if we are to achieve our objectives. Employers and employees alike must be committed to the prevention of accident and disease and alert to every opportunity for promoting that end. Together the private and public sectors can do much that we cannot do separately.

Regrettably, this philosophy has been rejected by the members of the conference committee in favor of the authoritarian penalty oriented approach to safety. I believe that the conference committee completely disregarded the will of the House and receded on entirely too many important provisions contained in the Steiger-Sikes bill. The measure which is now being presented to the House provides for duplication of coverage in many industries.

The bill recognizes that many employers are already covered by existing Federal safety laws, but does not exclude these employers from additional coverage of the new law. In other words, even though they are now covered by the Construction Safety Act, Walsh-Healy Act or any other Federal safety law, the new act would overlap the existing safety laws and require compliance with each law. This would lead to general confusion, as to what is required by an employer to be in compliance with the Federal laws. The bill specifically recognizes this dilemma, but only requires that the secretary report to Congress on the problem of overlapping statutes within 3 years. It is quite obvious that many employers would be caught in a cross-fire between conflicting safety regulations set by various Federal agencies.

The Federal Safety Inspector will have the power to issue citations for violations of any standard, reporting duties, or where a serious danger potential exists by reason of such violation. This would include a citation where the inspector thinks that the employer has violated the general duty to provide a safe work place and that a serious danger potential exists because of the violation. This issuance of a citation is a new angle in safety legislation and the bill provides that the citation shall be in writing, shall describe the nature of the violation and a reference to the provisions of standards, rules or orders alleged to have been violated and the period of time in which the violation must be corrected. The bill provides that the citation shall be posted at, or near the place of the violation. In other words, this bill is calling for enforcement by publicity.

As it stands at the time of the issuance of this citation, the employer is simply accused of violating one of his duties under the act. However, he must post, in conspicuous places on his bulletin boards and near the place of violation, the accusation of the Federal Government. It can be expected that the unions will make use of these accusations in any bargaining sessions, and in addition, you must remember that the Taft-Hartley Act allows employees, under certain conditions, to leave a job where certain hazardous conditions exist. It is conceivable that after the employer has been accused of having an unsafe plant that the employees could walk off, and use the accusation of the Department of Labor as the reason for the wildcat strike.

S. 2193 does not contain a provision establishing an independent occupational safety and health board to set standards. Thus, the Senate-passed bill does not provide for the distribution of the standard-setting and enforcement functions.

The Senate bill does not provide for setting standards pursuant to the formal procedures of the Administrative Procedure Act. In using only informal procedures, the bill does not provide for the fullest involvement and participation in the development of safety and health standards.

The bill provides that union representatives or any employee representative be allowed to accompany inspectors on their plant tours. The potential abuse of this device as part of an organizing campaign or as part of an effort to ferment labor unrest is obvious.

Additionally, the Williams bill provides that if there is no authorized employee representative, the inspector must "consult with a reasonable number of employees."

By contrast under the Steiger-Sikes bill, employee representatives are allowed to accompany inspectors only when an employer representative does so. There is no provision for "consultation" with employees in the event there is no employee representative.

Therefore, I urge that the House reject the conference report on the grounds that the committee did not give sufficient consideration to the measure which passed the House of Representatives.

Mr. PERKINS. Mr. Speaker, will the gentleman yield for a correction?

Mr. SCHERLE. I yield to the gentleman.

Mr. PERKINS. With respect to the imposition of civil penalties by the Secretary, he can use the Construction Safety Act which we enacted last year or he can use this act. When he takes one route, he is estopped from taking the other. If he elects to take the procedure for enforcement in the Occupational Safety and Health Act and no penalty is assessed, he is estopped from going the other route.

A Government construction contractor could, of course be "blacklisted" under the Construction Safety Act and be subjected to a civil penalty as well.

Mr. SCHERLE. That is the point. The construction industry, since it will not know under which law a Secretary of Labor will take action, must make preparations for compliance under both laws.

Let me ask my chairman this question, then: What other industry in the United States is affected similiar to the construction industry?

Mr. PERKINS. There is nothing inequitable in the treatment of the construction industry under this act.

Mr. SCHERLE. No, Mr. Chairman, there are none other but this. This is the only one that is regulated under dual masters. It is criminal that the construction industry must suffer this double coverage.

Mr. PERKINS. There are two possible enforcement procedures for builders who are also Government constructors. There is no double coverage or double jeopardy, or other inequity.

Mr. SCHERLE. Yes; that is exactly what I mean. Even they would not have double coverage under this bill. Only one industry is subject to that.

Mr. Speaker, I am not against labor. All I seek is a fair shake for everybody. There are few amendments of greater importance for employers and employees than the one we are faced with this afternoon. There is only one vote that we can honestly cast regarding this legislation—"no." The only bill that we should have passed at this time was the Steiger-Sikes substitute. This conference bill will result in reverberations and repercussions for years to come.

Everybody puts a lot of faith in the present Secretary. However, he will not be there forever. It is possible for the present Secretary to make one interpretation and the next Secretary to come along a few months later and take a different approach.

I yield back the remainder of my time.

Mr. PERKINS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. ALBERT). The question is on the conference report.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUIE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 308, nays 60, not voting 65, as follows:

[Roll No. 421]

YEAS—308

Adams	Findley	Michel
Addabbo	Fish	Mikva
Albert	Flood	Miller, Calif.
Anderson, Calif.	Flowers	Mills
Anderson, Tenn.	Foley	Minish
Andrews, N. Dak.	Ford, Gerald R.	Mink
Annunzio	Forsythe	Minshall
Arends	Fraser	Mizell
Ashley	Frelinghuysen	Mollohan
Barrett	Frey	Monagan
Beall, Md.	Friedel	Moorhead
Belcher	Fulton, Pa.	Morgan
Bell, Calif.	Fulton, Tenn.	Morse
Bennett	Galifianakis	Morton
Berry	Garmatz	Mosher
Betts	Gaydos	Murphy, Ill.
Bevill	Gettys	Myers
Biaggi	Giaimo	Natcher
Biester	Gibbons	Nedzi
Bingham	Goldwater	Nelsen
Blanton	Gonzalez	Nichols
Blatnik	Goodling	Nix
Boggs	Gray	Obey
Boland	Green, Oreg.	O'Hara
Bow	Green, Pa.	Olsen
Brademas	Griffiths	O'Neill, Mass.
Brasco	Grover	Ottinger
Bray	Gubser	Patten
Brooks	Gude	Pelly
Brotzman	Halpern	Pepper
Brown, Calif.	Hamilton	Perkins
Brown, Mich.	Hammer-schmidt	Pettis
Brown, Ohio	Hanley	Philbin
Broyhill, N.C.	Hanna	Pickle
Buchanan	Hansen, Idaho	Pike
Burke, Mass.	Hansen, Wash.	Pirnie
Burlison, Mo.	Harrington	Podell
Burton, Calif.	Harsha	Pollock
Byrne, Pa.	Harvey	Preyer, N.C.
Byrnes, Wis.	Hastings	Price, Ill.
Carney	Hathaway	Price, Tex.
Carter	Hawkins	Pryor, Ark.
Casey	Hays	Pucinski
Cederberg	Hechler, W. Va.	Quie
Celler	Heckler, Mass.	Quillen
Chamberlain	Helstoski	Railsback
Chisholm	Hicks	Randall
Clark	Hogan	Reid, Ill.
Clausen, Don H.	Holifield	Reid, N.Y.
Clawson, Del	Hosmer	Reuss
Clay	Howard	Riegle
Cleveland	Hungate	Robison
Cohelan	Hunt	Rodino
Collier	Hutchinson	Roe
Conable	Ichord	Rogers, Colo.
Conte	Jacobs	Rogers, Fla.
Conyers	Jarman	Rooney, N.Y.
Corbett	Johnson, Calif.	Rosenthal
Corman	Johnson, Pa.	Roth
Coughlin	Jones, Ala.	Roybal
Cowger	Karth	Ruppe
Culver	Kastenmeier	Ryan
Cunningham	Kazen	St Germain
Daniels, N.J.	King	Sandman
Davis, Wis.	Kleppe	Saylor
de la Garza	Koch	Schadeberg
Delaney	Kyl	Scheuer
Dellenback	Kyros	Schneebeli
Denney	Latta	Schwengel
Dennis	Leggett	Scott
Dent	Long, Md.	Sebelius
Derwinski	Lowenstein	Shipley
Diggs	Lujan	Shriver
Donohue	McCarthy	Sisk
Dulski	McClory	Skubitz
Duncan	McCloskey	Slack
Dwyer	McClure	Smith, Iowa
Eckhardt	McDade	Smith, N.Y.
Edmondson	McDonald, Mich.	Snyder
Edwards, Ala.	McEwen	Springer
Edwards, Calif.	McFall	Stafford
Eilberg	Macdonald, Mass.	Staggers
Erlenborn	MacGregor	Stanton
Esch	Madden	Steed
Eshleman	Mailliard	Steele
Evans, Colo.	Mann	Steiger, Wis.
Evins, Tenn.	Martin	Stokes
Fallon	Mathias	Stratton
Fascell	Matsunaga	Stubblefield
Feighan	Mayne	Stuckey
	Melcher	Sullivan
		Symington
		Taft
		Talcott
		Taylor
		Teague, Calif.
		Thompson, Ga.
		Thompson, N.J.
		Thomson, Wis.
		Tiernan
		Udall
		Ullman
		Van Deerlin
		Vander Jagt
		Vanik
		Vigorito
		Waldie
		Wampler
		Ware
		Watts
		Weicker
		Whalen
		Whalley
		White
		Widnall
		Wiggins
		Williams
		Wilson, Bob
		Wold
		Wright
		Wyatt
		Wylie
		Wyman
		Yates
		Yatron
		Zablocki
		Zion
		Zwach

NAYS—60

Abbitt	Fisher	Marsh
Abernethy	Flynt	Miller, Ohio
Andrews, Ala.	Foreman	O'Neal, Ga.
Ashbrook	Fountain	Passman
Brinkley	Fuqua	Patman
Broyhill, Va.	Griffin	Poage
Burleson, Tex.	Gross	Poff
Cabell	Hagan	Rarick
Caffery	Haley	Rhodes
Chappell	Hall	Roberts
Clancy	Hébert	Rousselot
Collins, Tex.	Henderson	Ruth
Colmer	Jonas	Scherle
Crane	Jones, N.C.	Schmitz
Daniel, Va.	Kuykendall	Sikes
Davis, Ga.	Landgrebe	Smith, Calif.
Devine	Lennon	Steiger, Ariz.
Dickinson	Lloyd	Teague, Tex.
Dorn	McMillan	Waggonner
Downing	Mahon	Whitehurst

NOT VOTING—65

Adair	Farbstein	Moss
Alexander	Ford, William D.	Murphy, N.Y.
Anderson, Ill.	Gallagher	O'Konski
Aspinall	Gilbert	Powell
Ayres	Horton	Purcell
Baring	Hull	Rees
Blackburn	Jones, Tenn.	Reifel
Bolling	Kee	Rivers
Brock	Keith	Rooney, Pa.
Broomfield	Kluczynski	Rostenkowski
Burke, Fla.	Landrum	Roudebush
Burton, Utah	Langen	Satterfield
Bush	Long, La.	Stephens
Button	Lukens	Tunney
Camp	McCulloch	Watson
Carey	McKneally	Whitten
Collins, Ill.	May	Wilson, Charles H.
Cramer	Meeds	Winn
Daddario	Meskill	Wolff
Dingell	Mize	Wydler
Dowdy	Montgomery	Young
Edwards, La.		

So the conference report was agreed to.

The Clerk announced the following pairs:

Mr. Rivers with Mr. Adair.

Mr. Edwards of Louisiana with Mr. Blackburn.

Mr. Long of Louisiana with Mr. Lukens.

Mr. Kluczynski with Mr. Broomfield.

Mr. Rostenkowski with Mr. Wydler.

Mr. Rooney of Pennsylvania with Mr. Horton.

Mr. William D. Ford with Mr. Anderson of Illinois.

Mr. Gallagher with Mr. Roudebush.

Mr. Aspinall with Mr. Camp.

Mr. Purcell with Mr. Ayres.

Mr. Moss with Mr. Brock.

Mr. Hull with Mr. Mize.

Mr. Alexander with Mr. Reifel.

Mr. Charles H. Wilson with Mr. Burton of Utah.

Mr. Young with Mr. Burke of Florida.

Mr. Carey with Mr. Meskill.

Mr. Meeds with Mr. Langen.

Mr. Dingell with Mr. McKneally.

Mr. Dowdy with Mr. McCulloch.

Mr. Satterfield with Mr. Keith.

Mr. Stephens with Mr. O'Konski.

Mr. Landrum with Mr. Winn.

Mr. Kee with Mr. Cramer.

Mr. Jones of Tennessee with Mr. Watson.

Mr. Wolff with Mrs. May.

Mr. Tunney with Mr. Bush.

Mr. Montgomery with Mr. Button.

Mr. Daddario wtih Mr. Collins of Illinois.

Mr. Baring with Mr. Whitten.

Mr. Rees with Mr. Farbstein.

Mr. Murphy of New York with Mr. Gilbert.

Mr. CLANCY changed his vote from "yea" to "nay."

Mr. BROYHILL of Virginia changed his vote from "yea" to "nay."

Mr. DELLENBACK changed his vote from "nay" to "yea."

Mr. WHITEHURST changed his vote from "yea" to "nay."

Mr. COUGHLIN changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may have 5 legislative days in which to revise and extend their remarks on the conference report just adopted, and to include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 19928, SUPPLEMENTAL APPROPRIATIONS, 1971

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight to file a conference report on the bill (H.R. 19928) making supplemental appropriations for the fiscal year ending June 30, 1971, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

RELATING TO ELMER M. GRADE AND THE "DELTA QUEEN"

Mr. CELLER. Mr. Speaker, I call up the conference report on the bill (H.R. 6114) for the relief of Elmer M. Grade, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 16, 1970.)

Mr. CELLER. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

THE CONFERENCE REPORT ON H.R. 17809, PAY SYSTEM FOR PREVAILING RATE EMPLOYEES

Mr. DULSKI. Mr. Speaker, I call up the conference report on the bill (H.R. 17809) to provide an equitable system for fixing and adjusting the rates of pay for prevailing rate employees of the Government, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 15, 1970.)

Mr. DULSKI. Mr. Speaker, the bill H.R. 17809 passed the House on September 9, 1970, by a vote of 231 to 90.

The Senate amendment provided a new text to the bill as does the conference agreement. The conference agreement contains several technical and substantive changes to the House-passed bill.

The substantive differences between the House-passed bill and the conference substitute are as follows:

NONAPPROPRIATED FUND EMPLOYEES

The House version applied the new wage board provisions to all employees of a nonappropriated fund instrumentality.

The conference substitute definition of "prevailing rate employees" under section 5342 as applied to nonappropriated fund instrumentality employees is not as broad as that in the House version and will apply only to employees under the trades, crafts, and labor occupations. It will not apply to employees in the executive and managerial positions who, under current procedures, generally, have their rates of pay fixed on a comparability basis with the rates of pay fixed under the general schedule.

The conference substitute omits a specific requirement for a special wage survey for nonappropriated instrumentality employees and veterans canteen service employees but includes provisions in paragraph (6) of the new section 5343(c) which contains authority for special surveys and special wage schedules when industry-oriented positions are involved.

WITHIN-GRADE STEPS

The House bill provided that each grade of a wage schedule have five steps. The first step at 96 percent of the prevailing rate with graduated increases to 112 percent of the prevailing rate for the fifth step.

The conference agreement provides for four steps except that special wage schedules established under paragraph (6) of the new section 5343(c) shall have not less than four steps. This change permits special wage schedules for supervisors to be established with five within-grade steps which is the number of steps supervisors now have in their wage schedules.

NIGHT DIFFERENTIALS

The provisions of the House bill establishing nationwide uniform 7½-percent night differential for the 3 o'clock shift and a 10-percent night differential for the 11 o'clock shift have been eliminated by the conference agreement.

Mr. Speaker, it is estimated that the additional cost of the conference agreement which adds one additional step to most wage board schedules will be in the neighborhood of $120 million. The cost of the House-passed bill would have been in excess of $280 million.

While the administration has raised objections to this legislation, I am convinced that the wage board system needs to be modernized as proposed in this legislation.

I urge adoption of the conference report.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. DULSKI. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Speaker, I would like to commend the conferees for coming up with a wage board bill, which is certainly a better bill than that which was originally passed by this body, but which still meets with opposition from the administration. The conference has eliminated several provisions that I opposed, and which were opposed by the administration.

I refer to the elimination of the fifth step in grade, the 7½- and 10-percent nationwide night differentials for second- and third-shift work, and the 25 percent premium pay for Sunday work and double time for holiday work.

I offered an amendment when this bill was brought before the House that would strike out the Monroney amendment. This amendment was agreed to by the Committee of the Whole House on the State of the Union, but was defeated after the bill was reported back to the House.

And while I am still opposed to the Monroney amendment, the bill as reported out of conference is somewhat preferable to the original H.R. 17809.

Mr. DULSKI. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina (Mr. HENDERSON) the author of the bill.

(Mr. HENDERSON asked and was given permission to revise and extend his remarks.)

Mr. HENDERSON. Mr. Speaker, I rise in support of the conference report on H.R. 17809.

This bill establishes landmark legislation because it puts into law for the first time congressional policies on establishing the pay for the Federal Government's 850,000 wage board and nonappropriated fund employees.

However, the conference substitute provides several basic differences from that which was passed by the House on September 9, 1970. It is estimated that the present bill will cost the taxpayers about $180 million less than the House bill. This is reflected in the fact that the bill before us will provide for four pay steps, the top step being 108 percent, as compared to the original House-passed bill which called for five steps at 112 percent.

The substitute bill also eliminates nationwide night differential pay. Under this proposed legislation wage board employees would continue to have premium pay for nightwork, but the rates would be based on the prevailing rates in each local labor market area.

The conference substitute restricts the definition of a nonappropriated fund em-

ployee. The broad definition in the House bill would require employees in executive, clerical, managerial, and merchandising positions to be paid under prevailing rate procedures which would be inconsistent with the practice presently used. The executive and management employees have had their rates of pay based on rates comparable to the rates paid under the general schedule. The substitute will permit the continuation of the existing practice and will apply the provisions of the bill only to employees under the trades, crafts, and labor occupations.

The House bill includes a specific requirement that the pay of prevailing rate employees of nonappropriated fund instrumentalities located within the several States or the District of Columbia, and of the Veterans' Canteen Service, be fixed and adjusted in accordance with prevailing rates determined by a survey of wages paid to employees in a representative number of retail, wholesale, service, and recreational establishments in the local areas engaged in activities similar to those of the instrumentality or the Canteen Service.

The conference substitute omits this provision and authorizes an additional industry-oriented schedule. This permits a more realistic survey of rates paid to employees in retail, wholesale, service, and recreational establishments. By omitting the reference to instrumentalities located within the several States or the District of Columbia, it is clear that the provisions apply also to U.S. citizen employees overseas.

This schedule also preserves the present five step wage system of the 80,000 wage board supervisors.

The House bill included a provision requiring the payment of 25 percent additional premium pay for Sunday work and double pay for holiday work for nonappropriated fund and Veterans' Canteen Service employees. The substitute eliminates this provision.

Finally, the effective date in the substitute is 90 days, except for nonappropriated fund employees, as compared to 180 days in the House-passed bill.

Mr. Speaker, as we are continuing to give more and more consideration to our Federal employees, including the Classification Act employees and the military personnel, it is important that we recognize the blue collar worker and see that they are properly compensated for their work.

I, therefore, request that the House agree to the conference report.

Mr. DULSKI. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. GROSS).

Mr. HOGAN. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Maryland.

Mr. HOGAN. Mr. Speaker, let me say at the outset, I realize the President is on record in opposition to this legislation, but as a matter of personal belief, I must support it.

This legislation will, for the first time, enact into law and improve upon the long established standing principles and policies for setting the pay of wage board or blue-collar workers.

In brief, the salient features of the report are as follows:

First. Establishes an 11-man Federal Prevailing Rate Advisory Committee to study the prevailing rate system and make recommendations. The committee shall make an annual report to the Civil Service Commission and the President for transmittal to the Congress;

Second. Provide a four-step wage schedule instead of the present three;

Third. Provide automatic step advancements after 26 weeks work in step 1; 78 weeks in step 2; and 104 weeks in step 3;

Fourth. Provide wage board employees who are reduced in grade the same "saved pay" protection as is currently provided General Schedule employees; and

Fifth. Bring under the pay system approximately 143,000 employees of nonappropriated fund activities of the Armed Forces and of the Veterans Canteen Services.

Mr. Speaker, it is my opinion that this upgrading and revision of the prevailing pay system is long overdue and necessary if the Federal Government is to be in a position to compete with private industry for top flight laborers, draftsmen, and tradesmen. Therefore, I urge passage of this legislation.

Mr. GROSS. Mr. Speaker, I rise to oppose the conference report on H.R. 17809. Conceding that the conference committee has watered it down, the bill remains inflationary, unnecessary, and a threat to the area wage system that has operated successfully for many years.

While the conferees eliminated the fifth step in grade, the flat 7½- and 10-percent night shift differential premium pay, and the 25-percent premium pay for Sunday work and double time for holiday work, all of which I opposed from the beginning, they did not go far enough. For example, the bill still retains that monstrosity, the so-called Monroney amendment. This provision, enacted in 1968, serves only to distort local wage board scales and discriminates against private enterpise employees. This provision alone has a price tag of $109 million and should be repealed. The legislation also, and without justification, brings nonappropriated fund employees—who are not Federal employees—under the wage board system.

Mr. Speaker, I would like to quote from a letter from Chairman Hampton of the Civil Service Commission, addressed to Chairman DULSKI, under date of November 12, 1970:

> Changes in the pay structure of wage board employees at this time are repugnant in the face of the current economic situation, and the Administration's efforts to hold Federal expenditures to those purposes that are absolutely essential. To achieve this objective, all agencies have been placed under strict budgetary limitations. Each increase in personnel cost must be offset by a decrease in other personnel costs. The Department of Defense has advised that any increases can only be attained by reduction in force actions in the Department of Defense.
>
> Chairman Hampton closed by saying:
>
> I cannot urge too strongly that wage board legislation not be enacted at this time. Its enactment would not be in accord with the President's program.

Mr. Speaker, I urge the rejection of the conference report.

Mr. DULSKI. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 271, nays 89, not voting 73, as follows:

[Roll No. 422]

YEAS—271

Abbitt	Edmondson	Lennon
Adams	Edwards, Ala.	Long, Md.
Addabbo	Edwards, Calif.	Lowenstein
Albert	Eilberg	Lujan
Alexander	Eshleman	McCarthy
Anderson, Calif.	Evans, Colo.	McClory
	Fascell	McDade
Anderson, Tenn.	Fisher	McDonald, Mich.
	Flood	
Andrews, N. Dak.	Flowers	McEwen
	Flynt	McFall
Annunzio	Foley	Macdonald, Mass.
Ashley	Ford, William D.	
Baring		Madden
Barrett	Forsythe	Mailliard
Beall, Md.	Fountain	Mann
Bennett	Fraser	Mathias
Bevill	Frelinghuysen	Matsunaga
Biaggi	Friedel	Melcher
Biester	Fulton, Pa.	Mikva
Bingham	Fulton, Tenn.	Miller, Calif.
Blanton	Galifianakis	Mills
Blatnik	Garmatz	Minish
Boggs	Gaydos	Mink
Boland	Gettys	Mollohan
Brademas	Giaimo	Monagan
Brasco	Gibbons	Moorhead
Bray	Gonzalez	Morgan
Brinkley	Goodling	Morse
Brooks	Gray	Mosher
Broomfield	Green, Pa.	Murphy, Ill.
Brotzman	Griffin	Murphy, N.Y.
Broyhill, N.C.	Griffiths	Natcher
Buchanan	Gubser	Nedzi
Burke, Mass.	Gude	Nichols
Burleson, Tex.	Hagan	Nix
Burlison, Mo.	Halpern	Obey
Burton, Calif.	Hamilton	O'Hara
Byrne, Pa.	Hammer-schmidt	Olsen
Cabell		O'Neill, Mass.
Caffery	Hanley	Ottinger
Carney	Hanna	Patman
Casey	Hansen, Wash.	Patten
Chappell	Harrington	Pelly
Chisholm	Harsha	Pepper
Clark	Hathaway	Perkins
Clausen, Don H.	Hawkins	Philbin
	Hays	Pickle
Clay	Hébert	Pike
Cleveland	Hechler, W. Va.	Pirnie
Cohelan	Helstoski	Poage
Collier	Henderson	Podell
Conyers	Hicks	Poff
Corbett	Hogan	Pollock
Corman	Holifield	Preyer, N.C.
Coughlin	Howard	Price, Ill.
Cowger	Hungate	Pryor, Ark.
Culver	Hunt	Pucinski
Cunningham	Ichord	Quillen
Daniel, Va.	Jacobs	Railsback
Davis, Ga.	Jarman	Randall
de la Garza	Johnson, Calif.	Reid, N.Y.
Delaney	Johnson, Pa.	Reuss
Dent	Jones, Ala.	Riegle
Dickinson	Jones, N.C.	Roberts
Diggs	Jones, Tenn.	Rodino
Donohue	Karth	Roe
Dorn	Kastenmeier	Rogers, Colo.
Downing	Kazen	Rogers, Fla.
Dulski	Keith	Rooney, N.Y.
Duncan	Koch	Rooney, Pa.
Dwyer	Kyl	Rosenthal
Eckhardt	Kyros	Roth

Roybal	Steele	Wampler
Ruppe	Stokes	Ware
Ryan	Stratton	Watson
St Germain	Stubblefield	Watts
Sandman	Stuckey	Whalen
Saylor	Sullivan	Whalley
Scheuer	Symington	White
Schneebeli	Talcott	Whitehurst
Schwengel	Taylor	Widnall
Scott	Teague, Calif.	Williams
Shipley	Teague, Tex.	Wilson, Bob
Shriver	Thompson, Ga.	Wright
Sikes	Thompson, N.J.	Wyatt
Sisk	Thomson, Wis.	Wyman
Slack	Tiernan	Yates
Smith, Iowa	Udall	Yatron
Smith, N.Y.	Van Deerlin	Young
Stafford	Vanik	Zablocki
Staggers	Vigorito	Zwach
Stanton	Waggonner	
Steed	Waldie	

NAYS—89

Andrews, Ala.	Fish	Minshall
Arends	Ford, Gerald R.	Mizell
Ashbrook	Foreman	Myers
Belcher	Frey	Passman
Bell, Calif.	Goldwater	Pettis
Berry	Gross	Price, Tex.
Betts	Grover	Quie
Bow	Haley	Rarick
Brown, Mich.	Hall	Reid, Ill.
Brown, Ohio	Hansen, Idaho	Rhodes
Byrnes, Wis.	Harvey	Robison
Carter	Hastings	Rousselot
Cederberg	Hosmer	Ruth
Chamberlain	Hutchinson	Schadeberg
Clancy	Jonas	Scherle
Clawson, Del	King	Schmitz
Collins, Tex.	Kleppe	Sebelius
Colmer	Kuykendall	Skubitz
Conable	Landgrebe	Smith, Calif.
Conte	Latta	Snyder
Cramer	Lloyd	Springer
Davis, Wis.	McCloskey	Steiger, Ariz.
Dellenback	McClure	Steiger, Wis.
Dennis	MacGregor	Taft
Derwinski	Mahon	Vander Jagt
Devine	Marsh	Wiggins
Erlenborn	Martin	Wold
Esch	Mayne	Wylie
Feighan	Michel	Zion
Findley	Miller, Ohio	

NOT VOTING—73

Abernethy	Evins, Tenn.	Morton
Adair	Fallon	Moss
Anderson, Ill.	Farbstein	Nelsen
Aspinall	Fuqua	O'Konski
Ayres	Gallagher	O'Neal, Ga.
Blackburn	Gilbert	Powell
Bolling	Green, Oreg.	Purcell
Brock	Heckler, Mass.	Rees
Brown, Calif.	Horton	Reifel
Broyhill, Va.	Hull	Rivers
Burke, Fla.	Kee	Rostenkowski
Burton, Utah	Kluczynski	Roudebush
Bush	Landrum	Satterfield
Button	Langen	Stephens
Camp	Leggett	Tunney
Carey	Long, La.	Ullman
Celler	Lukens	Weicker
Collins, Ill.	McCulloch	Whitten
Crane	McKneally	Wilson, Charles H.
Daddario	McMillan	Winn
Daniels, N.J.	May	Wolff
Denney	Meeds	Wydler
Dingell	Meskill	
Dowdy	Mize	
Edwards, La.	Montgomery	

So the conference report was agreed to.

The Clerk announced the following pairs:

Mr. Daniels of New Jersey with Mr. Anderson of Illinois.

Mr. Kluczynski with Mr. Camp.

Mr. Celler with Mrs. Heckler of Massachusetts.

Mr. Abernethy with Mr. Crane.

Mr. Charles H. Wilson with Mr. Horton.

Mr. Hull with Mr. Adair.

Mr. O'Neal of Georgia with Mr. Langen.

Mr. Dingell with Mr. Denney.

Mr. Fuqua with Mr. Ayres.

Mr. Gallagher with Mr. Lukens.

Mr. Rivers with Mr. Bush.

Mr. Rostenkowski with Mr. McCulloch.

Mr. Leggett with Mr. Blackburn.

Mr. Wolff with Mr. McKneally.

Mr. Whitten with Mrs. May.

Mr. Kee with Mr. Brock.

Mr. Carey with Mr. Morton.

Mr. Aspinall with Mr. Reifel.

Mr. Montgomery with Mr. Broyhill of Virginia.

Mr. Rees with Mr. Collins of Illinois.

Mr. Evins of Tennessee with Mr. Meskill.

Mr. Long of Louisiana with Mr. Burke of Florida.

Mr. Purcell with Mr. Mize.

Mr. Moss with Mr. Button.

Mr. Landrum with Mr. Nelsen.

Mr. Ullman with Mr. O'Konski.

Mr. Satterfield with Mr. Burton of Utah.

Mrs. Green of Oregon with Mr. Roudebush.

Mr. Stephens with Mr. Winn.

Mr. Dowdy with Mr. Wydler.

Mr. Daddario with Mr. Weicker.

Mr. Edwards of Louisiana with Mr. McMillan.

Mr. Brown of California with Mr. Powell.

Mr. Gilbert with Mr. Fallon.

Mr. Meeds with Mr. Farbstein.

Mr. CONTE changed his vote from "yea" to "nay."

Messrs. GUBSER, TALCOTT, COLLIER, and HAMMERSCHMIDT changed their votes from "nay" to "yea."

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Arrington, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 704) entitled "An act to amend the act of October 15, 1966 (80 Stat. 953; 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution."

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT ON H.R. 19928, SUPPLEMENTAL APPROPRIATIONS, 1971

Mr. MAHON. Mr. Speaker, I ask unanimous consent that it may be in order for the House to consider the conference report on H.R. 19928, the supplemental appropriation bill, at any time after the conference report is filed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON S. 3619, DISASTER RELIEF ACT OF 1970

Mr. JONES of Alabama. Mr. Speaker, I call up the conference report on the bill (S. 3619) to revise and expand Federal programs for the relief of the effects of major disasters, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

Mr. GROSS. Mr. Speaker, reserving the right to object, the gentleman does intend to take some time to explain what transpired at the conference; does he not?

Mr. JONES of Alabama. Yes. I will be glad to accommodate the gentleman from Iowa. The gentleman from California (Mr. DON H. CLAUSEN) and I will be available for answers to any questions.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 15, 1970.)

Mr. JONES of Alabama. Mr. Speaker, S. 3619, which we now bring back from conference for approval of this House is one of the finest examples of complete cooperation between this body and the Senate. The Senate approach in dealing with the need for disaster relief assistance was to repeal all existing major substantive provisions dealing with this subject and to replace them with one basic law. The House of Representatives approach was simply to amend the basic laws and to add several new badly needed provisions. During the conference with the Senate it became obvious that we were to a great extent attempting to reach the same end result by differing means.

The conferees unanimously agreed to consolidate into one act the numerous provisions of the law which presently exist in the basic 1950 act, Public Law 875, 81st Congress; the 1966 Disaster Relief Act, Public Law 89–769; and the Disaster Relief Act of 1969, Public Law 91–79. This consolidation and broadening of the law takes into consideration the experience gained by the Congress and the Federal and State Governments from the numerous disasters which have occurred over the years. I am please to state that the House position, in the few occasions that it differed on substantive matters with that of the Senate, was generally concurred in by the other body.

The conference report generally retains the House position on making repairs to, restoring to service, or replacing public facilities of State and local governments damaged or destroyed by a major disaster with the stipulations that the Federal contribution will not exceed the net cost of restoring the facilities on the basis of the design of the facility as it existed immediately before the disaster and the restoration would be in conformity with current codes, specifications, and standards.

The House version of S. 3619 authorized the use of Federal agencies to clear debris from publicly and privately owned lands and waters, when determined to be in the public interest. Authorization was also provided for grants to any State for similar debris clearance. A requirement was imposed that State and local governments must arrange to provide unconditional authorizations for the removal of such debris and that the Federal Government be indemnified against claims

arising from such removal. The conference report includes this provision.

With respect to temporary housing assistance, the conference report includes a provision which would authorize the Director to provide temporary housing or other emergency shelter, including mobile homes, for those who as a result of a major disaster require temporary housing or other emergency shelter. For the first 12 months of occupancy, no rental shall be established. Thereafter, rentals will be based on fair market value of the accommodations being furnished, adjusted to take into consideration financial ability of the occupant. Emergency housing which is acquired by purchase may be sold directly to the occupants at prices that are fair and equitable. Any mobile home or readily fabricated dwelling is to be placed on a site complete with utilities provided by State or local government or by the owner or occupant of the site without charge to the United States. The Director may elect to provide other more economical and accessible sites at Federal expense if he determines it to be in the public interest. Further, the President is authorized to provide assistance on a temporary basis in the form of mortgage or rental payments in the same manner as is provided in the House amendment. The President is authorized for the purposes of this provision and in furtherance of the purposes of section 240 of this act to provide reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster.

The conference report provides that in the administration of the disaster loan program under section 7(b) (1), (2), and (4) of the Small Business Act in the case of property loss or damage or injury resulting from a major disaster as determined by the President or a disaster determined by the Small Business Administrator, such Administrator:

First, to the extent the loss, damage, or injury is not compensated for by insurance or otherwise shall on that part of the loan in excess of $500 cancel the principal, except that the total amount so canceled is not to be more than $2,500. This clause, however, is to apply only to loans made to cover losses, damages, and injuries resulting from major disasters determined by the President, and may defer interest or principal payments or both in whole or in part during the first 3 years of the term of the loan, these deferred payments, however, are to bear interest at the rate determined under section 234 of the act.

Second, to the extent it is not compensated for by insurance or otherwise, may grant any loan to repair, rehabilitate, or replace property damaged or destroyed, whether or not financial assistance is otherwise available from private sources;

Third, may, in the case of total destruction or substantial damage of a home or business concern, refinance mortgages or other liens outstanding against that property if it is to be repaired, rehabilitated, or replaced with the limitation that the amount refinanced is not to exceed the amount of the physical loss sustained and that this refinancing is to be subject to the provisions of clauses (1) and (2) of this section.

Similar provisions in the case of the Farmers Home Administration emergency loans were provided in the conference report as were included in the case of Small Business Administration loans.

The conferees agreed essentially with the other House provisions relating to the disaster loan programs to the effect that a loan made under those provisions is not to exceed the current cost of repairing and replacing the disaster injury, loss, or damage in conformity with current codes and specifications. Any such loan is to 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 of 10 to 12 years reduced by not to exceed 2 percent per annum but in no event is any such loan to bear interest at a rate in excess of 6 percent per annum.

I might point out that the House version of S. 3619 included a 1-percent reduction and not the 2 percent agreed upon—but in light of the 6-percent maximum and the present interest rate, this difference is immaterial.

One other provision I would particularly note involves assistance to communities for tax losses. Here again the House position prevailed. This section would authorize the President to make grants to any local government, which, as a result of a major disaster has suffered a substantial loss of property tax revenue—both real and personal. The limitations placed upon these grants are: First, they may only be made for the tax year in which disaster occurred and for each of the following 2 tax years; second, the grant shall not exceed the difference between the annual average of all property tax revenues received during the 3-tax-year period immediately preceding the tax year in which the major disaster occurred and the actual property tax revenue received for the tax year in which the disaster occurred and for each of the 2 succeeding tax years; and, third, there must be no reduction in tax rates and tax assessment evaluation factors of the local government. If, however, there has been such a reduction, a grant may still be made for the year or years when such reduction is in effect, but, the President shall use the tax rates and tax assessment factors in effect at the time of the disaster without reduction in order to determine revenues which would have been received. These revenues will then be used in calculating the difference as the basis of determining the grant instead of the actual revenues.

I believe that this may well be one of the most meaningful new provisions in disaster relief assistance legislation.

Mr. Speaker, this is without question one of the finest conference reports I have had the privilege of bringing to this floor of the House. The conferees from both Houses came together to reconcile our differences so as to bring back to our colleagues meaningful legislation. This we have accomplished.

I would like to conclude my remarks by thanking all the members of the conference on both sides of the aisle for their outstanding work on this important piece of legislation, this includes the gentleman from California (Mr. JOHNSON), the gentleman from Texas (Mr. WRIGHT), the ranking minority member of the Subcommittee on Flood Control, the gentleman from California (Mr. DON H. CLAUSEN), and the gentleman from Iowa (Mr. SCHWENGEL). I would also commend the staff of the House committee for their fine work in the preparation of the material that went into the report, and in particular Mr. Lester Edelman, the committee counsel for his diligence, devotion, and hard work on the entire bill through the House and conference report.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman.

What is the standard for determining "low-income individuals," who would qualify for free legal assistance? What is a low-income individual?

Mr. JONES of Alabama. Well, that has various meanings. Under the Farmers Home Administration they have their own criteria, the Small Business Administration has its criteria as well as other agencies of the Government. However, we bring into play all of the agencies connected with the Federal Government which may be able to give relief under their various acts. Therefore, this evaluation is made by the agency itself—and we do not seek to establish any certain amount for indigents or people who are not capable of taking care of their own needs——

Mr. GROSS. So, what constitutes a low-income individual could be subject to a number of interpretations?

Mr. JONES of Alabama. Yes.

Mr. GROSS. Depending upon the agency of the Government which would make the determination?

Mr. JONES of Alabama. The gentleman from Iowa is entirely correct.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. JONES of Alabama. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Speaker, in further response to the gentleman from Iowa (Mr. GROSS), I will say to the gentleman that in this type of relief we are dealing with individuals in the private sector and as a result of established procedure their particular situation will be evaluated on an individual basis by the loaning agencies and in some cases, for instance, by the Red Cross, the Salvation Army, and other organizations, representatives of which will actually sit down with that person and find out what their situation was at the time of the disaster and then make a determination as to whether or not there is a need for assistance.

Mr. Speaker, the conference report before the House today on S. 3619, the Disaster Relief Act of 1970, reflects certain changes in approach that the conference committee adopted in the interest of simplifying the law. Simply put, the proposed legislation substitutes an entire new act for disaster relief legislation. Members of the House will recall

that the bill, as it passed the House, was essentially an amendment or rather a series of amendments of existing disaster relief acts. The other body chose to replace the acts that were in existence by one new act in which virtually the entire body of disaster relief law would be included.

Naturally, this approach required us to repeat those portions of existing law which we wish to preserve. Otherwise, such things would have been repealed that were not intended to be repealed. Thus, Members, in reading the conference report, will find much material that was not in the House bill but was in the existing law.

Once the decision was made to adopt the approach of a new statute, much of the language that appeared in the Senate bill was acceptable to the conference members. Those provisions, which the managers, on the part of the House, felt should be included as representative of the position of the House, were included. For example, section 203, concerning emergency and permanent repair or replacement of public facilities of State and local governments when those facilities were damaged as a result of a major disaster, contains the essential portions of the House position drafted into the language of a new act. Those provisions concerning predisaster assistance, which I personally consider so important, and which authorize the President to take effective action to divert or lessen the effects of a catastrophy which threatens to become a major disaster, have been retained. The provisions in the House bill pertaining to debris removal are in the conference substitute.

In the area of temporary housing assistance, the Director of the Office of Emergency Preparedness is authorized to provide temporary housing for 12 months without rental. Following that, rentals would be based on fair market value of accommodations being furnished, adjusting to take into consideration financial ability of the occupant. Emergency housing, acquired by purchase, may be sold directly to the occupant at prices that are fair and equitable. Provision is made for utilities provided by State or local governments. Assistance in the form of mortgage or rental payments is retained in the same manner as in the House bill.

In essence, this section combines the features of both the House and Senate bill and retains the basic intent of the House provision. The all-important loan provisions that appeared in the House version have been retained with minor variations in the case of loans resulting from major disasters.

This legislation, in my opinion, accomplishes all the purposes of the House passed bill with the additional advantage of making the law simpler to understand and easier to codify. I, therefore, recommend the acceptance by this House of the conference report to the Members of this body.

Mr. JOHNSON of California. Mr. Speaker, one of the strengths of this great Nation of ours has been the willingness of individuals to extend a helping hand to their neighbors in times of difficulty and emergency. In a complex 20th century such as we now live the need to help thy neighbor is no less than it was in the early days of this country. However, the means of achieving it are far more complex. The disaster relief legislation which has been on the books the last 20 years provides an opportunity to all the people of this Nation to assist their neighbors in all areas of the country to overcome and rebuild in the wake of natural disasters.

Since I have been a Member of Congress, we have had several major disasters—the Alaskan earthquake, the Christmas 1964 storms and floods in California and the Pacific Northwest, the Palm Sunday 1965 tornadoes which caused so much havoc in Illinois, Michigan, and Indiana, Hurricane Betsy, the California storms of January and February 1969, and the great grandmother of all hurricanes, Camille, which caused so much devastation throughout the Southern States and whose aftermath hit as far north as Virginia.

The examples I have cited are the major storms and disasters which we have experienced, but there have been hundreds of other lesser disasters in which the resources of the Federal Government were required to help the people recover from brutal treatment on the part of nature.

I should say these were "lesser" storms and disasters only in terms of scope and geography. For those people hurt or killed and for those whose homes and property were destroyed, there was no greater disaster than some of these. During the 20 years since Public Law 81–875, which is our basic disaster legislation, was enacted in 1950, the President has declared disaster emergencies and ordered mobilization of Federal relief agencies 280 times, an average of 14 times a year. During the last 5 years, there have been 100 of these disasters, an average of 20 a year. In 1969 we witnessed one of the worst years in history with 20 disasters including, of course, the storms of California which claimed some 100 lives and Hurricane Camille which cost us 262 lives and $1.5 billion in damage.

I would like to interject here, Mr. Speaker, a comment concerning the nature of disasters which I believe points up the need for streamlining our legislative authority for Federal assistance in these hours of need. At the turn of the century, the Galveston flood caused about $30 million worth of damage; however, 6,000 lives were lost. Compare this with Hurricane Camille in which $1.5 billion in damage was caused, but the death toll stood at 262. While one disaster death is one too many, I think this shows we are making great progress in the disaster forecasting and early warning alerts to give people an opportunity to seek adequate protection for their lives. It also points up the fact that as we build our cities, with more and more homes, public buildings, schools, and other structures crowded closer and closer together, storms will take an increasingly higher toll in property damage. As property damage mounts, the ability of individuals, local and State governments to cope with reconstruction costs is reduced. Federal disaster legislation must reflect this change.

The Public Works Committee under the distinguished leadership of the gentleman from Maryland, Representative GEORGE FALLON, and with the farsighted guidance of the Flood Control Subcommittee chairman, the gentleman from Alabama, ROBERT JONES, has performed a great and humanitarian role over the years in providing Federal disaster assistance tailored to fit individual disaster situations.

However, most provisions of the 1969 act will expire at the end of this calendar year. It is time that we make permanent those provisions which have proven valuable and at the same time strengthen and refine them. It is with this in mind that I introduced H.R. 18608, the Federal Assistance Act of 1970, which I believe reflects not only the best of the recommendations proposed by the administration, but also the experience the Congress has had in disaster relief. I am pleased that most of the provisions of my proposal are incorporated in the final version of S. 3619 which we have before us today. I feel that the final result achieved in conference between the House and Senate bills is a fine bill that will meet the needs of the Nation in years to come. I think this bill merits the approval of the House of Representatives today.

Mr. JONES of Alabama. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. JONES of Alabama. Mr. Speaker, I ask unanimous consent that all Members may extend their remarks on the conference report just adopted.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 19504, FEDERAL AID HIGHWAY ACT, 1970

Mr. JONES of Alabama. Mr. Speaker, I ask unanimous consent that the managers of the part of the House may have until midnight tonight to file a conference report on the bill H.R. 19504, the Highway Act.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 19877, RIVERS AND HARBORS AND FLOOD CONTROL ACT OF 1970

Mr. JONES of Alabama. Mr. Speaker, I ask unanimous consent that the managers of the part of the House may have until midnight tonight to file a conference report on the bill H.R. 19877, the Rivers and Harbors and Flood Control Act of 1970.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

CONFERENCE REPORT ON S. 704, AUTHORIZATION FOR APPROPRIATIONS FOR SMITHSONIAN INSTITUTION

Mr. THOMPSON of New Jersey. Mr. Speaker, I call up the conference report on the bill (S. 704) to amend the act of October 15, 1966 (80 Stat. 953; 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations to the Smithsonian Institution for carrying out the purposes of said act, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 16, 1970.)

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON of New Jersey. Mr. Speaker, I am delighted to yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I thank my friend, the gentleman from New Jersey, for yielding.

When the authorizing legislation was before the House a few days ago the gentleman assured the House that there was no money in the bill for the Hirshhorn Museum that is scheduled to be erected on the Mall. Will the gentleman give the House assurance, as a result of the conference with the Senate, that there is no change in that situation?

Mr. THOMPSON of New Jersey. The gentleman from New Jersey thanks the gentleman from Iowa for his question, and assures the gentleman that nothing in this bill or in the conference report in any way affects or refers to construction or adds or contributes to the construction of the Hirshhorn Museum.

Mr. GROSS. If there was any assistance being given I would suggest that the money be devoted to neon signs in the most colorful hues that could be devised to adorn the name of Hirshhorn who apparently has had some serious difficulties with the Canadian Government, and perhaps elsewhere.

Mr. THOMPSON of New Jersey. The gentleman from New Jersey will keep that very much in mind, and might even be willing to contribute to the design or color of the prospective lights, which is a splendid idea.

Mr. GROSS. I thank the gentleman.

Mr. THOMPSON of New Jersey. Mr. Speaker, this is an excellent conference report, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

RESIGNATION FROM A COMMITTEE

The SPEAKER laid before the House the following resignation from a committee:

WASHINGTON, D.C.,
December 16, 1970.

Hon. JOHN W. MCCORMACK,
The Capitol,
Washington, D.C.

DEAR MR. SPEAKER: I submit my resignation as a Member of the House Committee on Interior and Insular Affairs. It has been a valued experience to have served under your leadership and that of Chairman Aspinall on this great Committee during the period when so much has been done in the field of conservation, recreation and the improvement of our natural resources.

I am gratified that I have been privileged to serve as Chairman of the Subcommittee on Territorial Affairs over the past several years when we have witnessed the passage of a number of significant measures to extend self government in all the territorial areas under the flag or trusteeship of the United States.

I am greatly indebted to all the Members of this outstanding Committee for the exemplary spirit of cooperation and conciliation which has allowed the Committee to effectively carry a major share of the legislative burden in every year of my service.

I submit this resignation in order to seek the vacancy that exists on the Committee on Ways and Means and I extend to you my deep appreciation for the many kindnesses which you have extended to me during the term of your great leadership as our Speaker.

Sincerely,

HUGH L. CAREY,
Member of Congress.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

RESIGNATION FROM A COMMITTEE

The SPEAKER laid before the House the following resignation from a committee:

The Clerk read as follows:

WASHINGTON, D.C.,
December 16, 1970.

Hon. JOHN W. MCCORMACK,
The Capitol,
Washington, D.C.

DEAR MR. SPEAKER: I wish to submit my resignation as a Member of the House Committee on Education and Labor. It has been a great privilege to serve as a Member of this Committee, especially during a time when so much historical legislation has passed the House under your leadership in the field of aid to education for all children. These measures, together with the important gains we have made in the area of human resources, are a great testament to the able Chairmen under whom I have served as well as the outstanding leadership of all the individual Members of this Committee.

I submit this resignation in order to seek the vacancy which now exists on the Committee on Ways and Means.

I extend my sincere gratitude to you for the many past courtesies you have extended to me and I look forward to working with you in the years ahead for the improvement of our country and our party.

Sincerely,

HUGH L. CAREY,
Member of Congress.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 19446, EMERGENCY SCHOOL AID ACT OF 1970

Mr. ANDERSON of Tennessee. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1307 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1307

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 19446) to assist school districts to meet special problems incident to desegregation in elementary and secondary schools and to provide financial assistance to improve education in racially impacted areas, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. ANDERSON of Tennessee. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from California (Mr. SMITH), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1307 provides an open rule with 1 hour of general debate for consideration of H.R. 19446, the Emergency School Aid Act of 1970. The resolution further provides that it shall be in order to consider the committee substitute as an original bill for the purpose of amendment.

The major purposes of H.R. 19446 are to assist school districts which are required to desegregate and to assist school districts which are voluntarily integrating.

School districts which have been ordered to desegregate by court, HEW, or Justice; school districts which are voluntarily carrying out a complete plan of integration; and school districts which are carrying out plans to reduce de facto segregation or to prevent de facto segregation from occurring or increasing would be eligible.

Funds may be used for remedial service, additional professional staff and training, guidance and counseling, new instructional techniques and materials, innovative interracial educational pro-

grams, repair and minor remodeling of facilities, transportation of pupils, community activities, special administrative activities, planning and evaluation, and other specially designed programs or projects.

In considering an application, the Secretary of Health, Education, and Welfare must use six specific criteria, including the need for assistance and the degree to which the program is likely to result in a decrease in racial isolation. If an application is disapproved, the school district must be notified of the reason and must be given an opportunity to resubmit its application.

Applicants are required to submit proposals to the State educational agencies for comment and are required to give assurances that they have not unlawfully aided private segregated schools since the fall of 1969 and that they will not aid such schools in the future.

The Secretary is required to make annual reports and a National Advisory Council on the Education of Racially Isolated Children shall be created by the President.

The Secretary is allowed to use 1 percent of the funds for evaluation of programs.

The $500 million would be authorized for fiscal year 1971 and $1 billion for fiscal year 1972. Twenty percent of the appropriation is reserved to the Secretary for grants or contracts for special programs. The remaining 80 percent is prorated among the States on the basis of their number of minority children.

The legislation is designed to meet the special needs incident to the elimination of racial segregation and discrimination among students and faculty in elementary and secondary schools and to encourage the voluntary elimination, reduction, or prevention of racial isolation in schools with substantial proportions of minority group students.

Mr. Speaker, I urge the adoption of the rule in order that H.R. 19446 may be considered.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the purpose of the bill is to make additional Federal financial assistance available to school districts which are required to desegregate or those which are voluntarily integrating.

The bill authorizes $500,000,000 for fiscal 1971 and $1,000,000,000 for 1972. Twenty percent of the funds appropriated will be held by the Secretary of Health, Education, and Welfare for grants for special assistance to individual districts. The remainder will be apportioned among the several States on a formula based upon the number of minority children in a State's schools.

Three categories of school districts are eligible for assistance: First, those under order to desegregate by either the courts, HEW, or the Justice Department; second, school districts voluntarily integrating; and, third, school districts which are carrying out plans to reduce de facto segregation or to prevent de facto segregation from occurring or increasing.

Applicant school districts are required to submit to their State education agency their proposed plans for comments before forwarding them to the Secretary of Health, Education, and Welfare. They are also required to give assurances that they have not unlawfully aided private segregated schools since the fall of 1969 and that they will not give such illegal aid in the future.

Federal assistance under the bill will be available for such purposes as: First, additional professional staff, and training and retraining for all staff; second, guidance and counseling services; third, new instructional materials and techniques; fourth, innovative interracial educational programs; fifth, transportation of pupils; sixth, planning and evaluation of existing programs; and seventh, "other specially designed programs or projects."

Minority views are filed by four members. They oppose the bill because they believe that most if not all of what it proposes can be handled by existing statutory authority. They also oppose the bill because it puts Congress on record as formally supporting a massive, federally aided busing program which is designed to achieve racial balance in the schools and which will destroy the concept of the "neighborhood schools."

Mr. Speaker, I have no objection to the rule. I urge its adoption. I have no requests for time.

Mr. ANDERSON of Tennessee. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BARING. Mr. Speaker, yesterday on rollcall 415, the defense appropriation bill, I was unavoidably detained in the Senate. I would ask that the RECORD show that had I been present, I would have voted "yea."

The SPEAKER. The gentleman's statement will appear in the RECORD.

EMERGENCY SCHOOL AID ACT OF 1970

Mr. PERKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 19446) to assist school districts to meet special problems incident to desegregation in elementary and secondary schools and to provide financial assistance to improve education in racially impacted areas, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 19446, with Mr. CORMAN in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Kentucky (Mr. PERKINS) will be recognized for 30 minutes, and the gentleman from California (Mr. BELL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this bill is before you today largely due to the dilligence and hard work of three members of our committee—Mr. ROMAN PUCINSKI, chairman of the subcommittee, Mr. GUS HAWKINS, one of the principal architects of the legislation, and Mr. AL BELL, also a principal author of the legislation.

The legislation arises out of proposals submitted to the Congress by the President in the latter part of May of this year. Upon its referral to the Education and Labor Committee the legislation was handled in the general subcommittee on Education chaired by the distinguished gentleman from Illinois (Mr. PUCINKSI). He has been diligent in pursing every aspect of the proposal in hearings and investigations of that subcommittee.

The bill was ordered reported by the committee on November 24 with a committee record vote of 24 in favor and none against.

There are minority views in the report of the committee filed on November 30 signed by four members of the committee.

The bill's major purpose is to provide financial assistance to school districts to enable them to more effectively accomplish desegregation.

Eligible school districts fall into three categories. School districts which are under order to desegregate either by the courts, by HEW's civil rights compliance activities or the Department of Justice.

Second, school districts which are voluntarily carrying out a complete plan of integration and third, school districts which are carrying out plans to reduce de facto as distinguished from de jure segregation or to prevent de facto segregation from occurring or increasing.

Funds under the bill may be used for education programs and services which are directly related to problems arising in an integrating system. Thus, they may be used for: first, remedial services; second, additional professional staff; third, staff training and retraining; fourth, guidance and counseling; fifth, new instructional techniques and materials; sixth, innovative interracial educational programs; seventh, repair and minor remodeling of facilities; eighth, transportation of pupils; ninth, community activities; tenth, special administrative activities; and eleventh, planning and evaluation.

The bill spells out six general requirements to guide the Secretary in his approval of programs or projects.

These criteria include the need for assistance and the degree to which the program is likely to result in a decrease in racial isolation.

Eighty percent of the $1.5 billion authorized by the legislation over the 2-year life of the program would be allocated among the States according to the number of Negro, American Indian, and Spanish surnamed American children in our elementary and secondary schools in each State.

The remaining 20 percent may be utilized by the Secretary to fund directly special grants or contracts in accordance with the provisions of the act.

In making grants to educational agencies school districts would apply to the Secretary setting forth their proposed use of funds to assist the school district in its desegregation activities.

Such applications are required to pass through the State educational agencies for comment, with final approval resting with the Secretary.

A total of $500 million is authorized to be appropriated for the current fiscal year and $1 billion for fiscal year 1972.

In view of the overwhelming support given this legislation by the committee I believe that a rule should be granted at the earliest possible date so that the House can consider the legislation this week.

Mr. BELL of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 19446, the Emergency School Aid Act of 1970.

This legislation provides urgently needed financial assistance to school districts throughout the Nation who have: First, been required by State or Federal courts, HEW, or the Justice Department, to desegregate, and require proper funding to do so effectively; or, second, districts which are voluntarily willing to implement a desegregation program but are not financially able to do so effectively.

The committee bill authorizes for appropriation $500 million for fiscal year 1971 and $1 billion for fiscal year 1972.

Funds appropriated for either fiscal year would be available for obligation in the succeeding fiscal year.

Since Alexander against Holmes County, in 1969, in which the Supreme Court required immediate abolition of the dual system, there has been great progress in the South.

Today there are in effect court orders or HEW-approved voluntary plans which will mean that by the 1970–71 school year, 58.9 percent, or 1.8 million black pupils, will be attending desegregated systems.

These existing orders and plans cover a total of 306 school districts.

In the North, the Department of Health, Education, and Welfare has indicated that 505 school districts have been viewed as potential violators of title 6 of the Civil Rights Act.

The Department of Justice has indicated that a number of letters of intent concerning violations of title 4 of the Civil Rights Act have been sent to northern school districts.

Thus, the problem is nationwide in scope and immediate in its need for financial aid.

In a program of this magnitude it is imperative that the Federal Government match its rhetoric with the financial assistance necessary to insure that desegregation plans are carried out effectively.

As school districts come under court orders or as they are inclined to pursue voluntary efforts to correct problems of racial isolation, they are faced with public fears of a decline in educational quality and with diminishing support for public education.

Testimony before the committee indicated that most desegregating school districts lack the financial resources to provide effective desegregation and quality education.

Some of the tasks facing school administrators implementing a desegregation plan are: numerous public hearings, information for parents, rescheduling classes, communicating with parent groups, reassigning staffs, and providing information to the community.

Frequently the district also requires teacher training programs, remedial education, minor repair and remodeling of buildings, and guidance and counseling to encourage quality education.

Obviously, such programs are both time consuming and costly.

While the Emergency School Aid Act of 1970 provides financial aid for special expenses incurred in implementing a plan mandated by the courts, HEW, or the Attorney General, the bill gives equal priority to school districts with suitable voluntary desegregation plans.

Many of the districts have already carried out voluntary desegregation plans.

School districts in many other cities would adopt such plans if the Federal Government were to provide the necessary financial resources to insure that quality education would be maintained or improved.

Of fundamental importance in this bill are the provisions which would authorize funds to alleviate problems which arise in the "tilting school" situation.

The bill authorizes funds to school districts which have plans to prevent racial isolation reasonably likely to occur in schools of at least 10 percent, but not more than 50 percent, minority enrollment.

The theory behind this provision was described by one urban school superintendent, who feels strongly that the majority of parents are concerned about the educational future of their children and that if that quality can be guaranteed, the children would remain in the schools.

We have seen the danger of resegregation of our schools after a desegregation plan has been implemented.

With adequate financial assistance to "tilting schools" before it is too late, we may be able to convince parents and children that they can receive the same quality of education in integrated schools as they received in segregated schools.

The bill is the result of thorough testimony, lengthy debate, and careful compromise.

It places strict criteria on the Secretary of Health, Education, and Welfare in the approval of applications.

It emphasizes sufficient concentration of funds to insure that money will be spent in areas of the greatest need.

It recognizes the emergency need for adequate resources for desegregation so that educational quality does not decline and public support for the public school is maintained.

It provides that the appropriate State educational agency must be given an opportunity to offer recommendations.

It encourages voluntary desegregation and cooperation rather than confrontation.

It explicitly assures that financing under this new legislation is not to replace funding under existing programs.

The administration has emphasized that ongoing education programs will not be cut back or deprived of essential funds to help finance the Emergency School Aid Act.

Mr. Chairman, by supporting this legislation today, we will encourage an orderly process of desegregation and help insure that desegregated school districts will offer quality education to children of all races.

By demonstrating a commitment on the part of the Federal Government to providing financial aid to match our moral commitment, we can help maintain public confidence in the public school system and help provide truly equal educational opportunity for all our Nation's children.

Mr. PERKINS. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Illinois (Mr. PUCINSKI).

Mr. PUCINSKI. Mr. Chairman, I rise in support of H.R. 19446, which came out of the subcommittee it is my privilege to head.

This legislation has been very carefully worked out and balanced between the original proposals made by the President and the testimony as presented to our committee over a series of very extensive hearings.

This is the first time the Congress and the Nation are responding to perhaps the most vexing problem of our time, the problem of seeing schools become integrated and then resegregated because they do not have sufficient wherewithal and funds to try to work out programs which will lead to a better understanding among the students.

This legislation proposes $500 million for fiscal year 1971 and $1 billion for fiscal year 1972 to meet the needs as to the elimination of racial segregation and discrimination among students and faculty, and to encourage voluntary reduction of racial isolation.

Eighty percent of the money would be allotted among the States, with a minimum to each State of $100,000, on the basis of the proportional number of minority children. The Secretary may reallocate if no remaining projects in the States meet the criteria for approval.

Twenty percent will be reserved to the Secretary for model or demonstration projects and aid to programs for children from environments where a language other than English is dominant.

As to eligibility, local educational agencies under a final Federal or State court order, or a title VI plan, would be eligible, as would local educational agencies which wish to voluntarily eliminate or reduce racial isolation or to prevent racial isolation. The third group eligible would be the community groups and private nonprofit organizations, which also may qualify for assistance to support local educational agency programs.

The activities that are authorized under this bill include remedial and other services, additional staff, the training and retraining of staff, comprehensive

guidance and counseling, development of new instructional techniques and materials, innovative interracial programs, repair and remodeling including mobile classrooms, voluntary transportation, community activities, special administrative support, planning and evaluation, and other specially designed programs.

The criteria for approval under the program are: The Secretary must consider the extent of isolation, financial need, difficulty of carrying out a plan, comprehensiveness of the plan, promise of achievement, and the inclusion of public and private educational resources.

Mr. Chairman, one of the most important assets of this bill, which I believe addresses itself to the No. 1 problem of America, is the so-called tilting school, which is a school that is all white and becomes integrated, and then, on the basis of studies before our committee, within 36 to 40 months it becomes resegregated. The resegregated school is today our biggest problem, because once it has become resegregated there is no general relief or any further action on the part of the courts or on the part of anyone. It has gone. The boat has gone.

What this legislation does, is it provides Federal assistance to those school districts faced with this problem so that they can indeed improve the quality of education in that school to such an extent that both those youngsters coming into the school from minority groups and those remaining in the school will benefit from an improved educational program, the whole theory being by giving others an education in this kind of a school you arrest the plight of families there and you prevent them from becoming resegregated.

I do not know that this is a particular answer to the problem, but we have heard a tremendous amount of testimony before our committee and nobody came up with a better answer to the problem that confronts the Nation.

There was a problem raised as to whether or not these activities can be carried out under existing programs. I want to assure the House that after all of the extensive hearings we have conducted on this bill and the evidence we have taken and the studies we have made, if there was indeed a possibility to achieve these programs under existing programs, we would not be here today. The fact of the matter is that our existing programs are geared to special particular economic groups. Your biggest aid program, the title I program of ESEA, is limited to children who are in special economic low-income groups. What we are finding here now in court orders all over the country is youngsters from low-income groups being moved into schools where you have either middle-income or higher-income children, and you could not possibly apply title I funds to all of the children in that school.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PERKINS. Mr. Chairman, I yield to the gentleman 2 additional minutes.

Mr. PUCINSKI. If we were to rely only on the title I funds, it would be recreating segregation in that very school, which is the very thing that you are trying to avoid with this particular program. So the idea that somehow or other you can do these things under existing programs is just not so. I want to assure the House it cannot be done.

The other statement that was made was the fact that this was a giant busing bill. Those who know me well know that I have not been a great defender of the concept of busing. But I realize that there are serious problems in this country, serious problems where we have school districts under court order where they have to move children around. So what we have done is written into the law a prohibition that the authors of the minority report treat rather lightly—and I am sure that we will have more to say about it later—we have written, on page 26, line 16, paragraph (7) this provision:

(7) the provision of transportation services for students, except that, in accordance with section 422 of the General Education Provisions Act, nothing in this Act shall be construed to require the transportation of students in order to overcome racial imbalance;

This is the traditional position that the House has taken on this subject. We have written in here a program that we believe will carry out the traditional intent of the House and yet not interfere with those school districts that are under a court order.

Mr. CLAY. Mr. Chairman, will the gentleman yield?

Mr. PUCINSKI. I yield to my colleague.

Mr. CLAY. If we pass this bill, Mr. Chairman, can the President come up with a school budget or perhaps ask for half a billion dollars and take that from title I or impact aid?

Mr. PUCINSKI. No, sir, he may not. There was language written into the bill that specifically prohibits this.

There will be an amendment offered later that further clarifies this, but I can assure the gentleman of two things: No. 1, we have assurances from the administration that existing educational programs are not going to be shortchanged by this program.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

Mr. PERKINS. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. CLAY. Mr. Chairman, if the gentleman will yield further, can the gentleman point out to the House where those safeguards are which will not permit him to do that?

Mr. PUCINSKI. On page 20, line 11, paragraph (c) there is the following language:

(c) Notwithstanding subsections (a) and (b) of this section no funds are authorized to be appropriated to carry out the provisions of this Act where any funds appropriated for the preceding fiscal year for any authorized program administered by the Office of Education are withheld from expenditure by the department.

I trust that answers the gentleman's question.

Mr. DOWNING. Mr. Chairman, will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman from Virginia.

Mr. DOWNING. I have been reading the report and the bill, but is the premise of this legislation based upon I suppose what you found to be a fact although I did not know it to be a fact, that when a school becomes integrated that the quality of education declines?

Mr. PUCINSKI. We found in our studies that, for instance, in Atlanta, Ga., the rate of resegregation, whatever the reasons may be, was anywhere from 36 to 40 months. We found in DeKalb County, Ga., as well as in other parts of the country, a similar situation.

This legislation is designed to give those schools funds with which to reduce the size of the classroom numbers, provide for high-intensity counseling, bring in improved educational techniques and the kind of teaching task forces necessary not only to help with the remedial programs for those youngsters who may conceivably be deficient, but also to provide for those to make additional progress so that there will be no reason for them to compete or flee in the belief that with integration there is going to be a diminution of the quality of education.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

Mr. PERKINS. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman from Michigan.

Mr. CONYERS. Does the gentleman from Illinois remember what happened to the earlier $75 million?

Mr. PUCINSKI. Yes. The gentleman from Illinois has been as critical as perhaps anyone else with reference to some of the expenditures—not all of them, but some of them have been very good and exemplary.

Mr. CONYERS. Mr. Chairman, if the gentleman will yield further for the benefit of the Members of the House who do not know about it, would the gentleman from Illinois briefly review that subject?

Mr. PUCINSKI. In less than a minute I am afraid I cannot cover it in full detail. However, a task force has made a study of the $75 million and the task force was in many ways critical of the program. That $75 million was put together with paper clips, Scotch tape and chewing gum with no guidelines, no criteria and no specific requirements, covering five different programs.

This legislation now pending before us, I ask my colleague from Michigan to carefully review it and he will find that we have carefully written into law the kind of prohibitions and guidelines and standards which will preclude the recurrence of the criticism that was leveled at the first $75 million.

Mr. BELL of California. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Chairman, I rise in support of H.R. 19446, the Emergency School Aid Act of 1970.

This is a good bill. It is a necessary bill. It is the result of the best kind of cooperation between the executive and legislative branches. H.R. 19446 comes to the House floor after intensive hearings, and after the most careful and detailed consideration in our committee.

The two gentlemen from California, GUS HAWKINS on the majority and AL BELL on the minority, deserve enormous

credit for the dedication, vigor, and commonsense with which they worked together on this bill for the benefit of our Nation's schools. The subcommittee chairman, ROMAN PUCINSKI, deserves great credit for this bill. He went over the original measure sent up by the administration with a fine toothcomb, and this bill is the better for it.

This is an administration proposal. It has the wholehearted support of the President. Yet, this is a different and a better bill than the one which came to our committee. It is far more tightly drawn and far more carefully aimed at one problem: Racial segregation and racial isolation in the Nation's schools.

I say the Nation's schools, for this truly is a national problem. It always has been a national problem, but we are just now beginning to face up to it.

It seems to me that President Nixon, personally, should be warmly commended by every person of good will for his leadership in bringing this proposal to us. Other administrations have been great in their rhetorical support of school desegregation; this is the first administration to propose financial aid in any significant amount.

President Nixon sent his message on emergency school aid to the Congress on May 20 of this year. As I said, it had extremely careful consideration in our committee and emerged, in my view, in improved form. Now I understand that an entirely different sort of bill is emerging in the other body—a bill which is a sort of smorgasbord of untried and unproven educational theories with a heavy sauce of pure partisan politics.

I want to say right now that this is not the time, nor the subject matter, nor the vehicle for that sort of performance. Our committee has an unfortunate record of surrendering well-conceived legislation in conference with the other body. I do not want to see that happen with this bill.

The Nation's educators who have followed this legislation want the bill now before the House. The assistance it would provide is overdue. We need to act responsibly and we need to act now.

More than 6 million students, constituting 70 percent of the Nation's total minority student population, are attending schools which are more than 50 percent minority in their enrollment. More than 4 million minority students, or 48 percent, are attending schools more than 95 percent minority. And more than 3 million such students, or 37 percent, attend schools which are over 99 percent minority.

The problem, as I said, is not confined to the South. Of the 8.7 million minority students in elementary and secondary schools in the United States, 4.4 million are in the 32 Northern and Western States, 61 percent in schools 50 percent or more minority. The other 4.3 million are in the 17 Southern and border States, 77 percent in schools 50 percent or more minority.

Racial isolation is a problem for our large urban areas, as well as for the rural South. Of our Nation's minority children, 4.1 million are in the 100 largest school districts in the country. Thirty-eight percent of all students in these districts are minority students; of these, 83 percent are in schools 50 percent or more minority.

School districts across the country are painfully aware of their need to undertake programs to reduce or eliminate racial isolation, or to prevent it from occurring in presently integrated schools. But the special programs needed to achieve such a purpose are expensive. The legislation before us would provide Federal financial assistance for such additional programs, such as student services, teacher retraining, special counseling and guidance programs, and community relations. All programs assisted with Federal funds would have to be integral to a school district's plan for desegregation or elimination or education of racial isolation, or prevention of its occurrence.

This is not merely another problem for our schools. It is a problem for the American people, and we have thus far placed the heaviest part of the burden on our schools. If we seriously intend that the schools assume a major part of this common responsibility, then we must be prepared to give them substantial support. Beyond financial aid, however, we must begin to provide the moral support without which all else will fail.

Passage of the Emergency School Aid Act will be a vitally important step in the direction of providing both kinds of support to the schools on behalf of our children.

Mr. BELL of California. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, I thank the gentleman for yielding. I would direct a question to the attention of the gentleman from Illinois.

The chairman of our subcommittee has pointed out something that I think the House would want to know in more detail. He places great stress on paragraph 7, starting on line 16 on page 26. I think the inference is given that this is something that is added to the bill to prevent transportation—so-called busing. But is it not correct, and I would ask the question dircetly of the gentleman from Illinois, if this is not a correct statement: that all you have put in line 16 through line 20 is a statement that is already in section 422 of the General Education Provisions Act?

Mr. PUCINSKI. Yes; we have reaffirmed the basic intention of the Congress, that no Federal agency operating under any law other than the Constitution—which is a higher law than anything we can write here—but operating under any other law in no case can require the transportation of students for racial balance.

Now, if they are under court order, or if a local community chooses to do so, surely we do not want to interfere with local control. One of the very principles of this Congress is to iet local communities run their own school systems.

Mr. ASHBROOK. That is one of the objections I find to the bill. We keep using the word "required." They may not be required, but I think certainly it would be fair to say it would be encouraging it. So if that is the case, one of the objections I find is that in effect we are going to actively promote racial balance busing schemes in the various schools. In effect we are saying, "You can do it by any means and the Federal Government will pay for the busing."

Mr. PUCINSKI. No, because it will not——

Mr. ASHBROOK. If the gentleman will please stick to the question, does not the gentleman think this will encourage such action?

Mr. PUCINSKI. Wait a minute. How could the gentleman say that if we are going to pay for these various busing programs and schemes, why would not that encourage it?

Mr. PUCINSKI. May I call the attention of the gentleman to the requirements, I mean, how you can become eligible to get a nickle from this bill, and you will find your answer. This bill applies to the school districts which are under a court order.

Mr. ASHBROOK. No. We are not talking about that. We are talking about voluntary racial balance schemes.

Mr. PUCINSKI. That is very important.

Mr. ASHBROOK. I think we all agree in this House that any school district that is under a court order will get assistance. We are discussing those voluntary or noncourt-enforced plans.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BELL of California. Mr. Chairman, I yield 1 additional minute to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I think the gentleman from Illinois is talking about an entirely different subject. We are all agreed if Supreme Court rulings mandate busing, we are going to help those districts. What I am talking about is encouraging districts through their own voluntary programs, when they are not ordered by a court, and we are in effect saying, "You go ahead and set up your plans, and we will pay for the busing requirements in them."

Is that an unfair interpretation, would the gentleman say?

Mr. PUCINSKI. You cannot close your eyes to reality, and there is a reality in this country. Some communities are trying to deal with reality voluntarily, and if that is the route they choose we will help them; others are forced to this reality by court orders.

Mr. ASHBROOK. Right.

Mr. PUCINSKI. And if that is the route we will have to help them.

Mr. ASHBROOK. That is the very point I would make, where arey are forced to do so, but to encourage them to do so is something entirely different, and we will pay $1 billion to encourage these busing programs throughout the country.

I think the gentleman would have to admit that by holding out the carrot we will encourage this kind of thing.

Mr. PUCINSKI. Is the gentleman saying it will encourage volunteer programs?

Mr. ASHBROOK. It will encourage volunteer programs.

Mr. PUCINSKI. If there is a problem in the community, and the community wants to solve that problem itself, are

you saying they should wait for a court order?

Mr. ASHBROOK. I am saying the Federal taxpayer should not have to subsidize these busing programs.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. BELL of Califorinia. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Chairman, basically I want to follow up what my colleague, the gentleman from Ohio, pointed out: That the real danger of what will happen is the fact that any way you spell it, or any way you want to call it, this is a busing bill, and whenever anyone votes for this bill I want them to clearly understand what it is they are voting on. That is, you either are voting for busing, or you are voting against busing.

In 1972 when the issue comes up in an election, many of you are going to say that you misunderstood what you voted on, or it just was not clarified, but it is just very, very simple as to what it boils down to. That is in terms of what the Constitution says.

Bascially it is our responsibility to speak in behalf of what the Congress and the people of the United States want in the way of progressive education. One of the most important factors to make America great, has been the building of a sound educational system. About 10 years ago a few intellectuals developed a theory that the way to make education move forward was through a system known as school busing. This plan involves putting students on buses to ride across town to attend another school other than his nearby neighborhood school.

I have been sitting on the Education Committee for month after month and we have been through session after session discussing how to improve education. I have heard hundreds of witnesses and I have written to school boards from one end of the United States to the other on whether busing achieves any educational improvement. I have read stacks of reports on busing. There is in not one single instance in the entire United States where school busing has improved the quality of education. There is not one single instance in the entire United States that shows where school busing has improved the quality of education for any students.

The most important phase of growth in education is good teachers. That is where the real emphasis is needed—good teachers. Teachers are the backbone of good education.

The second thing is to have parents who are interested in good, sound education. This begins basically when parents encourage their children and give them an academic background in their home.

They talk in this bill about racially isolated groups.

We have a little group in my community, the friendly neighborhood of Bear Creek. People 100 years ago settled down out there. It was a Negro community because they wanted to live out in the country and work in town. They have been there for over 100 years in this community which is still basically a black community.

But 3 years ago in the J. O. Davis School the teachers and students had to close this schoolhouse because basically it was not integrated. You see you do not have an integrated school unless you have 51 percent of the students white.

The makeup of this neighborhood just is not that way. Most folks who live in the district are black. They had a black principal and black teachers. I want to tell you this. In that school they have one of the best records of citizenship for students of any school in the United States. They were good kids getting a good education but they did not meet a pattern.

Under this bill we are considering, we are saying we are going to eliminate and reduce racially isolated schools in any school district.

This past year I just finished an election that included the city of Irving. I showed strong gains in all but one precinct. Out in the J. O. Davis schoolhouse they opened the locked gates to use it on election day. My vote dropped from 51 to 37 percent because the blacks in this district resented their school being closed. They want no busing but they want their own school.

I want the people in the J. O. Davis School to know I think they are entitled to a neighborhood school and they are entitled to a school in their own area. It is a modern brick schoolhouse and it is one of the few schools in that area that has a gymnasium.

In this particular bill we are going to close more J. O. Davis schools in the United States and going to waste more money of the United States on buses. Our need is for more teachers to build quality education. We need to emphasize, help and encourage superior teachers. My district is 100 percent for teachers and 94 percent say they want no busing.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman.

Mr. CONYERS. Mr. Chairman, the gentleman expresses a great concern about busing, which I will say to the gentleman in the well—I am not sure is involved in this bill.

But if the neighborhood school concept is so important to the gentleman, and he admits that we live in mostly involuntary racially segregated communities and the quality of the schools are vastly different between those that black children attend generally and those that white children attend throughout this country—and I am not singling out the South—then how are we ever going to correct the situation if the gentleman is so totally opposed to the kind of concepts that may or may not include busing? How are we going to get around that and get to the real core of the problem?

Mr. COLLINS of Texas. First, I do not know what the conditions of different schools are in your particular section.

Mr. CONYERS. It does not matter where they are in America—they are all over.

Mr. COLLINS of Texas. Let me tell you, because you asked me.

In the J. O. Davis School in Irving these people live there not because it is a congested area—it is a rural area and they are there by choice. They want to live there and breathe fresh air. They have an excellent area with a lot of pluses. It s a nice school. And I want to tell you another thing.

Mr. CONYERS. Do you say they are very happy there about the school situation?

Mr. COLLINS of Texas. They really are. They want to maintain that school in their neighborhood and they are the ones who asked for it. Let me also tell you about the most modern high school in Dallas. It is in the middle of the black district and is named Pinkston High School.

We have this problem. The high school is a vocational high school. We cannot get enough students to take vocational training, which is one of the great educational needs in America. I checked this school. I used to be chairman of our Dallas Manpower Development Commission. We found that over in this high school which is predominantly black that they lack incentive to take vocational courses. We would like to see them undertake more vocational training. This particular school is not running full, and yet it has the best facilities of any school in the community. We need to build more vocational schools but we gave priority and preference to the black community.

Mr. BELL of California. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. DELLENBACK).

Mr. DELLENBACK. I thank the gentleman.

Mr. Chairman, I think it is extremely important that the House understand the basic fundamentals of what is being sought to be done here. We have a crisis situation in some of the schools of the Nation. If we do not make special help available in this crisis situation, there is going to be a very serious effect on the education of the young people in those areas.

So far as the question of busing is concerned, to which there has been allusion, with deep regard and respect for the gentleman from Texas, may I make clear that the bill that is before us does not require that there be busing. What is attempted to be done through this legislation is to keep available to the local community the responsibility and authority for making the decision as to what that local community wishes to do.

Mr. SCHERLE. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentleman from Iowa for a question.

Mr. SCHERLE. The gentleman has stated that there is no stipulation of a particular amount of money in the bill for busing. Is there anything in the bill that would prohibit the use of that money for busing?

Mr. DELLENBACK. There is nothing in the bill that prohibits the use of any of these moneys for busing.

Mr. SCHERLE. I thank the gentleman.

Mr. DELLENBACK. But let me go on to make the point amply clear. The goals that are being sought by this legislation are oftentimes goals which are laid down by a court order, and if the court

order requires that certain things be done, we are putting our heads in the sand to say, "The court has ordered that this be done, but the local school district has no capacity to do this particular thing." And yet we will not make help available to do what the court has ordered to be done.

It is clear that in some areas where the court has spoken there must be compliance, and this bill is an endeavor to make that help available.

Mr. BELL of California. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. I thank the gentleman for yielding.

Mr. Chairman, I had not intended to take time during general debate on this proposal. I had planned, however, to participate under the 5-minute rule. But the gentleman has just said something quite significant, whether he realizes it or not. The gentleman has said that where the court orders, we ought to help. Is that not correct?

Mr. DELLENBACK. That is correct.

Mr. WAGGONNER. Then why did the committee change the formula which the administration recommended and make this money available to districts the court has never touched and never issued any orders against, making that money available to them? Why did the committee do away with the double count, where there are disadvantaged blacks, so to speak, and make that money available nationwide, rather than just where the court order prevailed? Why provide money to unaffected school districts?

Mr. BELL of California. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from California.

Mr. BELL of California. The court has, of course, given the right to southern schools to transport their students, which they have to do under desegregation.

Mr. WAGGONNER. The gentleman admits that this is no longer confined to southern schools operating under court orders. This aid is available nationwide; is it not?

Mr. BELL of California. Yes, it is; but there are court orders in other parts of the country besides the South.

Mr. WAGGONNER. Would the gentleman tell me where there is one in existence, including in his own home district?

Mr. BELL of California. I want to point out this, that the local schools themselves have the power to transport by bus if they want to call it that.

Mr. WAGGONNER. Can the gentleman tell me where there is a court order in effect today outside the South?

Mr. QUIE. Mr. Chairman, if the gentleman will yield, I believe there are some in Connecticut and Michigan.

Mr. PUCINSKI. Mr. Chairman, if the gentleman will yield, there is one in Illinois.

Mr. ROGERS of Colorado. If the gentleman will yield, we have one in Denver, Colo., that has been under the order of a Federal court to desegregate.

Mr. WAGGONNER. Mr. Chairman, the only thing I want to say is, it is good to see the Members get concerned when they get some of the same treatment. But I believe the record will show that none of the court orders just mentioned are final. I am still waiting for an answer to my question about why the formula was changed, why the double count was dropped and why everybody is eligible to participate.

Mr. BELL of California. Mr. Chairman, I reserve the balance of my time.

Mr. PERKINS. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. DOWNING).

Mr. DOWNING. Mr. Chairman, I will not take that 1 minute. I compliment the gentleman from Texas (Mr. COLLINS). I think he has made some great points. It appears to me that this is primarily a busing bill, and I have some difficulty wondering why the committee came forward with this. This House has said on several occasions that we did not favor busing and did not want to allocate funds for that purpose.

Before I leave, I would like to say, if this is going to pass, I hope a change is made to include shipping. I have an island in my district, Tangier Island, once a white school, and the only way we can get the minority to the island is by boat. So we had better amend it.

Mr. PUCINSKI. Mr. Chairman, I hope the gentleman will take the trouble to read the bill before he finally concludes that this is busing wholly. Busing is really very incidental. The main thrust of this bill is to improve the quality of education, to stabilize the schools for both black and white children. I think it is a great misnomer to say it is a busing bill.

Mr. PERKINS. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, if the real purpose of this bill was busing, I do not think the subcommittee would have devoted as much time to it as the subcommittee did. As the gentleman from Oregon (Mr. DELLENBACK) said, we have emergency situations throughout America in our school systems, particularly where we have the desegregation order.

If anyone fears busing, I think he should read section 7 on page 26 where it states:

(7) the provision of transportation services for students, except that, in accordance with section 422 of the General Education Provisions Act, nothing in this Act shall be construed to require the transportation of students in order to overcome racial imbalance;

Certainly within certain school districts where court orders exist and the local school districts make a determination that they do not have the funds, and they submit a plan to the Commissioner of Education that they want to spend some money for transportation, that is their own right to make that decision. They are doing it today. We do not interfere with the decisions of the local educational agencies. Nothing in this bill is making any imposition on the local educational agencies insofar as busing is concerned. Nor is this the case in any of the educational acts.

Mr. ROGERS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the distinguished gentleman from Colorado (Mr. ROGERS).

Mr. ROGERS of Colorado. Mr. Chairman, the report points out on page 5 that there has been a court order entered in Denver, Colo., for busing purposes. As I understand this bill, under the terms of it, a nonprofit organization may make an application and get a grant if it proves to the Secretary that this would aid in bringing about desegregation. Is that correct?

Mr. PERKINS. Yes; they have to give the Secretary certain assurances. There are several assurances to be made by an applicant before the Secretary may approve such an application. These are set forth in section 5(b) of the bill.

Mr. ROGERS of Colorado. Would the assurances have to be approved by the school district? If the school district itself refused to approve it, then the Secretary would have no authority to make a grant?

Mr. PERKINS. That is correct. The assurances would have to be given by the public or private nonprofit agency involved.

Mr. ROGERS of Colorado. Let us go one step further.

The CHAIRMAN. The time of the gentleman from Kentucky has again expired.

Mr. PERKINS. Mr. Chairman, I yield myself 1 additional minute.

Mr. ROGERS of Colorado. Mr. Chairman, will the gentleman yield further?

Mr. PERKINS. I yield further.

Mr. ROGERS of Colorado. Where a court order has been entered and an application is made by a private agency for funds to support a program does the school board have to approve that before the Secretary would grant it to the private agency?

Mr. PERKINS. In my judgment, the local educational agency involved, since the proposal would be in furtherance of its own integration plan, would approve it before it was approved by the Secretary.

Mr. ROGERS of Colorado. May I ask a further question? If this nonprofit organization should submit a plan which included going into the schools and monitoring to maintain order in the schools could this be funded?

Mr. PERKINS. I refer the gentleman to page 25 of the bill.

The CHAIRMAN. The time of the gentleman from Kentucky has again expired.

Mr. PERKINS. Mr. Charman, I yield myself 1 additional minute, and I hope I will not use all of it.

On line 4 the gentleman will notice the language:

to carry out programs or projects designed to support the development or implementation of a plan described in subsection (a).

It must be a public or private nonprofit agency, institution or organization—it must meet the criteria in section 5(b) and its proposal must provide the assurances and further the matters in section 5(a).

The private agency can only get a grant to help a school develop or implement a school district plan.

Mr. ROGERS of Colorado. They have a school district plan that has been put in force and effect by the court order. Out of that there was a great deal of dispute and disruption in the school.

Mr. PERKINS. But they have to have the school district's consent.

Mr. ROGERS of Colorado. Yes; but in this particular instance there is a group that has said to the school board, "You let us join in, and we will help patrol the schools." They have made an application for money to go directly to them. Will their application have to meet the approval of the school board?

Mr. PERKINS. It has to meet the approval of the school board.

Mr. HAWKINS. Mr. Chairman, I thank the gentleman for yielding.

I merely rise at this time because some reference has been made to the position of civil rights groups on this pending proposal.

I want to assure the House that I personally am very much concerned about that aspect of this proposal. During the hearings it was my privilege to contact and to work with these groups. I am very familiar with the report which was made by a group of these organizations. I intend at the appropriate time to have a press release and report of theirs inserted in the RECORD.

I want to say that each of these groups was invited to testify before the committee. As a matter of fact, much of what went into the formation of this bill arose out of the initial findings of civil rights groups. I think they have done a real service for the country. I would say that they were asked to testify before the committee and many of them did not wish to do so, but nevertheless we did counsel with them. One of the organizations listed happens to be an arm of the National Association for the Advancement of Colored People. Upon the release of their report, Mr. Bell and I did contact Mr. Clarence Mitchell, a representative of that organization, and we received a telegram from him reaffirming the support of the National Association for the Advancement of Colored People behind the concept in the proposal as originally introduced and even before the bill was amended to include many of the very points which some of those who would be critical of this proposal are now saying should be in this bill. If they will direct their attention to section 7——

Mr. REID of New York. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. In just 1 minute if I can complete this statement.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PERKINS. Mr. Chairman, I yield the very distinguished gentleman from California (Mr. HAWKINS) 4 additional minutes.

Mr. HAWKINS. Mr. Chairman, in response to these groups we wrote into the bill criteria for approval which appears on page 27 of this bill. In another place we have written into the bill assurances that go into great detail limiting the Secretary with respect to applications. Much of this has been taken literally from recommendations of those who made the critical report. They were asked to testify before the committee to participate in having us draft this particular proposal. I think it is eminently clear that there are those who oppose the proposal because it would obviously give to the current administration some money to spend.

Mrs. CHISHOLM. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentlewoman from New York.

Mrs. CHISHOLM. I would like to ask or raise one question.

In the light of the fact that $75 million was used in many instances in an attempt to desegregate school facilities in this country and we now have that on the record, is there not anything actually written into this bill to prevent resegregation internally within the schools? This is very important. Notice what I have said. To prevent resegregation internally in the schools in many districts? I was wondering if there is anything in this bill to prevent that reoccurrence.

Mr. HAWKINS. Yes. Absolutely. There was testimony before the committee and the chairman of the committee (Mr. PUCINSKI) had inserted in the bill an absolute provision not only to prevent resegregation but also to assist school districts in the tilting situation. In addition to that we have written in numerous other assurances which, as I say, begin in section 9 on page 29 and go on for three additional pages.

Mr. PUCINSKI. Will the gentleman yield?

Mr. HAWKINS. I yield to the chairman of the subcommittee.

Mr. PUCINSKI. One footnote clearly provides that if the tilt goes beyond 50 percent, then that school district faces the loss of those funds. It puts a great burden on the principal to keep that school from resegregating.

Mr. HAWKINS. In addition to that, may I say this: It seems to me we are faced today with one fundamental issue, that is, whether or not for the first time in the history of this country we will adopt the concept that money should be appropriated specifically for the purpose of desegregation. It seems to me that those who seek this and those who oppose the opponents of this legislation are given the opportunity of accepting a solution for the first time not for compensatory education, which is still to some extent experimental, and not for some other fancy educational theory but specifically for the purpose that many of us have been struggling for years to see put on the statute books. I say this is the one golden opportunity they have if they wish to accept this concept, whether it is this administration or not. I am going to criticize this administration more than this report has done, but I think by the same logic we have to give them the money with which to work.

And, if they fail to allocate the money or to administer it wisely, then I say let us do it, then take appropriate action. But this report was made prior to the time that criteria was established, prior to the time any assurances were written into the bill and, certainly, it seems to me that if we want a meaningful program of desegregation then, certainly, we should adopt this bill.

Mr. PERKINS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. I appreciate getting 1 whole minute.

Mr. PERKINS. Well, let me say, if the gentleman will yield to me——

Mr. CONYERS. I yield to my chairman, if he will get some more time for me.

Mr. PERKINS. I have committed myself to the gentleman from Louisiana long before the gentleman from Michigan mentioned it to me, but I will take it upon myself to take away a minute from the gentleman from Louisiana so you can have a couple of minutes.

Mr. CONYERS. I thank the chairman.

Mr. Chairman, there have been a number of questions raised about this. I am just wondering if anyone on the committee has read a document that is entitled, "The Emergency School Assistance Program and Evaluation," a report by a number of civil rights and liberal and religious and legal organizations that have pointed out certain criticisms? To my very dear friend from California (Mr. HAWKINS) whose record of criticizing the administration is second to none, I would like to point out one very disturbing reference to what happened to the first $75 million that went to this emergency school assistance program. According to this report—

> It was feared that the funds would be used to assist districts engaged in discriminatory practices, that they would duplicate existing school aid programs and that the community would not be involved in the development and implementation of ESAP projects. Some critics argued that the proposal amounted to a political pay-off to the South to assuage the reaction to desegregation requirements, and that there was no "emergency" requiring a precipitate infusion of new federal funds.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield for a question?

Mr. CONYERS. I am not yielding for a question. I want some answers.

Mr. HAWKINS. I will give you an answer.

Mr. CONYERS. I am not yielding right now.

Mr. HAWKINS. Then, you do not want an answer.

Mr. CONYERS. I am not yielding right now.

Mr. HAWKINS. You propound a question but you do not want to get an answer.

Mr. CONYERS. It so happens that these concerns have been expressed by a number of Senators. So, we who are disturbed about the provisions are not worried about whether there is busing involved, which is the extent of the minority report——

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. CONYERS. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. The Chair will state to the gentleman from Michigan that the time is under the control of the managers of the bill, the gentleman from California (Mr. BELL) and the gentleman from Kentucky (Mr. PERKINS).

Mr. BELL of California. Mr. Chairman,

I yield the gentleman from Michigan 2 additional minutes.

Mr. CONYERS. I thank the gentleman for yielding me this time, because I think this is a very important consideration that unfortunately has not been examined thoroughly enough in this very limited amount of time.

Mr. CLAY. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Missouri.

Mr. CLAY. I have a question for one of the sponsors of the bill. The gentleman from California in his statement said that the people who evaluated the $75 million that was appropriated earlier had refused to testify before the committee. Then the gentleman made a statement that many of their concerns were incorporated into this bill.

I would like to know how he knew about those concerns since they did not publish their report or make any public statement until after he had voted the bill out of the committee.

Mr. HAWKINS. Mr. Chairman, if the gentleman will yield, I would like to specifically state to the gentleman that Mrs. Ruby Martin, a very outstanding authority in the field of civil rights, and a part of the team that did make this report, did counsel with me throughout the hearings.

These hearings went on, contrary to what has been stated, and this bill was not just sneaked in overnight, it has been one of the most debated bills I think in the Congress, and perhaps one of the most amended ones.

Mr. CONYERS. Well, does the gentleman——

Mr. HAWKINS. And we did consult very freely and did invite people before the committee, and I am sure the gentleman from Illinois (Mr. PUCINSKI) will agree with me that we did extend invitations.

Mr. CONYERS. Does my friend, the gentleman from California, agree with this report?

Mr. HAWKINS. Let me say that I basically agree substantially with that report, but I am telling the gentleman we have written into the bill those assurances and safeguards that are based on that report.

Mr. CONYERS. I see.

Mr. HAWKINS. And it seems to me that what you are talking about when you talk about the $75 million that has already been spent, you are talking about past history. We are now talking about the expenditure of money not under the loose makeup and the loose authority that the administration had in the spending of that money.

Mr. CONYERS. But does the gentleman recognize——

Mr. HAWKINS. But under this bill——

Mr. CONYERS. The gentleman has not made one critical statement about the $75 million that was squandered, and the first sentence of the report that the gentleman agrees with substantially says that the promotion of the emergency school assistance program has been——

Mr. HAWKINS. Mr. Chairman, I will put that in the RECORD at the proper time, and I assure the gentleman—and what I am saying to the gentleman—that he is really blocking the writing out of assurances and criteria that will make this money be spent wisely.

Mr. CONYERS. Does the gentleman have any amendments he will offer?

Mr. HAWKINS. It seems to me the gentleman should join with us, and he would do so if he is really interested, not in politics, but in the interest of children.

Mr. CONYERS. Does the gentleman have any amendments to offer?

The CHAIRMAN. The time of the gentleman has again expired.

Mr. BELL of California. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Chairman, before we make any judgment, I would say to my colleague, based on the expenditure of the $75 million, that there were some mistakes because the $75 million came mostly under the authorization of the Economic Opportunity Act. Now, you know, there was loose administration under the Economic Opportunity Act. The Congress never wrote it so as to adequately tie all money down, and consequently all over the place there have been scandals in the Economic Opportunity Act in past years. But now we have written a bill here for which no money has been appropriated, and the bill has the kind of assurances to prohibit abuses. The gentleman from California said it well. Before the $75 million was appropriated we began work on tightening the bill. While we were still working on it in the subcommittee the appropriation was made, and the applications for funds were coming in. The subcommittee became aware of a request for air conditioning from one school district.

Well, then the administration came in and said they had turned that down. But because we realized requests would be coming which would not necessarily be needed for integrating our schools, we put those assurances in the bill. These protections were not in the administration bill when it came to us; these were added in the subcommittee to give those kinds of protections.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Illinois.

Mr. PUCINSKI. Mr. Chairman, I would like our colleagues to know that hearings were held, and if they will look on page 784 of the hearings they will see we asked the Deputy Comptroller about these various things that have been mentioned in this report, particularly the $300 for air conditioning. And it is very definitely stated here that when these things were caught they were immediately cut out.

So we are aware of this report. And, as the gentleman from California said, this bill was written to make sure these things do not reoccur. And as the gentleman from Minnesota says the original bill was written out of five authorizations from the poverty program, title I, Professional Development, and there were other criteria that we now have to protect us in this bill.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BELL of California. Mr. Chairman, I yield 1 additional minute to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Chairman, I want to say that the $75 million came late. The administration asked for $150 million, since they needed some money quickly and that is why they asked for that appropriation to go through other authorizations. They needed it quickly because they wanted to get some programs started before the beginning of the school year. The Congress appropriated only $75 million and it came late. The administration did not have much time, and they had to move that money out. That is no longer the case.

If we pass this bill now, and send it to the other body, and the other body passes it, then possibly we can get a supplemental appropriation bill early next year, then the administration will have time under the assurances and the protections within this bill to make certain that these same kinds of mistakes will not be made again that exist in the report. That is if the report is correct.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman.

Mr. PERKINS. Mr. Chairman, I wish to concur in the statement made by the gentleman from Minnesota (Mr. QUIE) and the gentleman from California (Mr. HAWKINS).

Assuming that mistakes were made in the expenditure of $75 million, we have erected safeguards in this bill to prevent those mistakes from occurring again. So the gentleman from Michigan has nothing to worry about because we have tied down the disbursement of this money.

Mr. BELL of California. Mr. Chairman, I have no further requests for time.

Mr. PERKINS. Mr. Chairman, I yield the remaining time to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Chairman, I am almost constrained to yield my time to the gentleman from Michigan so that he and the gentleman from California can continue their colloquy, because I think they were doing us more good than anybody else—actually.

Let us talk a moment or two about this particular bill. When the initial $75 million was appropriated by this Congress at the request of the administration, it had a formula which was intended to do what the administration wanted to do—and that was that where court orders were in force, where school districts were having trouble during transition days, from previously segregated schools to integrated systems, they would get financial assistance to help them do those things that the court was requiring them to do that they had not done previously and needed money for.

Criteria for administration were drawn by the Department of Health, Education, and Welfare, which I believe the Secretary did not concur in. I say this because I have talked with him about it. Language has been written into this bill to try to prevent that from happening again. The criteria for the distribution of the original $75 million were likewise modified.

Criteria were circulated which said—if ever a school district had leased, disposed of, or allowed the use of any of their facilities or equipment for money or without charge to a segregated activity or group, then they were not eligible for any of the funds appropriated by this $75 million. How unfair can you be?

We helped to get that clarified because this was not the intention of the Secretary. When I went to him, he helped to get that clarified. But this proposal does away with the formula for the distribution of the first $75 million.

It does away with the double count for blacks in those affected southern districts. Mr. Chairman, it is now a proposal which is available nationwide.

I disagree with those who say that everything that can be done by this proposal can be done under title I of ESEA. This is not completely so because title I of ESEA has as its purpose assistance for the disadvantaged—for those who come from families where the incomes are less than $3,000 per year. So there is this difference.

Now let us talk specifically about the criteria and this is what the gentleman from Michigan is concerned about as I am.

You see what has been done—this is the reason I want this colloquy—if you look at page 30 of the bill at line 13, subparagraph (4), we say in the bill:

(4) in the case of an application by a local educational agency, the applicant (A) has not, subsequent to the commencement of its 1969–1970 school year, unlawfully donated, leased, sold, or otherwise disposed of real or personal property or services to a nonpublic elementary or secondary school or school system practicing discrimination on the basis of race, color, or national origin, or has rescinded such transaction (or received consideration in lieu thereof) in accordance with regulations of the Secretary.

Now, are we saying there is nothing ex post facto about this particular language?

Are we saying, that in the lease or sale of property, if they have complied with the laws by which they are governed—and the gentleman from Kentucky earlier said here and I was surprised to hear him say it when he said—we do not intend to interfere with the decisions and the authority of the local school authorities—we want them to operate their own school systems—are we saying that as long as those people comply, in the disposition of property or in leasing or rental of property, with the laws under which they are governed that it would not be an unlawful disposition of property?

Are we saying that as long as those people have complied in the disposition of property, in the lease of property, or in the rental of property with the laws under which they are governed, that it would not be unlawful in the disposition of property?

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Illinois.

Mr. PUCINSKI. The language which appears on page 30, line 15, is the language that our colleague from Louisiana wanted to get in.

Mr. WAGGONNER. That is correct. Believe me, I appreciate it but I wanted the colloquy to clarify for the future what constitutes an unlawful act.

Mr. PUCINSKI. When we wrote the bill the gentleman requested only 1 year, and the school district could purge itself merely by rescinding its action.

Mr. WAGGONNER. Then we agree. There is nothing ex post facto. Is that correct?

Mr. PUCINSKI. That is correct.

Mr. WAGGONNER. Then the laws by which they are governed, which regulate their activities, if they have not violated those laws in the sale, lease, or rental of property, whether buildings, equipment, or whatever it is, and they have not reduced their educational effort, then the criteria will allow them to get this assistance?

Mr. PUCINSKI. That is correct, provided there is no violation of the fraud clause. But within the context of what the gentleman has stated, the answer is yes.

Mr. WAGGONNER. I thank the gentleman for yielding.

Let me tell the committee that when we get to the 5-minute rule, I will offer an amendment which falls on page 33, subparagraph (12), which I think is quite significant. I think it is fully the intent of the committee to provide for this. I yield back the remainder of my time.

Mr. BELL of California. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. REID).

Mr. REID of New York. I thank the distinguished gentleman from California for yielding.

Mr. Chairman, I could not help but rise to my feet in light of the recent colloquy that I heard on the floor relative to the report entitled, "The Emergency School Assistance Program: An Evaluation." There are several points that should be made.

First, some of those concerned with this report feel that the bill has dealt with some of the difficulties in the administration of the $75 million appropriated to date, but, to be accurate, there are others who feel that there are still grave loopholes in this bill and, very frankly, for the benefit of Members, the report lists serious defects.

Specifically, the report indicates that grants have been approved to districts which had earlier been found ineligible for any Federal assistance because of refusal to comply with nondiscrimination requirements of the Civil Rights Act of 1964. It emphasized that ESAP funds have been used to support projects which are racist in their conception or which will result in resegregation of black students. It was pointed out in the report that in only 29 of the 295 ESAP-assisted school districts monitored by civil rights organizations—less than 10 percent—was no evidence found of practices which would raise questions about eligibility to participate in the program.

In the back of this report there is a listing of particular school districts receiving funds that are violating either HEW or court-ordered segregation plans in Alabama, Florida, North Carolina, South Carolina, Tennessee; a list of districts with classroom segregation; a list of districts with segregation in other facilities; and a list of districts with segregated transportation, and a list of districts where there is discrimination against black teachers and staff. All these districts are receiving ESAP money.

I am conscious that the committee and the administration have read this report and sought to draft a bill which would meet some of the clear violations of civil rights statutes and court actions of the past. I would submit, however, that the bill can benefit from some very definite and specific amendments, and without those amendments, there will be lasting defects in the legislation.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. REID of New York. I yield to the gentleman from Michigan.

Mr. CONYERS. I think the gentleman from New York has made a very important statement, because I think he has brought out what might be construed as some partisan statements and criticisms of this bill. The bill needs strengthening, and I appreciate that the gentleman will offer some amendments. But where are the proponents of this legislation who keep assuring me that we will not squander many more millions of dollars as we have done the first $75 million? None of them have offered or seem to want to offer any amendments.

Mr. REID of New York. Mr. Chairman, I thank the gentleman for his comment.

Mr. Chairman, I must say that some of the most distinguished civil rights lawyers in the United States have been in touch with me and have, in fact, helped to draft amendments, and they do have serious concerns about this legislation, and they are afraid as to what could happen if the legislation is passed in its present form.

Mr. BELL of California. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. PUCINSKI).

Mr. PUCINSKI. Mr. Chairman, we have heard on a number of occasions this afternoon statements made that nothing is being done to correct the shortcomings or the abuses reported in that report. It seems to me no matter what language we use, we are not going to persuade our colleagues that this whole bill, all 41 pages of it, is designed to preclude and to prevent the very shortcomings that were found in the study.

But we must remember, and please do not forget, that the $75 million was, first of all, allocated in great haste because the need was great. Second, there were no criteria established by law. So as the gentleman from Louisiana (Mr. WAGGONNER) has said, the guidelines that came down were quickly shot down by the Secretary, because those guidelines were not tenable.

Now we bring a piece of legislation which requires among other things that hereafter all guidelines that will be promulgated under this act will first have to be published in the Federal Register, so we may all inspect them.

These are the things being done in this bill.

Mr. BELL of California. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I could agree that in any administration, with this amount of money involved and done at the speed with which it has been done, there are bound to be some discrepancies and some advantages taken. So far I think it is a little bit early. I would not like to declare myself as saying that the report that has been mentioned by the gentleman from Michigan is accurate. I would not say it was. I am not sure it was.

It is my understanding the administration is looking into it, and some of the facts being reported and claimed by others are not accurate. This is still in doubt. I am sure the administration would want to correct it if the facts are not accurate.

Mr. PUCINSKI. Mr. Chairman, if the gentleman will yield I would like to congratulate the gentleman from California, Mr. BELL, and the gentleman from California, Mr. HAWKINS, and the members of the committee and our staff and members of the administration for bringing this bill in. I congratulate these people for bringing to us a bill dealing with a tremendously controversial subject, one that applies differently in different parts of the country, one that tries to take into account the fact that there are great differences in culture and customs in a great nation such as ours. These men have done a monumental job in bringing before this Congress a bill that can be supported by the East and West and North and South and can do the job that has to be done.

Mr. BELL of California. That is correct. This bill is made to help solve this problem, specifically by zeroing in on the desegregation problem.

The CHAIRMAN. All time has expired.

The Clerk will read the committee amendment in the nature of a substitute printed in the bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency School Aid Act of 1970".

PURPOSE

SEC. 2. The purpose of this Act is to provide financial assistance—

(a) to meet the special needs incident to the elimination of racial segregation and discrimination among students and faculty in elementary and secondary schools, and

(b) to encourage the voluntary elimination, reduction, or prevention of racial isolation in elementary and secondary schools with substantial proportions of minority group students.

APPROPRIATIONS

SEC. 3. (a) There are authorized to be appropriated for carrying out this Act not in excess of $500,000,000 for the fiscal year ending June 30, 1971, and not in excess of $1,000,000,000 for the succeeding fiscal year.

(b) Funds so appropriated shall remain available for obligation for one fiscal year beyond that for which they are appropriated.

(c) Notwithstanding subsections (a) and (b) of this section no funds are authorized to be appropriated to carry out the provisions of this Act where any funds appropriated for the preceding fiscal year for any authorized program administered by the Office of Education are withheld from expenditure by the Department.

ALLOTMENTS AMONG STATES

SEC. 4. (a) From the sums appropriated pursuant to section 3 for carrying out this Act for any fiscal year, the Secretary shall allot an amount equal to 80 per centum among the States by allotting to each State $100,000 plus an amount which bears the same ratio to the balance of such 80 per centum of such sums as the aggregate number of children enrolled in schools in the State who are Negroes, American Indians, Spanish-surnamed Americans, or members of other racial minority groups as determined by the Secretary, bears to the number of such children in all of the States. The remainder of such sums may be expended by the Secretary as he may find necessary or appropriate (but only for activities described in section 6 and in accordance with the other provisions of this Act) for grants or contracts to carry out the purpose of this Act. The number of such children in each State and in all of the States shall be determined by the Secretary on the basis of the most recent available data satisfactory to him.

(b) (1) The amount by which any allotment to a State for a fiscal year under subsection (a) exceeds the amount which the Secretary determines will be required for such fiscal year for programs or projects within such State shall be available for reallotment to other States in proportion to the original allotments to such States under subsection (a) for that year but with such proportionate amount for any such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a fiscal year shall be deemed part of its allotment under subsection (a) for such year.

(2) In order to afford ample opportunity for all eligible applicants in a State to submit applications for assistance under this Act, the Secretary shall not fix a date for reallotment, pursuant to this subsection, of any portion of any allotment to a State for a fiscal year which date is earlier than sixty days prior to the end of such fiscal year.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, no portion of any allotment to a State for a fiscal year shall be available for reallotment pursuant to this subsection unless the Secretary determines that the applications for assistance under this Act which have been filed by eligible applicants in that State for which a portion of such allotment has not been reserved (but which would necessitate use of that portion) are applications which do not meet the requirements of this Act, as set forth in sections 6, 7, and 8, or which set forth programs or projects of such insufficient promise for achieving the purpose of this Act that their approval is not warranted.

ELIGIBILITY FOR FINANCIAL ASSISTANCE

SEC. 5. (a) The Secretary shall provide financial assistance by grant upon application therefor approved in accordance with section 7 to a local educational agency—

(1) which is implementing a plan—

(A) which has been undertaken pursuant to a final order issued, within the two fiscal years preceding the fiscal year for which the application of such agency for assistance under this Act is made, by a court of the United States, or a court of any State, and which requires the desegregation of racially segregated students or faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of racial isolation in such schools; or

(B) which, within such period—

(i) has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of racially segregated students or faculty in such schools, or

(ii) has been determined, following a notice of complaint to such agency pursuant to section 407(a) of such Act, by the Assistant Attorney General for Civil Rights to be acceptable for such desegregation;

(2) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this Act, adopt and implement, a plan for the complete elimination of racial isolation in all of the racially isolated schools in the school district of such agency; or

(3) which has adopted and is implementing, or will, if assistance is made available to it under this Act, adopt and implement, a plan—

(A) to eliminate or reduce racial isolation in one or more of the racially isolated schools in the school district of such agency,

(B) to reduce the total number of Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary, who are in racially isolated schools in such district,

(C) to prevent racial isolation reasonably likely to occur (in the absence of assistance under this Act) in any school in such district in which school at least 10 per centum, but not more than 50 per centum, of the enrollment consists of such children, or

(D) to enroll and educate in schools which are not racially isolated Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary, who would not otherwise be eligible for enrollment because of nonresidence in the school district of such agency where such enrollment would make a significant contribution toward reducing racial isolation.

(b) In cases in which the Secretary finds that it would effectively carry out the purpose of this Act, he may assist by grant or contract any public or private nonprofit agency, institution, or organization (other than a local educational agency) to carry out programs or projects designed to support the development or implementation of a plan described in subsection (a).

AUTHORIZED ACTIVITIES

SEC. 6. Financial assistance under this Act shall be available for programs or projects which would not otherwise be funded and which involve activities designed to carry out the purpose of this Act, including—

(1) remedial and other services to meet the special needs of children (including gifted and talented children) in schools which are affected by a plan described in section 5 or a program described in section 9(b), when such services are deemed necessary to the success of such plan or program;

(2) the provision of additional professional or other staff members (including staff members specially trained in problems incident to desegregation or the elimination, reduction, or prevention of racial isolation) and the training and retraining of staff for such schools;

(3) comprehensive guidance, counseling, and other personal services for such children;

(4) development and employment of new instructional techniques and materials designed to meet the needs of such children;

(5) innovative interracial educational programs or projects involving the joint participation of Negro, American Indian, or Spanish-surnamed American children, and children of other racial minority groups as determined by the Secretary, and other children attending different schools, including extracurricular activities and cooperative exchange or other arrangements between schools within the same or different school districts;

(6) repair or minor remodeling or alteration of existing school facilities (including the acquisition, installation, modernization, or replacement of equipment) and the lease or purchase of mobile classroom units or other mobile educational facilities;

(7) the provision of transportation services for students, except that, in accordance with section 422 of the General Education Provisions Act, nothing in this Act shall be construed to require the transportation of students in order to overcome racial imbalance;

(8) community activities, including public education efforts, in support of a plan described in section 5 or a program described in section 9(b);

(9) special administrative activities, such as the rescheduling of students or teachers, or the provision of information to parents and other members of the general public, incident to the implementation of a plan described in section 5 or a program described in section 9(b);

(10) planning and evaluation activities; and

(11) other specially designed programs or projects which meet the purpose of this Act.

CRITERIA FOR APPROVAL

SEC. 7. (a) In approving applications submitted under this Act (except for those submitted under section 9(b)), the Secretary shall only apply the following criteria:

(1) the need for assistance, taking into account such factors as—

(A) the extent of racial isolation (including the number of racially isolated children and the relative concentration of such children) in the school district to be served as compared to other school districts in the State,

(B) the financial need of such school district as compared to other school districts in the State,

(C) the expense and difficulty of effectively carrying out a plan described in section 5 in such school district as compared to other school districts in the State, and

(D) the degree to which measurable deficiences in the quality of public education afforded in such school district exceed those of other school districts within the State;

(2) the degree to which the plan described in section 5, and the program or project to be assisted, are likely to effect a decrease in racial isolation in racially isolated schools, or in the case of applications submitted under section 5(a)(3)(C), the degree to which the plan described in section 5, and the program or project, are likely to prevent racial isolation from occurring or increasing (in the absence of assistance under this Act);

(3) the degree to which the plan described in section 5 is sufficiently comprehensive to offer reasonable assurance that it will achieve the purpose of this Act;

(4) the degree to which the program or project to be assisted affords promise of achieving the purpose of this Act;

(5) that (except in the case of an application submitted under section 9(a)) the amount necessary to carry out effectively the program or project does not exceed the amount available for assistance in the State under this Act in relation to the other applications from the State pending before him; and

(6) the degree to which the plan described in section 5 involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

(b) The Secretary shall not give less favorable consideration to the application of a local educational agency which has voluntarily adopted a plan qualified for assistance under this Act (due only to the voluntary nature of the action) than to the application of a local educational agency which has been legally required to adopt such a plan.

ASSURANCES

SEC. 8. (a) An application submitted for approval under section 7 shall contain such information as the Secretary may prescribe and shall contain assurances that—

(1) the appropriate State educational agency has been given reasonable opportunity to offer recommendations to the applicant and to submit comments to the Secretary;

(2) in the case of an application by a local educational agency, to the extent consistent with the number of children, teachers, and other educational staff in the school district of such agency enrolled or employed in private nonprofit elementary and secondary schools whose participation would assist in achieving the purpose of this Act, such agency (after consultation with the appropriate private school officials) has made provisions for their participation on an equitable basis;

(3) the applicant has adopted effective procedures, including provisions for such objective measurements of educational and other change to be effected by this Act as the Secretary may require, for the continuing evaluation of programs or projects under this Act, including their effectiveness in achieving clearly stated program goals, their impact on related programs or projects and upon the community served, and their structure and mechanisms for the delivery of services and including, where appropriate, comparisons with proper control groups composed of persons who have not participated in such programs or projects;

(4) in the case of an application by a local educational agency, the applicant (A) has not, subsequent to the commencement of its 1969–1970 school year, unlawfully donated, leased, sold, or otherwise disposed of real or personal property or services to a nonpublic elementary or secondary school or school system practicing discrimination on the basis of race, color, or national origin, or has rescinded such transaction (or received consideration in lieu thereof) in accordance with regulations of the Secretary; (B) has not unlawfully donated, leased, sold, or otherwise disposed of real or personal property or services to such a nonpublic school or school system where such transaction has produced a substantial decrease in the assets available for public education in the school district of such agency, or has rescinded such transaction (or received consideration in lieu thereof) in accordance with regulations of the Secretary; and (C) will not donate, lease, sell, or otherwise dispose of real or personal property or services to any such nonpublic school or school system;

(5) in the case of an application by a local educational agency, the applicant has not reduced its fiscal effort for the provision of free public education for children in attendance at the schools of such agency for the fiscal year for which assistance is sought under this Act to less than that of the second preceding fiscal year;

(6) the applicant is not reasonably able to provide out of non-Federal sources, the assistance for which the application is made;

(7) the applicant will provide such other information as the Secretary may require to carry out the purpose of this Act;

(8) in the case of an application by a local educational agency, the plan with respect to which such agency is seeking assistance (as specified in section 5(a)(1)) does not involve freedom of choice as a means of desegregation, unless the Secretary determines that freedom of choice has achieved, or will achieve, the complete elimination of a dual school system in the school district of such agency;

(9) the current expenditure per pupil (as defined in section 11(a)) which such agency makes from revenues derived from its local sources for the academic year for which assistance under this Act will be made available to such agency is not less than the current expenditure per pupil which such agency made from such revenues for (A) the academic year preceding the academic year during which the implementation of a plan described in section 5 was commenced, or (B) the third academic year preceding the academic year for which such assistance will be made available, whichever is later;

(10) staff members of the applicant who work directly with children, and professional staff of such applicant who are employed on the administrative level, will be hired, assigned, promoted, paid, demoted, dismissed or otherwise treated without regard to their membership in a minority group, except that no assignment pursuant to a court order, plan approved under title VI of the Civil Rights Act of 1964, or a plan determined to be acceptable by the Assistant Attorney General for Civil Rights following a notice of complaint pursuant to section 407(a) of such Act will be considered as being in violation of this subsection;

(11) for each academic year for which assistance is made available to the applicant under this Act, it has taken or is in the process of taking all practicable steps to avail itself of all assistance for which it is determined to be eligible under any program administered by the Commissioner of Education; and

(12) no practices or procedures, including testing, will be employed by the applicant in the assignment of children to classes, or otherwise in carrying out curricular or extracurricular activities, within the schools of such applicant in such a manner as (A) to result in the isolation of Negro, American Indian, Spanish-surnamed American children, or children who are members of other racial minority groups as determined by the Secretary, in such classes or with respect to such activities, or (B) to discriminate against such children on the basis of their being members of any such minority group.

(b) The Secretary shall not finally disapprove in whole or in part any application for funds submitted by a local educational agency eligible under section 5 without first notifying the local educational agency of the specific reasons for his disapproval as contained in section 7 and subsection (a) above and without affording the agency a reasonable time to modify its application.

(c) The Secretary may, from time to time, set dates by which applications shall be filed.

(d) In the case of an application by a combination of local educational agencies for jointly carrying out a program or project under this Act, at least one such agency shall be an agency described in section 5(a) or section 9 and any one or more such agencies joining in such application may be authorized to administer such program or project.

SPECIAL PROGRAMS

SEC. 9. (a) From the funds available to him under the second sentence of section 4(a) the Secretary is authorized to make grants to eligible local educational agencies to carry out model or demonstration programs related to the purpose of this Act if in the Secretary's judgment these programs make a special contribution to the development of methods, techniques, or programs designed to eliminate racial segregation or to eliminate, reduce, or prevent racial isolation in elementary and secondary schools.

(b) From the funds available to him under the second sentence of section 4(a) the Secretary is also authorized to make grants to local educational agencies to carry out programs for children who are from environments where the dominant language is other than English (such as French-speaking and Oriental children) and who, (1) as a result of limited English-speaking ability, are educationally deprived, (2) have needs similar to other children participating in programs

or projects assisted under this Act, and (3) attend a school in which they constitute more than 50 per centum of the enrollment.

PAYMENTS

SEC. 10. (a) Upon his approval of an application for assistance under this Act, the Secretary shall reserve from the applicable allotment (including any applicable reallotment) available therefor the amount fixed for such application.

(b) The Secretary shall pay to the applicant such reserved amount, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine.

(c)(1) In the case of an application to be funded under the first sentence of section 4(a) which is submitted by a local educational agency which is located in a State in which no State agency is authorized by law to provide, or in the case in which there is a substantial failure by a local educational agency approved for a program or project under this Act to provide, for effective participation on an equitable basis in programs or projects authorized under this Act by children enrolled in, or by teachers or other educational staff of, any one or more private nonprofit elementary or secondary schools located in the school district of such agency, the Secretary shall arrange for the provision, on an equitable basis, of such programs or projects and shall pay the costs thereof for any fiscal year out of that State's allotment. The Secretary may arrange for such programs through contracts with institutions of higher education, or other competent nonprofit institutions or organizations.

(2) In determining the amount to be withheld from any State's allotment for the provision of such programs or projects, the Secretary shall take into account the number of children and teachers and other educational staff who are excluded from participation therein, and who, except for such exclusion, might reasonably have been expected to participate.

(d) After making a grant or contract under this Act, the Secretary shall notify the appropriate State educational agency of the name of the approved applicant and of the amount approved.

(e) The amount of financial assistance to a local educational agency under this Act may not exceed those net additional costs which are determined by the Secretary, in accordance with regulations prescribed by him, to be the result of the implementation of a plan under section 5(a).

DEFINITIONS

SEC. 11. As used in this Act, except when otherwise specified—

(a) The term "current expenditure per pupil" for a local educational agency means (1) the expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under such Federal program of assistance as the Secretary may prescribe, divided by (2) the number of children in average daily attendance to whom such agency provided free public education during the year for which the computation is made.

(b) The term "implementing a plan" means that a local educational agency is carrying out a plan in accordance with its terms and one or more steps or requirements of such plan remain to be carried out.

(c) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the provision of education services, such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and other related material.

(d) The term "gifted and talented children" means, in accordance with objective criteria prescribed by the Secretary, children who have outstanding intellectual ability or creative talent.

(e) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control, or direction, of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school; and where responsibility for the control and direction of the activities in such schools which are to be assisted under this Act are vested in an agency subordinate to such a board or other authority, the Secretary may consider such subordinate agency as a local educational agency for purpose of this Act.

(f) The term "nonprofit" as applied to an agency, organization, or institution means an agency, organization, or institution owned or operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(g) The terms "racially isolated school" and "racial isolation" in reference to a school mean a school and condition, respectively, in which Negro, American Indian, or Spanish-surnamed American children, and children who are members of other racial minority groups as determined by the Secretary, constitute more than 50 per centum of the enrollment of a school.

(h) The terms "elementary and secondary school" and "school" mean a school which provides elementary or secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(i) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(j) The term "State" means one of the fifty States or the District of Columbia.

(k) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law for this purpose.

EVALUATION

SEC. 12. Such portion as the Secretary may determine, but not more than 1 per centum, of any appropriation under this Act for any fiscal year shall be available to him for evaluation (directly or by grants or contracts) of the programs and projects authorized by this Act, and in the case of allotments from any such appropriation, the amount available for allotment shall be reduced accordingly.

JOINT FUNDING

SEC. 13. Pursuant to regulations prescribed by the President, where funds are advanced by the Department of Health, Education, and Welfare and one or more other Federal agencies for any project or activity funded in whole or in part under this Act, any one Federal agency may be designated to act for all in administering the funds advanced. In such cases, any such agency may waive any technical grant or contract requirement (as defined by regulations) which is inconsistent with the similar requirements of the administering agency or which the administering agency does not impose.

NATIONAL ADVISORY COUNCIL

SEC. 14. The President shall appoint a National Advisory Council on the Education of Racially Isolated Children, consisting of twelve members, for the purpose of reviewing the administration and operation of this improvement of this Act and its administration and operation and for increasing the effectiveness of programs or projects carried out pursuant to this Act.

REPORTS

SEC. 15. The Secretary shall include in his annual report to the Congress a full report as to the administration of this Act and the effectiveness of programs or projects thereunder.

GENERAL PROVISIONS

SEC. 16. (a) The provision of parts B and C of the General Education Provisions Act (title IV of Public Law 247 (Ninetieth Congress) as amended by title IV of Public Law 230 (Ninety-first Congress)) shall apply to the program of Federal assistance authorized under this Act as if such program were an applicable program under such General Education Provisions Act, and the Secretary shall have the authority vested in the Commissioner of Education by such parts with respect to such program.

(b) Section 422 of such General Education Provisions Act is amended by inserting "the Emergency School Aid Act of 1970;" after "the International Education Act of 1966;".

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

AMENDMENT OFFERED BY MRS. MINK

Mrs. MINK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. MINK: Amend section 3c on page 20 of the bill to read as follows:

"(c) Notwithstanding subsections (a) and (b) of this section and commencing with fiscal year 1972, no funds are authorized to be appropriated to carry out the provisions of this Act where any funds appropriated for the preceding fiscal year for any authorized program administered by the Office of Education are withheld from expenditure by the Department except as allowed by law."

The CHAIRMAN. The gentlewoman from Hawaii is recognized in support of her amendment.

PARLIAMENTARY INQUIRY

Mr. STEIGER of Wisconsin. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. Does the gentlewoman from Hawaii yield for that purpose?

Mrs. MINK. I yield for that purpose, Mr. Chairman.

Mr. STEIGER of Wisconsin. As I understand this, is it a substitute for the language?

Mrs. MINK. Yes. If I might be permitted to explain, all it does is add the words "commencing with fiscal year 1972" and then at the very end of the present section contained in the bill the words "as allowed by law". This is a matter which has been discussed with both sides of the committee.

Mr. PERKINS. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK. I am glad to yield to the chairman of the committee.

Mr. PERKINS. Mr. Chairman, we feel that the amendment is well taken. It is a clarifying amendment. We accept the amendment.

PARLIAMENTARY INQUIRY

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentlewoman yield for a further parliamentary inquiry?

Mrs. MINK. I yield.

Mr. STEIGER of Wisconsin. May I inquire of the Chair as to whether or not, if the Mink amendment presently before the committee is adopted an amendment would be in order to strike that section?

The CHAIRMAN. The Chair will advise the gentleman that the Mink amendment proposes to strike subsection (c) and insert new language. If that amendment is adopted it would not then be in order to strike subsection (c).

Mrs. MINK. Mr. Chairman, I yield back the remainder of my time.

SUBSTITUTE AMENDMENT OFFERED BY MR. STEIGER OF WISCONSIN FOR THE AMENDMENT OFFERED BY MRS. MINK

Mr. STEIGER of Wisconsin. Mr. Chairman, I offer a substitute amendment for the amendment offered by the gentlewoman from Hawaii.

The Clerk read as follows:

Amendment offered by Mr. STEIGER of Wisconsin as a substitute for the amendment offered by Mrs. MINK: On page 20, strike out lines 11 through 16.

Mr. STEIGER of Wisconsin. Mr. Chairman, this subsection (c) of section 3 of the bill is language that was not offered in the subcommittee and was, I may say, offered in the full committee in a rather difficult situation, when I suspect that most members of the Committee on Education and Labor had not had an opportunity to study the language or to fully review the impact.

I believe it ought to be quite clear that if this language, even as it would be modified by the distinguished gentlewoman from Hawaii, stays in the bill, we will be making a serious error. I believe it is bad public policy and frankly unwise fiscal policy to attempt to tie the hands of the President in dealing with the Federal budget. That is what this language in this bill intends to do.

It seems to me the Congress can best exercise its powers through the normal appropriations process, and should not find itself hamstrung by the action of the Committee on Education and Labor or of this committee in attempting to deal with the problems of appropriations.

What the amendment says, and what the language the distinguished gentlewoman offered in attempting to modify the language says, in essence is the following: That nothing in this bill shall be spent if there is any single reduction in the expenditure of any appropriation for any Office of Education program. If we attempt to hold this program hostage for all the other educational programs I would suggest to my colleagues that would not be in the best public interest. There are, as I recall, something like 125 educational programs in the Office of Education, some of them of very minor importance. What this amendment in effect says is that aid for desegregation is the least important program in education and that if we make any reduction in any expenditure for any other education program then we cannot spend any money for this program.

I think that the substitute amendment I have offered makes sense in terms of attempting to stabilize the situation and recognizes that this bill contains provisions that are important and ought not to be held hostage and that this particular section will create havoc on the part of the administration and, in my judgment, will create havoc on the part of the Committee on Appropriations. Therefore, I hope that the modification of the gentlewoman from Hawaii is not agreed to and is not adopted and that we can go on arguing about the merits of the substance of the issue and not about whether or not you want to hold desegregation hostage for the rest of the funds.

Mr. WILLIAM D. FORD. Will the gentleman yield?

Mr. STEIGER of Wisconsin. I am glad to yield to the gentleman.

Mr. WILLIAM D. FORD. I should not like to let that part of the gentleman's statement stand, but his arguments should be saved, because as soon as we finish with this amendment, I will offer an amendment that will do what the gentleman accuses the gentlewoman from Hawaii of doing with her amendment. As a matter of fact, her amendment falls far short of having the effect that you describe. For that reason, although I will support her amendment and I will offer an amendment that goes even further and does precisely the things that you have been describing. I will do this because many of us have an almost total lack of confidence in the sincerity of this administration insofar as it has communicated its intentions to us, up to this point, to add any new money to the total budget for the purpose of funding this bill. We think there will be an attempt to raid the going programs that are serving the very people that his bill seeks to serve. For that reason I will attempt to amend the bill. But I think it is unfair to try to shoot down the gentlewoman from Hawaii's amendment with the argument that really goes to my amendment and not to hers.

Mr. STEIGER of Wisconsin. I will say to the gentleman from Michigan the argument goes to both amendments. I do not think it belongs in the bill, and I believe it ought to be struck out. It makes no sense at all, whether you are a Democrat or a Republican, to attempt to play politics with legislation of this kind. It is apparently what some of you are attempting to do.

Mr. WILLIAM D. FORD. Will the gentleman yield further?

Mr. STEIGER of Wisconsin. I do not yield.

I think it is quite clear what this amendment attempts to do and that the national interest would be best served if we delete the language.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. WILLIAM D. FORD. Mr. Chairman, I rise in support of the amendment.

The gentleman who just left the well declined to yield to me, but I want to ask him if he is not playing politics with this bill. I ask him if he has enough confidence—and it seems he has more knowledge of the President's intentions than the rest of us have—to ask the distinguished minority leader to join him in assuring us that they have in some way had communicated to them the intention of the President to prepare a budget for next month, January, that will come to this Congress asking for full funding of the programs that we now have in the field of education and, in addition to that, a funding of this program.

The fact of the matter, Mr. Chairman and members of the committee, is that not one single man on the other side of the aisle is willing to move one inch in reliance on his belief, if he has one, that the President does intend to ask for new money for this bill which we have before us today. In fact, I am one who does not believe, whether it appears to be cynicism or politics on the part of the gentleman from Wisconsin—and that is a characterization he will have to make for himself—I am one who does not believe that the President intends to spend an additional nickel on education but believe he intends to raid the ongoing programs and, under the guise of giving more money to education, next year will readjust the way in which we distribute an inadequate amount of support for many elementary and secondary school programs. This will not serve the best interests of education, either way, that is whether you are for or against the concept of segregation in education.

Mr. DELLENBACK. Mr. Chairman, will the gentleman yield?

Mr. WILLIAM D. FORD. I am glad to yield to the gentleman.

Mr. DELLENBACK. I say to my friend from Michigan none of us on your side of the aisle or on ours is in a position to give the assurances that you ask for. Let me say as an individual——

Mr. WILLIAM D. FORD. May I say to the gentleman very simply, why not?

Mr. DELLENBACK. Because none of us knows what is going to be in that budget.

Mr. WILLIAM D. FORD. Somebody on that side must have the ear of the White House. The minority leader is sitting right there. He is always on the floor telling us what will happen on Armed Services Committee bills and other legislation. He reads us letters regularly from the President telling us what he wants or what he will not do and what he will do and what he will spend. I want to ask him if this is new money.

Mr. GERALD R. FORD. Mr. Chairman, will the gentleman yield?

Mr. WILLIAM D. FORD. I yield to the distinguished minority leader.

Mr. GERALD R. FORD. The gentleman makes the most ridiculous argument I have heard on the floor of the House in this session of Congress. As a matter of fact, no President in December has made any commitment as to what is going to be in a budget that will

be submitted in January. Your President did not and our President should not do so until he has made a final decision on the budget as a whole and by law that budget must be submitted in January each year.

Mr. WILLIAM D. FORD. I compliment the gentleman for topping my ridiculous argument in a very skillful way.

If the President is unwilling to tell us whether there is to be any money in January, then I suggest that this Congress should not pass this bill until next January.

Mr. DELLENBACK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, when my colleague, the gentleman from Wisconsin, rose to speak to this particular point, he indicated that the type of amendment which was added in committee to the bill that he now seeks to strike from the bill on page 20, even as modified by the amendment which has been offered by the gentlewoman from Hawaii (Mrs. MINK), is extremely bad legislation. If that language remains in this legislation, we are in truth saying that all appropriations authorized under this bill will remain hostage to all other educational expenditures authorized by the Federal Government. I think that is exactly what is intended.

Let me say to the gentleman from Michigan (Mr. WILLIAM D. FORD)—and I think he knows this to be the case—I am one of those who has favored not only in the subcommittee, but in the full committee and also on the floor of the House, additional spending for education. I think it is important that we have this. But I think we make a serious mistake, ladies and gentlemen, if we say that not one dime under this program can be spent until every other educational appropriation, for whatever the program, has been expended.

The language which appears on page 20 of the bill is extremely dangerous language. This was brought out in the discussions before the committee. I am pleased that the language of the gentlewoman from Hawaii attempts to tone down some of the worst abuses in that language now contained in the bill. We pointed out some of those issues when the matter was pending before the committee for discussion, but we were overruled by the majority and they sailed ahead to insert this very language they now seek to amend.

I am pleased to see that they now see some weaknesses in their own language.

If we go to the language of the gentlewoman from Hawaii, however nobly conceived, we make a mistake, because what we will be doing under those circumstances is crippling the very bill that we are speaking to.

Mr. Chairman, there is great need for this legislation. This bill is striving to assist areas throughout the country, particularly in the South. But we have had citations of other places, such as, for instance, California, Michigan, and New England, where there is also a need for legislation of this particular nature.

If we do not pass legislation of this type we will find increasing desegregation difficulty in all of these areas, in Texas, throughout the North, the South, the East, and the West. And with no Federal assistance available, however, desperately needed.

Mr. Chairman, I urge support of the substitute proposal which has been offered by the gentleman from Wisconsin (Mr. STEIGER).

Mr. PUCINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the substitute.

I have fought and opposed any limitation on expenditures.

The gentlewoman's original language as contained in the bill did not seem to me to serve the purpose. Apparently there were others who felt the same way.

Mr. Chairman, I have a letter from Secretary Richardson, addressed to the distinguished chairman of the Committee on Education and Labor, the Honorable CARL D. PERKINS, in which he states as follows:

DECEMBER 17, 1970.

Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I would like to express the Administration's strong support for the enactment of H.R. 19446, the Emergency School Aid Act of 1970, as reported by the Committee on Education and Labor. With only one qualification, I urge passage of the bill as reported by the Committee.

The qualification involves Section 3(c) of H.R. 19446, which provides that no funds are authorized to be appropriated to carry out the Act if any funds appropriated to the Office of Education were withheld from expenditure during the previous year by the Department of Health, Education, and Welfare. This provision is unacceptable. Under P.L. 91-204, some of the funds appropriated for fiscal year 1970 to various agencies of the government including the Office of Education had to be withheld. Our compliance with that Congressional mandate to reduce expenditures could mean that no funds are authorized for the Emergency School Aid Act for fiscal year 1971. Since the provision deals with authorizations, any appropriation for the Act might be subject to a point of order on the grounds that various Office of Education funding actions might constitute a withholding within the meaning of the Act. The resultant uncertainty concerning the funding of the program could seriously impair its objectives.

That was the position of the Secretary, and properly so. And so the gentlewoman from Hawaii had corrected that situation with the amendment that she has brought before us today where she now says that the amendment that we were prepared to accept, or that was expected to be accepted, would limit this to commence with fiscal 1972, which means that the funds that the Secretary would have to withhold for various purposes would not affect or impede the forward movement of this legislation.

I think the gentlewoman from Hawaii has met us more than half way on this, because she has corrected it, she has recognized the problem involved in the original language, and it does seem to me that there is merit for her language. We are now assured that in the next 6 months, January to June 30, that there is not going to be a substantial reduction on on-going programs, to find funds for those programs. This would be of deep concern to many Members of the House if we did not have this kind of prohibition.

So, for that reason, the gentlewoman has agreed that this is forward moving into fiscal 1972. This will be a guarantee that there will be no substantial reduction in on-going programs, programs that are already funded, or at least anticipated by the school districts all over the country.

I think the gentlewoman's amendment is a good one, it protects existing programs. The administration has pledged that it will seek new money for this program before us today, and I would hope that the House would reject the substitute and permit the committee to accept the amendment offered by the gentlewoman from Hawaii, which then I think will not only protect existing programs, but, will of course, seek to see that the administration will have to come up with new funds if it wants to fund the program we are enacting today.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I thank the gentleman for yielding, and I think his point is well taken—in this matter, at least.

Mr. PUCINSKI. I thank the gentleman.

Mr. CONYERS. We have a situation here in which the bill is now trying to be improved by the gentlewoman from Hawaii, and as soon as we offer the first correcting amendment we start getting into the old kind of procedures that so frequently bedevil this House, and particularly this "lameduck" session of the Congress.

Now, I think this is an extremely reasonable proposal that the gentlewoman from Hawaii has offered. As a matter of fact, if it does not carry, then I will offer an amendment at lines 5 and 7 which will reduce the amount of money—

Mr. PUCINSKI. Mr. Chairman, if the gentleman from Michigan will pardon me for interrupting, but I do want to yield part of my time to the gentleman from Wisconsin on this matter.

Mr. STEIGER of Wisconsin. Mr. Chairman, I appreciate the gentleman yielding.

Mr. Chairman, I am concerned by the comments of the gentleman from Michigan. I do not agree with the amendment offered by the gentlewoman from Hawaii, as modified. I do not believe it belongs in the bill. I have, I believe, a perfectly legitimate right at this time to try and knock it out, because it is not relevant to what this bill is all about. I think it is a mistake.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was originally inclined to believe, as was stated in general debate, that we should be able to offer

amendments to correct and eliminate the tremendous waste that, according to the reports, occurred during the expenditure of the first $75 million of this program.

In my judgment, it is utterly scandalous that we, here on the floor of the House, start spending $1.5 billion for a program while conceding for the most part that the first $75 million was wasted.

While I certainly agree that the gentleman from Wisconsin has a perfect right to offer amendments consistent with his position, I do not believe they are consistent with what we heard during the debate from all those who were so anxious to strengthen this bill.

It is curious to me that those who support the bill do not have many—if any—strengthening amendments and those who have deep reservations and who may end up voting against the bill, are trying to offer some sensible, corrective measures.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman.

Mr. PUCINSKI. Mr. Chairman, I believe the gentleman would be doing a great disservice to an awful lot of school districts in this country to conclude or to say the entire $75 million was misspent. I am the first to agree that some of the charges contained in the report, made on a selective basis, can be substantiated. But I am also here to tell the gentleman millions of dollars will flow into school districts where the schools would have had a real crisis.

Mr. CONYERS. I thank the gentleman for his statement. But I tell the gentleman, I am perfectly aware that some of the $75 million may not have been misspent. I agree with the gentleman on that. But I think most of the amount, according to all of the reports, was callously and unconscionably wasted. I hope every Member takes the opportunity to read the evaluatory study of the emergency school assistance program that was prepared by a group composed of the American Friends Service Committee, Delta Ministry of the National Council of Churches, the Lawyers Committee for Civil Rights Under Law, Lawyers Constitutional Defense Committee, NAACP Legal Defense and Educational Fund Inc., and the Washington Research Project. They found in the 295 school districts monitored in this study, a total of 179 that were clearly engaged in practices that should have rendered them ineligible for grants under the appropriation and accompanying regulations. Sufficient evidence was found in 87 other districts to consider their eligibility questionable. Less than 10 percent of the districts—29—were found to be complying with the law. These figures show an incredibly poor record.

I would further remind my friend, the gentleman from Illinois (Mr. PUCINSKI), that only yesterday we had a bill that talked about feeding 25 million poor people that did not cost much more than the very amount we are now rushing through in this bill. But then, everyone was examining it with extreme caution and thoroughness.

I believe that if we cannot spend $75 million properly, and the record so shows, then we ought to go a little more slowly on expending the next $1.5 billion. And, therefore, Mr. Chairman, I support the gentlewoman from Hawaii and I hope the substitute amendment is defeated.

Mr. GROSS. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, the gentleman from Michigan (Mr. WILLIAM D. FORD) said that unless there was a provision written into this legislation to provide for the mandatory expenditure of certain other educational funds, that this bill ought to be defeated. I agree that it ought to be defeated, and for other reasons dealing with finances.

That leads me to ask a question of the chairman of the subcommittee who is handling the bill on the floor, where it is proposed to get the $1.5 billion to fund this busing bill over the next 18 months?

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. GROSS. Of course, I yield to the gentleman.

Mr. PUCINSKI. The President has obviously recognized the enormous gravity of the situation.

Mr. GROSS. I am asking the gentleman from Illinois, since he is offering this bill, where the $1½ billion is going to come from?

Mr. PUCINSKI. I believe that by getting the troops out of Vietnam—that will help some. Also by getting the troops out of Europe—that will help some. The President sent up a series of priorities and I am willing to go along and see that that is done. The President seems to feel that he can find this money. He can give this——

Mr. GROSS. Just a minute.

Mr. PUCINSKI. The President can make this a top priority—that is how urgent this legislation is.

Mr. GROSS. The gentleman has evaded the question of where it is proposed to get the money.

Without this legislation and a $1½ billion expenditure for the busing of children, we are confronted, according to the chairman of the House Committee on Appropriations, with a deficit of somewhere between $15 billion and $20 billion. Where else but by borrowing the money and adding to the deficit will you get it? And what is the necessity for it?

The gentleman from Illinois (Mr. PUCINSKI) said a few moments ago that this bill is necessary to stabilize schools. How do you stabilize schools in this kind of a bill?

Mr. PUCINSKI. Are you asking me?

Mr. GROSS. Yes.

How are you going to stabilize schools simply by spending $1½ billion to bus school children?

Mr. PUCINSKI. If my colleague, whom I respect very highly, and he knows it, will take the trouble to read the testimony of the experts who are faced with this vexing problem and its solution, he will observe that they recommend that the way to stabilize——

Mr. GROSS. Will the gentleman——

Mr. PUCINSKI. You asked me a question. Will you permit me to give you an answer?

Mr. GROSS. Yes, but please do not take all of my time.

Mr. PUCINSKI. The theory behind this legislation is based on the testimony with respect to the schools of this country.

Mr. GROSS. I am not talking about theory. Just a minute, now. I am not talking about theory. Suppose in a school there are 75 black children and 25 white children, or the reverse. Does that make the school any more stable or any more unstable?

Mr. PUCINSKI. Yes. If you will provide good quality education to all of those children, the 75 black children and the 25 white children——

Mr. GROSS. We will assume they are getting quality education.

Mr. PUCINSKI. You cannot make that assumption today because they are not getting it. That is what this bill is designed to do. All over this country there are school districts that are faced with bankruptcy.

Mr. GROSS. I think it is the most ridiculous statement I have heard in this session of Congress to say that you can throw $1.5 billion at the schools of this country for the purpose of busing school children, and by doing so make them any more or any less stable.

Mr. SCHERLE. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to my colleague from Iowa.

Mr. SCHERLE. I thank my colleague for yielding. I would like to pose this question to the gentleman from Illinois: How much money is in this busing bill for my Catholic children back in Iowa?

Mr. PUCINSKI. To the extent that they are able to participate in the desegregation plan—it would depend upon what kind of program and what kind of proposal they submit through the local school district. It would be subject to the approval of the Secretary.

The gentleman has called this a busing bill. Apparently that is a nasty word or the key word around here. But I think the House ought to know that out of the $75 million that has been appropriated so far, less than 1 percent has been spent on busing.

Mr. GROSS. Busing is the key word—$1½ billion of it in the next 18 months—and busing carried on simply to achieve so-called racial balance, is intolerable. This bill is destructive of the neighborhood school concept; it is destructive of education; it adds to and duplicates programs already in effect, and it calls for the expenditure of a vast amount of money.

The bill ought to be defeated. It ought never to have been brought to the floor of the House in this "lameduck" session.

The CHAIRMAN. The Chair would like to state the parliamentary situation before putting the question on the pending amendments.

The amendment offered by the gentlewoman from Hawaii is a motion to strike out the subsection and insert new language. The amendment offered by the gentleman from Wisconsin is a motion to strike out the subsection. The prece-

dents indicate that in this situation the proponents of the subsection should be given a chance to perfect it before the vote is taken on striking it from the bill.

If the Mink amendment is agreed to, the motion to strike out then falls and is not voted on. If the amendment of the gentlewoman from Hawaii is defeated, then the vote will recur on the motion to strike.

PARLIAMENTARY INQUIRY

Mr. STEIGER of Wisconsin. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman from Wisconsin will state his parliamentary inquiry.

Mr. STEIGER of Wisconsin. I find the ruling of the Chair somewhat unusual in that it comes after debate on the pending amendment. Therefore I am correct, am I not, in saying that for those who want to strike this section the vote is "no" on the Mink amendment?

The CHAIRMAN. The Mink amendment must be defeated before there will be a vote on the Steiger of Wisconsin motion to strike.

The question is on the amendment offered by the gentlewoman from Hawaii (Mrs. MINK).

The question was taken; and on a division (demanded by Mr. PERKINS) there were—ayes 24, noes 49.

Mr. PERKINS. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. PUCINSKI and Mr. STEIGER of Wisconsin.

The Committee again divided, and the tellers reported that there were—ayes 35, noes 60.

So the amendment was rejected.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Wisconsin (Mr. STEIGER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. REID OF NEW YORK

Mr. REID of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REID of New York: Page 36, line 22, the following new material as section 11 and renumber subsequent sections accordingly:

"COMPLAINT PROCEDURE

"SEC. 11. (a) In the case of any policy, practice, procedure or other action by any recipient of funds under this Act in violation of this Act or of Title VI of the Civil Rights Act of 1964, any person aggrieved by such policy, practice, procedure or other action shall have the right to file with the Secretary a complaint alleging such violation.

"(b) Within 15 days of receiving such complaint, the Secretary shall determine, on the basis of investigation, whether probable cause exists to believe that such complaint is justified.

"(c) Upon determination that there is such probable cause, the Secretary shall suspend all assistance under this Act to such recipient for expenses incurred subsequent to the date of such determination.

"(d) Within 15 days of such determination the Secretary shall convene a formal hearing; within 15 days of the close of such hearings, the Secretary shall determine whether the complaint is justified. Upon determination that a complaint is justified, the Secretary shall terminate the eligibility of such applicant for assistance under this Act effective as of the date of suspension of assistance pursuant paragraph (b)."

Mr. CONYERS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Ninety Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 423]

Addabbo	Foreman	O'Konski
Anderson, Ill.	Forsythe	O'Neal, Ga.
Aspinall	Fraser	O'Neill, Mass.
Ayres	Gaydos	Ottinger
Blackburn	Giaimo	Passman
Boland	Gilbert	Pepper
Bolling	Green, Oreg.	Philbin
Brock	Griffiths	Powell
Brotzman	Grover	Price, Tex.
Brown, Calif.	Gubser	Purcell
Brown, Mich.	Halpern	Quillen
Burke, Fla.	Hébert	Rees
Burton, Utah	Heckler, Mass.	Reifel
Bush	Horton	Rivers
Button	Hull	Roberts
Camp	Hungate	Rooney, Pa.
Celler	Jarman	Rosenthal
Clark	Karth	Roudebush
Collins, Ill.	Kee	St Germain
Conte	Kleppe	Satterfield
Corman	Kluczynski	Schadeberg
Cowger	Kuykendall	Sikes
Cramer	Landrum	Smith, N.Y.
Cunningham	Langen	Snyder
Daddario	Long, La.	Springer
Delaney	Long, Md.	Stephens
Dent	Lukens	Stuckey
Derwinski	McClure	Thompson, N.J.
Diggs	McCulloch	Tiernan
Dingell	McDade	Tunney
Donohue	McKneally	Watson
Dowdy	May	Weicker
Dwyer	Meeds	Widnall
Edwards, Calif.	Meskill	Wilson, Bob
Edwards, La.	Mize	Wilson, Charles H.
Evans, Colo.	Montgomery	
Evins, Tenn.	Morse	Winn
Fallon	Morton	Wolff
Farbstein	Moss	Wydler
Fish	Murphy, Ill.	Young
Foley	Murphy, N.Y.	

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ALBERT) having resumed the chair, Mr. CORMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 19446, and finding itself without a quorum, he had directed the roll to be called, when 312 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. REID), for 5 minutes in support of his amendment.

Mr. REID of New York. Mr. Chairman, I ask unanimous consent that my amendment be reread for the benefit of Members who were not here.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield for a parliamentary inquiry?

Mr. REID of New York. I yield to the gentleman from Illinois.

Mr. PUCINSKI. Mr. Chairman, would it be in order for the gentleman in the well to offer three amendments en bloc but have them voted on separately?

The CHAIRMAN. The Chair will state if the amendments are to be voted on separately, they should be offered separately.

Mr. PUCINSKI. Mr. Chairman, I thank the Chair.

The CHAIRMAN. The Clerk will read the amendment offered by the gentleman from New York.

The Clerk reread the amendment.

Mr. REID of New York. Mr. Chairman, my amendment would add a new section 11 to the bill providing for a procedure whereby persons in a community receiving assistance under the act would be given the opportunity to file a complaint and have the complaint investigated upon a finding of probable cause. A complaint could be filed in the case of any policy, practice, procedure or other action by any recipient of funds under this act in violation of this act or title VI of the Civil Rights Act of 1964.

Mr. Chairman, one of the major weaknesses that I see in the present bill is that it lacks a mechanism providing for participation by local parents on a biracial basis in application and operating procedures. Such a mechanism is fundamental in most of our current education programs, and I believe it is a vitally needed safeguard in this bill, especially.

Mr. Chairman, the evaluation of the emergency school assistance program to date by six leading civil rights groups raises grave doubts as to the objective, unbiased and purposeful administration of funds appropriated pursuant to this act. I believe that every affected citizen should, therefore, have the right to bring a complaint to the Secretary and to have funds suspended and a hearing held if probable cause is found.

Following a hearing, if a complaint is justified the Secretary shall terminate the eligibility of the local educational agency for assistance under this act.

I regret the necessity for including this provision but I feel that we cannot afford to enact this statute without taking every precaution to insure that only those who are in fact desegregating their schools in the fullest meaning of the word will receive these funds.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. REID of New York. I am happy to yield to the gentleman from Michigan.

Mr. CONYERS. I believe the gentleman has brought forth a very important amendment that will begin to allay the fears which have been unfortunately expressed about this bill. Can the gentleman from New York again describe what we are going to accomplish by this amendment?

Mr. REID of New York. As the gentleman will recall, in the report, "The Emergency School Assistance Program: An Evaluation," it was found that there were a number of school districts wherein grants were made to districts which had earlier been found ineligible for any Federal assistance because of refusal to comply with the nondiscrimination requirements of the Civil Rights Act. This amendment would permit an individual

parent in any one of those districts to state that the funds in the first instance were being applied improperly and unconstitutionally; and, second, to seek redress with the Secretary to insure that the funds were being appropriated fairly and for nondiscriminatory purposes.

Under the precise procedure the Secretary has to check into this matter within 15 days of receiving a complaint, and upon determination that there is probable cause that the complaint is valid the Secretary is required to suspend all assistance under this act to such recipient for expenses incurred subsequent to the date of determination.

In other words, it is a basic safeguard to insure that the purposes of the act are in fact implemented consistent with the Constitution.

Mr. CONYERS. I thank the gentleman for his explanation. Can the gentleman indicate whether any of our colleagues from California on either side of the aisle are willing to go along with this amendment and hopefully avoid the kind of confusion that is being raised in terms of our getting some bipartisan support in presenting this amendment.

Mr. REID of New York. I would be happy to ask the gentleman from California (Mr. BELL) for his comment.

Quite frankly, I have stated I have some reservations about the past implementation of this program.

Mr. HALEY. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Seventy Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 424]

Adair	Dingell	Kleppe
Addabbo	Donohue	Kluczynski
Alexander	Dorn	Kuykendall
Anderson, Ill.	Dowdy	Landrum
Anderson, Tenn.	Dwyer	Langen
	Edmondson	Leggett
Ashley	Edwards, Calif.	Lennon
Aspinall	Edwards, La.	Lloyd
Ayres	Erlenborn	Long, La.
Berry	Evans, Colo.	Long, Md.
Blackburn	Evins, Tenn.	Lowenstein
Blanton	Fallon	Lukens
Boggs	Farbstein	McClure
Boland	Feighan	McCulloch
Bolling	Fish	McEwen
Brasco	Flood	McFall
Brock	Flynt	McKneally
Brown, Calif.	Fraser	McMillan
Brown, Mich.	Friedel	Macdonald, Mass.
Broyhill, Va.	Fulton, Tenn.	
Buchanan	Fuqua	Mahon
Burke, Fla.	Gettys	May
Burton, Utah	Giaimo	Meeds
Bush	Gilbert	Meskill
Button	Gray	Michel
Cabell	Green, Oreg.	Miller, Calif.
Camp	Griffiths	Minshall
Celler	Grover	Mize
Chisholm	Gubser	Mizell
Clancy	Hagan	Molloban
Clark	Hanley	Monagan
Clausen, Don H.	Harsha	Montgomery
	Hébert	Moorhead
Collins, Ill.	Heckler, Mass.	Morse
Colmer	Holifield	Morton
Corbett	Horton	Mosher
Coughlin	Howard	Moss
Cowger	Hull	Murphy, Ill.
Cramer	Hungate	Murphy, N.Y.
Cunningham	Jarman	Nelsen
Daddario	Jonas	O'Konski
Delaney	Karth	O'Neal, Ga.
Dent	Kee	O'Neill, Mass.
Derwinski	Keith	Ottinger
Diggs	King	Passman
Passman	Satterfield	Taylor
Pepper	Saylor	Teague, Calif.
Philbin	Scheuer	Teague, Tex.
Powell	Sikes	Thompson, N.J.
Preyer, N.C.	Sisk	Tiernan
Price, Tex.	Slack	Tunney
Pryor, Ark.	Smith, Calif.	Vander Jagt
Purcell	Smith, N.Y.	Watson
Quillen	Snyder	Weicker
Railsback	Springer	Whitten
Rees	Stafford	Wilson, Charles H.
Reifel	Staggers	
Rhodes	Steed	Winn
Rivers	Steiger, Ariz.	Wold
Roberts	Steiger, Wis.	Wolff
Rogers, Colo.	Stephens	Wright
Rooney, Pa.	Stratton	Wydler
Roudebush	Stuckey	Young
Ruppe	Sullivan	Zion
St Germain	Symington	
Sandman	Taft	

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ALBERT) having resumed the chair, Mr. CORMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 19446, and finding itself without a quorum, he had directed the roll to be called, when 242 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. PUCINSKI. Mr. Chairman, I move to strike the last word.

I wish to advise the Members, who have been very patient and tolerant with us, we will attempt to dispose of the amendments now pending, which incidentally we will oppose, and it would be my hope there would be no great debate on that if the Members cooperate. Then there are two other very brief amendments to consider, and we should be able to conclude deliberation on this bill very quickly.

It is not our intention to prolong the proceedings. I am sure we all know what the issues are. I am sure we can move expeditiously on the final vote. So on the amendment now pending before us it would be my hope that the House would reject this amendment. This is an amendment that certainly has a very worthwhile purpose, but in its present form it would create a whole series of new administrative procedures and a whole series of obstacles. I am afraid it would create more problems than it would tend to solve.

Mr. BELL of California. Will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman from California.

Mr. BELL of California. I also rise in opposition to the amendment.

It would continue troublesome administrative difficulties. It is something that I think we could not possibly live with in this bill, and it is going to be gumming up the bill.

Mr. REID of New York. Will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman from New York.

Mr. REID of New York. The purpose of this amendment would be to give communities receiving assistance under the act the opportunity to file a complaint and have that complaint investigated on the finding of probable cause. The fact of the matter is without the amendment there is no opportunity for affected communities or aggrieved parents to seek redress. It is a very fair and straightforward procedure and consistent with other civil rights statutes. In my judgment, to pass a $1 billion bill without it having some opportunity for aggrieved districts to seek a fair redress if funds are being used for discriminatory purposes would be a mistake.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I appreciate the efforts of the gentleman to expedite the proceedings. As a part of my effort I would be glad to offer an amendment which is well known to this body, which is a motion to recommit, and save time.

Mr. PUCINSKI. I think we could probably move much more expeditiously if you offered your amendment in the Committee of the Whole and perhaps we can spare you the delay of a rollcall on the motion to recommit. Why do we not give the Committee of the Whole a chance to work its will and see what happens? You will be protected. You can always offer your motion to recommit if your amendment is defeated.

Mr. ASHBROOK. I am glad to, but this saves time. This is the kind of an amendment that usually engenders a great deal of discussion and debate. It is not my intention to spend another 45 minutes or an hour on it, so if the gentleman does not mind, I will offer my motion.

Mr. PUCINSKI. Mr. Chairman, I move that all debate on this amendment end in the next 3 minutes.

Mr. HALEY. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. HALEY. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. CLAY. Mr. Chairman, I move that the committee do now rise.

The CHAIRMAN. The question is on the motion of the gentleman from Missouri.

The question was taken; and the Chairman announced that the ayes had it.

Mr. PUCINSKI. Mr. Chairman, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The CHAIRMAN. The gentleman's point of order is not in order in the Committee of the Whole.

Mr. PUCINSKI. Mr. Chairman, I demand tellers.

The CHAIRMAN. Tellers are demanded. Those in favor of taking the vote on the motion to rise by tellers will rise and remain standing until counted.

An insufficient number have arisen. Tellers are not ordered.

Mr. PUCINSKI. Mr. Chairman, I make a point of order against that ruling in that a quorum is not present. The Chair ruled there is an insufficient number that have arisen for tellers. I challenge that ruling on the ground that a quorum

is not present and make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will advise the gentleman from Illinois again that his point of order is not in order.

The motion to rise was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ALBERT), having resumed the chair, Mr. CORMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 19446) to assist school districts to meet special problems incident to desegregation in elementary and secondary schools and to provide financial assistance to improve education in racially impacted areas, and for other purposes, had come to no resolution thereon.

Mr. PUCINSKI. Mr. Speaker, I make a point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count.

Mr. PUCINSKI. Mr. Speaker, I withdraw my point of order.

TO AUTHORIZE THE INTERSTATE COMMERCE COMMISSION TO PROVIDE FINANCIAL ASSISTANCE TO CERTAIN RAILROADS

Mr. MATSUNAGA from the Committee on Rules, on behalf of Mr. O'NEILL of Massachusetts, filed the following privileged resolution (H. Res. 1315), (Rept. No. 1781), which was referred to the House Calendar and ordered to be printed:

H. RES. 1315

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 19953) to authorize the Interstate Commerce Commission to provide financial assistance to certain railroads in order to preserve essential rail services, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 19436, THE HOUSING AND URBAN DEVELOPMENT ACT OF 1970

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight to file a conference report on the bill (H.R. 19436) to provide for the establishment of a national urban growth policy, to encourage and support the proper growth and development of our States, metropolitan areas, cities, counties, and towns with emphasis upon new community and innercity development, to extend and amend laws relating to housing and urban development, and for other purposes.

The SPEAKER pro tempore (Mr. ALBERT). Is there objection to the request of the gentleman from Texas?

There was no objection.

MERCURY DANGER IN TUNA?

(Mr. VAN DEERLIN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous matter.)

Mr. VAN DEERLIN. Mr. Speaker, news reports dealing with the discovery of minute parts of mercury in tuna call to mind Mark Twain's statement, "The report of my death has been grossly exaggerated."

Representing as I do an area of California where the fishing industry is extremely important, I have naturally been concerned over the recent stories. I have discussed at some length with Dr. Wodicka, of the FDA's Bureau of Foods, the press stories reporting the recall of canned tuna, and am happy to quote Dr. Wodicka's flat statement:

No tuna has been found where a concentration of more than one part per million of mercury exists. Although this is a safe level, the industry and the FDA are taking steps to make sure that in the future no tuna with a concentration of more than one-half part per million reaches the market. It is perfectly safe to eat tuna presently stocked, however, because even if it reached the one part per million level, which it does not, no one could eat enough to suffer ill effects from the present supplies.

I was interested to learn that the FDA has no reason to suppose that present conditions are any different from what they have been for 50 years. Modern scientific methods have enabled us to learn more facts, but nothing indicates that there is any more mercury in tuna now than there was 10 or 50 years ago. We simply know now how to detect such substances.

In short, recent announcements merely indicate the continuing concern of the industry and of the FDA that every conceivable safeguard will be taken.

So that the facts may catch up with the fright, I submit for the RECORD the full text of remarks on this matter by Dr. Charles C. Edwards, M.D., the Commissioner of Food and Drugs, 4 days ago:

STATEMENT BY CHARLES C. EDWARDS, M.D.

Ladies and Gentlemen, thank you for coming.

We have called this conference today to report on what FDA and industry have found in tests for mercury in canned tuna and to advise you of the actions that FDA as well as industry are taking as precautionary measures based on these findings.

As you know, the FDA on December 3 received a report of mercury found in canned tuna in excess of FDA's guideline of 0.5 ppm. The Fact Sheet which you have gives a brief chronology of events since that time. It also provides details of a testing program now being conducted by FDA and the industry.

I want to emphasize three points as strongly as possible:

First, our tests to date confirm that most of the current tuna supply is well within the FDA guideline of 0.5 ppm. mercury. The average mercury content of all samples analyzed to this time is in fact 0.37 ppm.

Second, all of the test samples showing mercury content above our guideline level are in a range not considered high enough to pose an immediate health problem. If the percentage of excess mercury thus far shown in current tests were to extend to the entire tuna pack, the average for the total pack would not exceed the 0.5 ppm. guideline.

Third, the 0.5 ppm guideline is just that. It is, however, based upon Japanese experience in two studies. These studies offer the only cases where human health damage has been attributed to mercury poisoning from fish. In both studies the fish eaten contained 10–80 times the 0.5 ppm level. Furthermore, the Japnaese characteristically eat a great deal more fish than we do in the United States. On this basis, the 0.5 ppm guideline set by FDA offers a substantial margin for safety. I urge you to read carefully that section of the Fact Sheet explaining the guideline.

Let me add here that given the facts we have on tuna consumption in the United States, the safety margin built in the 0.5 ppm guideline, and the restricted range of findings in excess of the guideline, we are confident that during the 30 day period of testing by industry and FDA, the tuna on the market and in the home presents no health hazard. The highest samples found to date pose no risk of acute toxicity and removal of lots with more than 0.5 ppm mercury will eliminate any danger from high rates of consumption over long periods of time.

Let us turn now to what is being done on the basis of what we have found so far:

1. Beginning last Friday, the tuna industry voluntarily began as a precautionary measure to remove from the retail level every lot of tuna confirmed by laboratory analyses to show mercury content over the guideline. This action by industry will continue until all tuna now on the market is checked and every lot over the guideline is removed from store shelves.

2. The industry has been asked and has agreed to establish and maintain an even more extensive and intensive quality control program aimed specifically at this problem to insure that future packs do not exceed 0.5 ppm mercury. The National Oceanic and Atmospheric Administration (NOAA) will work with industry and the FDA on the research vital to this program.

3. A joint FDA-Industry testing program will continue to identify for withdrawal as rapidly as possible all additional lots on the market which fail to meet the 0.5 ppm guideline. We estimate that this program will be completed in 30 days or less.

4. FDA will advise its District Offices to sample all imported tuna for mercury content. Entry will be refused to all lots found 0.5 ppm mercury or above.

5. FDA will advise foreign governments of its actions through the Department of State.

6. The industry has started a program to try to pinpoint reasons for the present pack containing codes with 0.5 ppm mercury or above. The canners have located stocks of tuna canned in 1958, 1962, 1963, 1965, and 1967; samples from those stocks will be examined by the industry to determine if there is a trend in mercury content over the past eight years.

Finally, I want to reemphasize the point that given present levels of tuna consumption in this country, the relatively low levels

of excess mercury content found to date, and the fact that even this excess is being removed, we are confident that the American consumer is now and will remain safe from risks of mercury poisoning.

This is an environmental problem and likely to be ony one of a number we will encounter in the months and years ahead.

We in FDA mean to anticipate as many of these as we can which touch our areas of responsibility to the American public. As these problems do arise we will deal with each in a reasonable and responsible way and in the best interests of the public health.

We feel that the current problem is being handled in this way.

My staff and I will be happy to answer any questions you may have.

Mr. WYATT. Mr. Speaker, will the gentleman yield?

Mr. VAN DEERLIN. I yield to the gentleman from Oregon.

Mr. WYATT. Mr. Speaker, I would like to commend the gentleman from California for his remarks and tell him that I was enormously impressed with the very clear and concise statement of Dr. Edwards, the Administrator of the Food and Drug Administration, that there is no danger to humans in the quantities of mercury found in tuna today, and that it is perfectly safe for people to continue to consume tuna in the quantities in which they have been consuming it.

There are very clear indications that mercury is being found in many other foodstuffs. I think it is very unfair the way the press handled this in a way to make tuna, which is perfectly safe for human consumption, bear the brunt of present hysteria.

It is extremely unfortunate and I am certain that it has been very misleading for the news media to give emphasis to peripheral aspects of the controversy, and almost conceal the Commissioner's very clear statement.

Mr. ANDERSON of California. Mr. Speaker, I commend my able colleague from San Diego (Mr. VAN DEERLIN) for bringing this subject before the House of Representatives.

The recent disclosures by the FDA of an excessive amount of mercury in tuna have brought alarm throughout the country. Consumers are alarmed; fishermen are alarmed; the tuna processors are alarmed, and environmentalists are alarmed.

Yet, there is such a dearth of information on this topic that we do not really know how to react. First, we do not know how long mercury has been in the food we eat. Due to recent technical advances, we have been aware of the mercury content in our food for only a short period of time. Secondly, we do not know at what level the content of mercury is judged unsafe. We simply do not know the effect of mercury on the human body. Thirdly, we have not developed enough data to establish a mercury pollution control program.

Mr. Speaker, tuna is one of our great sources of protein, and we know that it is available at an extremely reasonable price.

In order to keep tuna in an abundant supply, and in order to put an end to the fears of consumers, I recommend five steps. First, I call upon the Food and Drug Administration to conduct more extensive tests on the mercury content of tuna and other deep-sea fish.

Second, I call upon the Public Health Service to establish the effects of mercury consumption on the human body.

Third, I call upon the Environmental Protection Agency to recommend procedures for the future abatement of dumping mercury into our waters.

Fourth, I call upon the tuna industry, itself, to establish tighter scrutiny of their product.

Last, I call upon the Congress to enact measures such as H.R. 19278 which would prohibit the discharge of mercury into our waters, and to enact H.R. 18274, introduced by Congressman ASHLEY and cosponsored by myself, Mr. HARVEY, Mr. DADDARIO, Mr. TAFT, Mr. HARRINGTON, Mr. MURPHY of New York, and Mr. LEGGETT. H.R. 18274 would provide partial reimbursement for losses incurred by commercial fishermen as a result of restrictions imposed on commercial fishing by a State or the Federal Government because of deterioration in the quality of the aquatic environment.

Mr. Speaker, FDA Commissioner, Dr. Charles C. Edwards, has stated, any affected tuna already eaten or yet to be eaten is not a health hazard. However, we must take immediate remedial action to allay the fears of consumers and to protect our Nation's health and well-being.

FOOD STAMP ACTION SUFFERS FROM A LAME DUCK RULE OF THE HOUSE

(Mr. MELCHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MELCHER. Mr. Speaker, with the passage of this "lame duck" session, one of the worst House rules will pass out, too. The majority of the House, including the leadership, by vote last night attested to the desire for a strong food stamp bill. But the recorded votes occurred only on the weaker of the three food stamp bills debated. Defeated on rollcall was a substitute bill offered by the Dean of the Virginia Delegation, Representative ABBITT, and passed on rollcall was a committee bill which was weaker than the Foley-Quie version. The latter—the best of the three in my judgment—was downed without a recorded vote.

The failure to accept the better bill for food stamps and broader coverage for hungry Americans can be laid on the doorstep of the archaic House rule that permits the most important votes to be unrecorded, unheralded and without the presence of scores of Congressmen. The rule preventing a recorded teller vote on a key issue is a "lame duck" rule which will shortly demise and, I might add, without any mourning on my part or the public.

Quickie unrecorded teller votes on the important issues will no longer be in effect next year as a result of a change in the rules, already overwhelmingly adopted by the House. After this year, recorded teller votes will be allowed, giving time to Members to reach the floor in order to decide the outcome of an issue. We could have been better served last night in action on the food stamp bill if this rule had been in effect when the Foley-Quie bill was defeated on unrecorded vote with only 235 Members present.

Who suffers when votes on key issues are decided quickly without recording? We all do. In this case I believe we failed to adequately meet the needs of those people of the Nation that are hungry and malnourished with a broader and simplified food stamp program. Second, we have the abundance of food our agricultural producers provide at the lowest parity prices in 37 years, and yet we failed to strengthen the economy by now accepting the version of the bill that would best increase the food purchasing power of those 25 million Americans now inadequately nourished.

The House bill and the Senate bill will now have to go to conference and that settlement will, I hope, bring forth a more generous food stamp plan. If so, the effect of last night's death by unrecorded vote, of the Foley-Quie bill will be corrected.

PROMPT ACTION REQUIRED TO PROTECT ENVIRONMENT AS NEED FOR ELECTRIC ENERGY GROWS

(Mr. FASCELL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FASCELL. Mr. Speaker, last March I wrote a letter to the President with copies to the Atomic Energy Commission, the Federal Power Commission and the Council on Environmental Quality. I pointed out that it was "totally irrational for the Atomic Energy Commission to issue a license for an atomic powerplant, while at the same time, the power company must meet a myriad of requirements on the local, State, and Federal levels to preserve, protect and maintain the environment."

I offered two proposals designed to meet our rapidly growing power needs and to prevent the dreadful pollution of the environment. These suggestions called for:

First, a complete review of the power needs of the country now and for the next 10 years to determine the extent of the requirements so that we can get some understanding and knowledge of the environmental disruption which will be involved and the cost that will be required to prevent it; and

Second, an appropriate interagency or other mechanism at the Federal level so that there will be total coordination and cooperation among the Atomic Energy Commission, the Department of Interior, the Federal Power Commission and State and local agencies.

I urged the President to consider and act upon these proposals promptly.

The responses I received to my letter from the various agencies indicated their agreement with the need for these measures.

For example, on May 15, 1970, Russell Train, Chairman of the Council on Environmental Quality, wrote:

I believe you have raised two good suggestions. We will certainly keep them in mind as we continue to evaluate policies regarding power demands and the environment.

Glenn T. Seaborg, Chairman of the Atomic Energy Commission, wrote on May 18, 1970:

We are in agreement with your view that there should be full cooperation and coordination between Federal and State agencies in matters involving the licensing and regulation of power facilities.

Reinhold W. Thieme, Deputy Assistant Secretary of the Interior, on July 28, 1970, stated:

An important step is the appraisal of the power needs of the country suggested in your letter.

He added that:

We heartily agree with your concern that greater efforts need to be made to coordinate Federal, State, and local activities in such matters.

He goes on to say:

It is our hope and expectation that procedures will be developed which will assure that the public interest is protected by advance consideration of environmental factors.

On September 10, 1970, the Chairman of the Federal Power Commission, John N. Nassikas, in response to my letter of March 9, wrote that he agreed that "interagency cooperation and coordination in this area are both necessary and desirable."

He went on to say that he has "advocated that the growing demands of the American consumer for energy in the decades of the 1970's and 1980's and the national policy of improving environmental quality of life can best be served only by a coordinated effort of Federal, State, and local economic and environmental regulatory agencies in cooperation with industry and concerned environmental and consumer groups."

Accordingly, Mr. Speaker, I was greatly encouraged to read the recommendation released October 2, 1970, in a report entitled "Electric Power and the Environment," prepared by the Energy Policy Staff of the Office of Science and Technology in the White House. The recommendations made in the report fully incorporate the suggestions I had made.

Dr. Edward E. David, Jr., science adviser to the President, indicated that the report's recommendations would be incorporated in legislation to be presented to the Congress early in the session. Briefly, the report proposed:

1. long-range planning by industry on a regional basis at least 10 years ahead of construction;

2. public release of inventory of alternative plant sites and plans for power lines five years before construction;

3. public release of specific plans on plant sites two years before construction—thereby allowing government agencies sufficient time for detailed review;

4. establishment of State or regional agencies with absolute approval authority to review plans and certify that they complied with air and water quality standards and other environmental considerations imposed by both State and Federal governments.

5. a review of all fossil-fueled plants by Federal environmental protection agencies; and

6. establishment of a Federal agency to assume the function of certifying that a plant meets environmental protection requirements if the State or regional agency fails to exercise that responsibility.

Mr. Speaker, I fully support the thrust of this program. We all are too keenly aware that our Nation's technological needs and development have been racing ahead of our ability to keep up with them and provide for their undesireable side effects—namely, the dreadful pollution and destruction of the environment.

It is obvious that our power needs must be met rapidly; at the same time, however, if something is not done to protect the environment immediately, there will not be anything left to use the power for.

I was distressed, therefore, to read reports that indicate that since these recommendations were released in October, a decision has been made by the Council on Environmental Quality that the Federal Government is not obligated to make public information on how Federal projects would affect the environment until decisions have already been made on whether to go ahead.

This decision is in direct contradiction to the recommendations issued by the President's Office of Science and Technology. If we cannot have coordination among the administration's own agencies, how can we expect such coordination between Federal, State, and local officials?

Russell E. Train, chairman of the Council on Environmental Quality, is reported to have said that his staff is simply too small to give the required impact studies the attention they deserve. If this is the case, then we should provide the funds for an increased staff so that the Council can perform its functions as we intended when we passed the Environmental Policy Act of 1969. The present situation practically negates the entire purpose of the legislation. I hope the appropriate legislative committees of the 92d Congress will consider this matter very carefully and take prompt action.

OCCUPATIONAL HEALTH AND SAFETY ACT

(Mr. ECKHARDT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ECKHARDT. Mr. Speaker, what is done in the field of occupational safety today is a notable occasion. The passage of the Occupational Health and Safety Act of 1970 is truly a landmark like the orginial adoption of the Minimum Wage Act. In the future, industries may not compete in the price of their product at the expense of death, debilitation, and injury of their employees.

But a law, no matter how good in its concept, is no better than the motivation and direction of those who enforce it.

Since modern industry is extremely complex and presents manifold threats to life and health, it is necessary, both under the terms of this act and as a supplement to this act, for individual industries, workers in the plants, and their unions to maintain continual vigilance over the processes which may generate dangerous and unhealthy conditions in those industries and in those plants.

In this regard I wish to bring to your attention the health and safety clauses which are the subject of negotiation in the oil and chemical industry. These are the clauses being urged by the Oil, Chemical, and Atomic Workers Union which have not been accepted by company negotiators. Though I do not mean to inject a congressional concern into the negotiations or to draw conclusions as to what the final language should be, I do think that it is extremely important that the subject matter of these proposals be dealt with in an industry which presents unique dangers to its workers, dangers which are frequently unknown to the employee and to the community in which the plant is located.

There is another reason why this approach is of concern to lawmakers. I must admit a certain disillusionment about the effectiveness of administrative agencies as the protectors of the public unless there is built into the agency, and the act which creates it, a process by which those directly affected as members of the public, or as members of the working group subjected to hazards, can participate in the governmental process. There are provisions in the act which move in this direction, but to make these provisions really meaningful, there must be processes established by labor management processes which afford an opportunity for those most directly affected by plant dangers to know those dangers and to engage in the process of their elimination as a matter of contract right. Therefore, congressional action and Federal law is related to negotiation and to labor management contracts.

Because of these considerations the proposals which have been submitted by OCAW as appendix B to their contract demands and which are appended here should be concern to Members of Congress:

HEALTH AND SAFETY CLAUSES

Section 1. The Company shall institute and maintain all reasonable and necessary precautions for safeguarding the health and safety of its employees, and all employees are expected to cooperate in the implementation thereof. Both the Company and the Union recognize their mutual obligations to assist in the prevention, correction and elimination of all unhealthy and unsafe working conditions and practices.

Section 2. There shall be established a joint labor-management Health and Safety Committee, consisting of equal Union and Company, representatives, but not less than two each nor more than four each. The Committee shall establish and adopt health and safety rules. It shall hold meetings as often as necessary, but not less than once each month, at a regularly scheduled time and place, for the purpose of jointly considering, inspecting, investigating, and reviewing health and safety conditions and practices and investigating accidents, and for the purpose of jointly and effectively making constructive recommendations with respect thereto, including but not limited to the formulation of changes to eliminate unhealthy and unsafe conditions and practices and to improve existing health and safety conditions and practices. All matters considered and handled by the Committee shall be reduced to writing, and joint minutes of all meetings of the Committee shall be made and maintained. Time spent in connection with the work of the Committee by Union

Representatives shall be considered and compensated for as their regularly assigned work.

Either party may, on its own or in cooperation with the other party, arrange for an inspection of facilities by appropriate inspectors of government, independent agencies or the International Union; provided, however, that no request shall be made without fully informing the other party to this agreement, and provided further, that such inspections shall be made in the company of representatives of both labor and management and that all reports, advice, recommendations, opinions, findings, and anything else of pertinence, whether verbal or documentary, shall be made equally to the Union and to the Company.

Section 3. The Company agrees to provide and maintain such health and safety facilities, personal protective devices and in-plant apparatus for detecting and recording potential and actual safety, health and environmental hazards as recommended by the Health and Safety Committee, and the Company agrees further to provide a continuous training program to insure at all times that all employees are adequately trained in maintaining, handling and using such facilities and apparatus.

The Company further agrees to fully disclose, in writing to each employee, the full identity of all chemical and related substances. Such identification shall include, but not be restricted to, the chemical, drug, biological or pharmaceutical name and/or names, relevant health and safety hazards and precautions, the maximum concentrations of exposures, health and safety precautions to be taken, health and safety symptoms, medical remedies and antidotes.

Section 4. The Company shall provide and maintain adequate medical facilities, competently staffed, and to provide, at no cost to the employee, medical services, including but not restricted to, physical examinations at a frequency and extent determined from time to time, by the joint labor-management Health and Safety Committee, and the Company further agrees to provide to each employee an accurate report of all medical findings and examinations, for whatever cause such findings are made.

Section 5. No employee shall be required to perform work that endangers his or any other employee's health or physical safety or under conditions which are in violation of the health and safety rules, or any local, state or federal health or safety laws. An employee's refusal to perform such work shall not warrant or justify any present or future disciplinary action.

Section 6. The Company agrees to contribute $0.0010 for each barrel of crude refined to a special Health and Safety Fund, which shall be established primarily for the purpose of research of health and safety hazards and the elimination thereof in the industry. The Fund is to be administered by a three-member Board, consisting of one representative from the industry, one from the International Union, and the third is to be selected by the industry and Union representatives from the medical or science professions and is to be engaged in this type of research.

AN INVESTIGATION AS TO THE PERFORMANCE OF PLASTIC DRAINAGE SYSTEMS IN EUROPE

(Mr. NICHOLS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. NICHOLS. Mr. Speaker, in recent months my attention has been called to case after case in which the Department of Housing and Urban Development has coerced the legislative body of some municipality to approve plastic pipe for drain, waste, and vent usage. HUD has demanded this as a prerequisite for obtaining Federal loans or grants.

In this campaign, HUD has apparently set a very high priority on the conquest of Alabama city and towns. The current November-December 1970 issue of HUD Challenge states that 63 Alabama communities have approved plastic pipe for residential construction. I can assure Secretary George Romney of Housing and Urban Development that this is not a tribute to the quality of plastic pipe but to the quality of HUD's skill in using taxpayers' money to ride roughshod over States rights and local rights.

HUD's action has been very effective. In Anniston, Ala., commonly referred to as the soil pipe capital of the world, workers in soil pipe foundries are now on a 3-day workweek and have been for several months. Officials estimate that HUD's methods have reduced the orders for various soil pipes by 30 to 50 percent.

This policy on the part of HUD and Secretary Romney does not only affect the foundry workers in Anniston but also constitutes a complete disservice to the American home buyer, and a totally illegal and unmerited windfall to particular private interests, especially the plastic pipe industry and homebuilder lobby.

Mr. Speaker, HUD claims authority to pursue this policy under a section of the National Housing Act. The idea that HUD has the authority, under this section, to advocate the use of plastic pipe must have been thought up by a junior attorney in the office of the HUD general counsel who has his eye set on greater things. That section gives HUD the power to require and superintend maintenance of a minimum standard housing code in a workable program jurisdiction. It gives HUD no power whatsoever in promoting any building material.

I am not so naive as to believe that bureaucratic ambition placed in control of hundreds of millions of Federal dollars is going to be stopped by a small thing like the legislative intent of Congress. It is another matter when the bureaucratic policy does positive harm to millions of hard working American men and women who are led to place an unjustified trust in a decision of their Federal Government.

There may be those among the general public who believe that when HUD forces a municipality to approve a building material like plastic pipe, it is acting out of considered judgment following the most thorough and impartial testing in Federal facilities. This is not the case, however. Testimony presented to a subcommittee of the House Select Committee on Small Business during this Congress has substantiated the fact that neither HUD nor any other Federal agency has ever tested the performance of plastic pipe in drain, waste, and vent systems. Plastic pipe and fittings have been tried in Europe and the results have been very unsatisfactory.

Mr. Speaker, I am incorporating in the RECORD a study entitled "Investigation of the Performance of Plastic Drainage Systems in Europe," conducted August 10–21, 1970, by Rom Rhome. The study was undertaken for plastic pipe interests and is distributed by Uniroyal Chemical in Naugatuck, Conn. Some exhibits which contain photographs of plastic pipe failures or statistical tables have been omitted because they cannot be reproduced in the RECORD at this point.

A major finding of Mr. Rhome is that widespread failures of polyvinyl chloride plastic drainage systems have occurred in European countries with the introduction of automatic dishwashers and washing machines with self-contained water heaters. He states that this material has been eliminated entirely from standards in some European countries.

I hope that my colleagues will take the time to study this report. Perhaps Secretary Romney or some of the officials who made this arbitrary decision can tell me why, so I can answer some of my hard-working constituents in the Anniston area who have been seriously hurt by a Government that is supposed to protect them. The study follows:

INVESTIGATION OF THE PERFORMANCE OF PLASTIC DRAINAGE SYSTEMS IN EUROPE

(By Rom Rhome)

I. STATEMENT OF OBJECTIVE

The purpose of the investigation was an on-the-spot assessment of the behavior in service of plastic drainage systems, particularly PVC This information was needed to evaluate more properly the proposed ASTM specification which would reduce the wall thickness of 3" PVC DWV pipe from its present Schedule 40 dimension.

The assignment included verification of reports of PVC DWV failures, assessment of the effect of wall thickness upon these failures, and the impact of the failures upon the subsequent acceptance of PVC plastic for drainage service.

Since the proposed 3" PVC Thin Wall Specification would depart from the standard outside diameter of 3.50" (which has become established throughout the United States for plastic pipe for both pressure and drainage service), a corollary assignment was to evaluate this departure from standardization in the light of the international trend toward uniformity in dimensional standards.

Scope

The scope of the study was confined to soil, waste, and vent piping within buildings (commonly referred to as "drainage" or "DWV" in the United States) and did not extend to underground sewer or storm drain lines, pressure piping, or rain carrying systems.

II. SUMMARY OF FINDINGS

1. In Europe PVC *pressure* systems were designed with heavy walls and conservatively rated for a life expectancy of fifty years. The most common dimensional schedule for PVC corresponds to a pressure rating of 10 atmospheres or 147 psi. The wall thicknesses are very close to Schedule 40 PVC drainage pipe in the United States conforming to ASTM D 2665.

2. In determining the design stress for PVC at ambient temperature of 20° C. (68° F.) proper recognition was given to elevated temperature. On the Continent, both pipe and fittings for pressure service were subjected to 1000 hours of hydrostatic test at a continuous temperature of 60° C. (140° F.) before the ambient temperature rating was set.

3. As a result of the proper determination of working stress and allowance for high temperature exposure, PVC *pressure* systems have steadily displaced conventional ma-

terials with a conspicuously successful record of service.

4. Exactly the reverse, however, has been true of PVC *drainage* piping, which was grossly underdesigned with thin walls to meet the difficult competitive situation prevailing at the time with cast iron, steel, and even asbestos cement (within buildings).

5. With the introduction of automatic dishwashers and washing machines with self-contained water heaters, widespread failures of PVC drainage systems have occurred. These heat deformation failures occurred in both 3" and 4" soil stacks as well as waste lines 2" and smaller.

6. As a result, PVC has been eliminated entirely from standards in some countries for waste lines as well as 3" soil stacks, with the higher heat resistant plastics, particularly ABS, being used instead.

7. In some countries thinner than Schedule 40 PVC DWV has been retained, but with the restriction that the product be used to handle domestic effluent only. Such service restrictions prolong the use of traditional materials, particularly cast iron, which are thereby required for all commercial installations which could be handled with adequately designed PVC pipe.

8. In the Netherlands, for example, the use of thin wall PVC is continuing, but with the restriction that effluent temperatures not exceed 158° F. This virtually rules out PVC in all modern structures containing automatic appliances.

9. Uniform outside diameter is the most important single achievement in the standardization of plastic pipe. Recommendations of the International Standards Organization have established a single schedule of outside diameters for both pressure and drainage service now in use on four continents. This uniform metric standard for outside diameters parallels the similar standardization in the United States on Iron Pipe Size Outside Diameters. Any effort to introduce nonstandard dimensions, such as the 3.250" O.D. proposed for thin wall PVC DWV in the United States, is a serious departure from dimensional standardization.

III. UNITED KINGDOM

Interviews in the United Kingdom included four leading pipe and fitting manufacturers, two departments of the British Ministry of Technology, a raw material supplier, and a pipe fabricator-installer. These contacts, like those in other countries, are detailed in Appendix B. Since a two-way exchange of information was involved in every interview, sponsors of this investigation should feel at liberty to visit or correspond with the persons listed.

PVC and ABS pipe have been used in the U.K. for both pressure and drainage service. Both materials have performed quite successfully in pressure piping. In drainage, however, thin-wall PVC has produced widespread failures, with ABS and other heat resistant plastics displacing PVC entirely from the smaller diameter DWV market.

A brief explanation of the development of British pipe dimensional schedules will help to explain the reasons for the success of adequately designed PVC pressure pipe and failure of PVC thin-wall drainage pipe.

Standardization on iron pipe size outside diameter

From inception British plastic pipe dimensional schedules have utilized the Iron Pipe Size Outside Diameter the same as in the United States. IPS OD's apply through the complete range of sizes from ¼" through 24". Three inch nominal, for example, is 3.500" specified OD, which is equivalent to 88.7 mm.

With the eventual entry into the Common Market, British manufacturers generally are making preparations for adoption of the metric system. In the case of 3" pipe, the largest British plastic pipe extruder is using 3½" OD pipe labeled 90 mm. since the same pipe meets both dimensional tolerances. (Some useful conversions of metric to British units of measurement are presented in Appendix A.)

Design stress, pressure class, and wall thicknesses for PVC pipe

The British determine design stress for plastic pipe materials in much the same manner as in the United States and on the Continent (which is described fully in the next section). There are available in the British pipe dimensional tables wall thicknesses which approximate our Schedule 40 for each pressure-rated pipe size. Had these dimensions such as Class D (.181"–.201" wall thickness for 3") been selected for PVC DWV, service failures could have been avoided, as in the case of the United States where Schedule 40 PVC has performed with consistent success.

Introduction of PVC into drainage service

In the early sixties British extruders introduced PVC for both rain carrying systems and sanitary drainage. Wall thicknesses varied from .087" to .110". Rain carrying systems operated without incident, until today it is estimated that 90% of new installations are with PVC as opposed to metal.

In soil pipe installations, PVC pipe produced conspicuous failures.

It should be noted that lead stabilization of PVC for non-potable water uses is universal in Europe—both in the United Kingdom and on the Continent. In the U.K. PVC DWV pipe must have a minimum Vicat softening point of 81° C. (178° F.).[1]

In the U.K. the heat resistance requirements of drainage systems result essentially from the use of back boilers and, more recently, automatic washing machines. The back boiler is a water heating device installed behind the fireplace. It literally "boils over" spilling 212° F. water into the drainage system. Automatic washing machines as well as dishwashers with self-contained heating units came into increasing use starting in the mid-sixties. Thermostat malfunction can cause boiling water to be discharged.

Collection of failure reports

The British Ministry of Technology in cooperation with the Ministry of Public Buildings and Works has documented over forty heat deformation failures of 3" and 4" PVC soil pipe installations. It is admitted that a far greater number than those actually reported occurred.

Exhibit A presents a typical 4" PVC soil stack failure where the pipe folded and collapsed some six inches below the sink waste entry.

Technical investigation of PVC failures

The Ministry of Technology conducted a technical investigation of failures and a laboratory analysis of PVC pipe performance for carrying hot wastes. An outgrowth of this investigation was the adoption of the 81° C. minimum softening point requirement.

It was determined that wall thickness had the most significant effect upon the ability of PVC pipe to withstand heat distortion. It was found that with the inner surface of the pipe at 212 F., the following times were required for the wall thickness indicated for the O. D. to reach the recommended Vicat-softening point of 81° C (178° F)—(1) .110" wall—85 seconds. (2) .125" wall—115 seconds. (3) .181" wall—did not reach 81° C in 200 seconds, only 73° C (163° F). No readings were taken on the .181" wall pipe after 200 seconds. Nor was Schedule 40 PVC (.216" wall for 3" pipe) examined. Another obvious omission from this evaluation was that sag measurements of pipe with varying wall thicknesses under continuous flow of water at various temperatures starting at 212° F were not conducted.

Instead of pursuing the technical evaluation of wall thickness to its logical conclusion—that wall thicknesses equivalent to those established in the United States for PVC DWV can virtually eliminate sag failure—the British plastics industry adopted .125" wall for 3" and 4" PVC soil pipe on the basis of a cycling test. In this test 7.5 gallons of water at 91° C (192° F) (not the boiling temperatures encountered in service) flow through a stack for 90 seconds alternating with "cold" water for 90 seconds, with a rest period of 60 seconds between cycles. The test section is a *vertical* stack. Horizontal soil lines are not tested. The test is repeated for 2500 cycles.

We have no doubt that 3" x .125" wall PVC pipe passes such a cycling test. Recognizing the limitations of the product use of such 3" PVC soil pipe and the U.K. confined to *above ground* drainage systems only carrying *normal domestic effluents*. All commercial installations—restaurants, laundries, schools, office buildings, etc. are required to be metal pipe. It is apparent that through underdesign of its own product, the British plastic industry is prolonging the use of metal pipe, where adequately designed PVC could be universally used for sanitary drainage.

Significance of the British experience

1. In the U.K. as well as on the Continent PVC drainage pipe was designed to compete size for size with metal pipe under the competitive pricing prevailing at the beginning of the last decade. Wall thicknesses were arrived at to produce a product which *would displace traditional materials* on the basis of *material cost rather* than *superior performance* and *installation saving*. The resulting PVC DWV pipe was technically inadequate. As a consequence, the use of traditional materials, particularly cast iron, has been prolonged, and the waste line market has been lost by PVC to higher heat resistant plastics primarily ABS. (Please note EXHIBIT B).

2. When the technical investigation of failures disclosed that PVC soil pipe with a wall thickness up to .110" was incapable of adequate performance, the industry settled upon a marginal increase to .125" will, with service limited to household drainage only. This situation illustrates the *practical difficulty of significant upgrading* once an inferior product has become established in the market.

3. British experience has demonstrated the wisdom of the approach followed in the United States in selecting the Schedule 40 dimension for ABS and PVC pipe. Both products have performed with complete success. They can be used without restriction both above and below ground; in multi-story construction; and in commercial and industrial as well as residential building. In the United States complete displacement of traditional drainage materials by genuinely superior plastics is proceeding at an accelerated rate. Under these circumstances it is not surprising that there is resistance to downgrading of product with a reduction in wall thickness, thereby inviting a repetition of the British experience of product failure and loss of market for PVC.

IV. SWITZERLAND AND GERMANY

Interviews included Gebruder Anger, now a division of Rheinstall Corporation (a basic steel producer) Munich, Germany, and Georg Fischer AG, Schaffhausen, Switzerland. Gebruder Anger is reputed to be the largest plastic pipe manufacturer in Germany with current annual production estimated at 50 million lbs. of PVC pipe and fittings. Georg Fischer is the largest manufacturer of PVC pressure fittings in Europe. Its Plastics Division is part of a large diversified concern which began as a cast iron foundry in the early 1800's.

[1] When tested according to BS 2782 "Methods of Testing Plastics" Method 102 using 5 kg. load.

These conversations provided background on the development of PVC pipe standards on the Continent. PVC pipe began in Germany, and the German DIN Standards have set the pattern for the subsequent ISO specifications of the International Standards Organization.

The dimensions in the German DIN Standards for the 3" and 4" pipe with which we are primarily concerned are set forth in the table below. An explanation follows of the manner in which these dimensions were developed.

(Please refer to Appendix A for conversion from metric to British units of measure.)

GERMAN DIN STANDARDS FOR PVC PIPE

Nominal size, inches	Outside diameter		Pressure pipe wall thickness (10 atmospheres)		Drainage pipe wall thickness	
	Mm.	Inches	Mm.	Inches	Mm.	Inches
3-inch	75	2.953	.....	.....	1.8	0.072
Do	90	3.543	4.3	0.172	.....	.....
4-inch	110	4.330	5.3	.212	2.2	.088

Design working stress

Our own 100,000 hour design stress rating of 2000 psi for Type I PVC and 1200 psi generally accepted for Type II PVC are derived from the system used on the Continent for determining design stress. Our 2000 psi PVC compounds would be rated as PVC–100 or 100 kg./cm². Similarly our 1200-psi Type II PVC would be PVC–60. The principal difference is that the European stress rating is based upon the extrapolation of burst data to 50 years, rather than our 100,000 hours or 12 years. This entails a reduction in design stress of some 30% from levels accepted in the United States. (Again, please refer to Appendix A.)

A further refinement is that on both pipe and fittings a 1,000 hour test is run at 60°C (140°F). According to Anger data, it is assumed that pipe which survives the 1,000 hour test at 60° C at a pressure of 10 atmospheres (147 psi) is capable of fifty years of service at the same pressure for 50 years with water at 20°C (68°F).

Wall thickness

The resulting wall thicknesses using a design stress of 100 kg./cm² for Type I PVC are shown in EXHIBITS C and D. The most common pressure rating for PVC pressure pipe is 10 atmospheres or 147 psi (which approximates the Class 150 or 150 psi cast iron and asbestos cement pipe in the United States). Fischer, for example, manufactures a single line of pressure fittings rated for 10 atmospheres of pressure. Fischer, however, uses high impact PVC–60 with roughly double the wall of the PVC–100 pipe in the same system.

For drainage the Germans selected the minimum wall thickness of 1.8 mm for 4 atmospheres of pressure for 90 mm pipe, and extended this wall thickness down through the 32 mm or 1¼" size of waste lines. (Exhibits C and E)

Here two fallacies are evident:

(1) Pressure testing at 60°C (140°F) does *not* establish the ability of PVC to handle hot wastes in drainage systems at temperatures up to 100°C (212°F), and

(2) The smaller diameter waste lines which would have the thinnest walls under the pressure rating concept are those which are most susceptible to sag since they are adjacent to automatic appliances generating high temperature effluent.

We can conclude only that the *misapplication of thinnest schedule intended for pressure* systems at ambient temperature has accounted for the widespread *failures of drainage systems* in Europe.

Photographs of PVC DWV failures from Germany are presented in Exhibit F. We were unable to secure a complete German report at the time of our visit because of absence of key personnel on holidays. Additional information will be forwarded when it becomes available.

Standardization of outside diameters

The ISO standard establishing uniform outside diameters is presented in Exhibit G. The identical outside diameters are also being applied to drainage pipe in all plastic materials, not merely PVC. These ISO standards are now embraced by a total of 22 countries in Europe, North America, South America, and Asia.

Our particular problem concerns an effort to introduce a non-standard pipe diameter, 3.25" O.D. as PVC DWV, when all of our plastic pipe standards for PVC and ABS for both drainage and pressure have been standardized at 3.50" O.D. in the U.S.

All of the manufacturers and standards organizations interviewed stated that they would resist a similar departure from dimensional standardization.

Another point of interest is that the forthcoming ISO standard on PVC drainage pipe will show two columns for wall thickness—one at 1.8 mm. minimum and the other at 3.2 mm. The outside diameters, however, will remain unchanged.

V. NETHERLANDS

This country has the highest standard of living in Europe, the densest population, and is far ahead of other European countries in the per capita use of plastic pipe. Holland also leads in the use of ABS in lieu of PVC for DWV because of the high temperature service requirements of Dutch drainage systems.

Among the companies visited, Wavin is the world's largest plastic pipe manufacturer. Its current annual company-wide production of PVC pipe is over 220 million lbs.—which is equivalent to the total production of PVC pipe in the United States in 1969. Polva produces over 55 million lbs. of plastic pipe at its Dutch plant alone. Though smaller than the other two, Dijka is huge by U.S. standards, specializing in ABS and PVC drainage pipe. Another large Dutch extruder, Kumy, is actively promoting ABS for DWV.

Standards activity is highly organized in the Netherlands. We visited Foundation KOMO, which issues standards on sewerage and drainage materials; KIWA, Ltd., a related institution which furnishes the secretariat for KOMO, and TNO, which is essentially the NSF of Holland.

Marbon Europe is headquartered in Amsterdam, where it also has an ABS polymerization and compounding facility.

Specifications and performance of PVC and ABS pipe in Holland

The Dutch standards for PVC pipe—both pressure and drainage—have until recently been identical to the German DIN standards examined in the previous section.

The use of PVC pressure pipe conforming to 10 atmospheres (147 psi), with wall thicknesses approximating our Schedule 40, has become the standard for extensive and highly developed PVC utility systems in Holland.

The use of PVC drainage plumbing systems began on a large scale over ten years ago. Within the past five years, however, PVC deformation failures have resulted from the installation of automatic dishwashers and washing machines with self-contained heating units. These failures have been particularly evident in apartment buildings where equipping one unit with the new appliances caused stoppage and collapse of PVC main soil stacks. Without exception, the pipe manufacturers and the standards organizations admitted the widespread existence of the failures. But instead of divulging case histories and statistics on failure incidence, we were informed that corrective action was being taken in the form of physical replacements and upgrading of standards.

Introduction of ABS in Holland

The new KOMO ABS specification is nearly ready for promulgation. A key feature of the new KOMO specification is that ABS is recommended for use where effluent temperatures up to 90°C (194°F) are encountered. This is not a particularly impressive requirement, since, in our opinion, plastic drainage pipe should be designed to withstand prolonged discharges up to 100°C. However, since the KOMO PVC specification contains a service limitation to effluent not exceeding 70°C (158°F), ABS would appear to be required in all installations.

TNO tests and revision of the PVC DWV specification

In the new KOMO PVC DWV specification minimum wall thickness is revised upward from 1.8 mm. to 3.2 mm. The minimum wall extends down through 32 mm. (1¼"), producing an D/t ratio of 10:1 for this size of pipe.

The new 3.2 mm. PVC wall thickness was recommended by TNO based upon laboratory cycling tests. With great difficulty we obtained information on the TNO tests. The test results were highly favorable to ABS. However, the test results which we examined were incomplete and largely inconclusive.

The test temperature was essentially the same as in the British tests—90°C (194°F). Since the temperature was a full 18°F below boiling, the test is open to criticism for not similating temperatures encountered in actual installations. The test setup, however, was considerably more realistic than the British tests, since it involved three elements, each approximately 6.5 feet in length—a horizontal waste line of 1½" or 2" diameter, followed by a vertical stack and horizontal soil line each 3" or 4" in diameter. Supports were placed at mid-span on the soil line and at intervals varying between 1' and 2' on the waste lines. The cycle amounted to one minute of water at 90°C, followed by a rest period of ½ minute, then 1 minute of cold water at 10°C (50°F).

It was the intention to test systems consisting of 1.8 mm. PVC, 3.2 mm. PVC, and ABS for 1500 cycles each, then measure the resulting sag. The problem was that in each case the test had to be discontinued because of failure of expansious joints in the pipe assembly or the plastic to metal connections. Moreover, trouble with the apparatus caused frequent interruptions of the test cycle.

ABS ran 1400 cycles before the test was discontinued with a broken connection. No sag was measurable in the ABS. The 1.8 mm. PVC registered sag of approximately ¾" in the waste line and nearly ¼" in the soil line after 244 cycles.

The 3.2 mm. wall pipe was tested for 300 cycles, then 910 cycles before the test had to be discontinued. Sag was hardly measurable. No complete tests on this wall thickness of pipe were recorded.

The foregoing tests served only to confirm the complete unserviceability of 1.8 mm. wall PVC and the *relative* superiority of ABS under far less than critical conditions. Unfortunately the tests did *not* establish the true limitations of 3.2 mm. wall PVC or, more important, the wall thickness of PVC which would have qualified the material for unrestricted DWV use. This would have been easy enough to do, first by verifying the successful PVC DWV experience in the United States, then testing the PVC pressure pipe readily available in Holland rated for pressures of 10 or 16 atmospheres.

CONCLUSIONS FROM THE DUTCH EXPERIENCE

1. PVC DWV systems with 1.8 mm. wall thickness proved incapable of handling domestic effluent from modern appliances.

2. Based upon inconclusive tests, the Dutch propose to raise the wall thickness to 3.2 mm. (.125") while at the same time limiting PVC DWV to drainage systems where

effluent temperatures do not exceed 70° C (158° F). This virtually rules out the product for use in modern buildings or even minimal living quarters which eventually receive up-to-date appliances.

3. Through underdesigning the wall thickness and service capabilities of the PVC DWV, the Dutch market is turning away from PVC for drainage service.

VI. FRANCE

In France we visited Plastimer, a leading producer of both ABS and PVC resin. The Plastimer operation is a consolidation resulting from a series of corporate mergers. We attempted an interview at the CSTB (translated Scientific and Technical Center for Building), but no one was available who spoke English and the key personnel concerned with pipe standards and testing were away for the month of August on vacation. A shutdown during the French August vacation and time limitation prevented a visit to Pont aux Mousson, the large cast iron pipe manufacturer which is the leading PVC pipe producer in France, and which also controls Glamorgan Pipe and Foundry in Virginia.

At Plastimer we visited both the PVC and ABS product sections. In France PVC has dominated plastic pipe. It is generally known, however, that the usual failures of PVC thin wall drainage systems have occurred coincident with the introduction of modern appliances. CSTB is conducting a study pointing toward heavier wall PVC DWV pipe.

In France as in other European countries, difficulties with thin wall PVC have paved the way for ABS DWV. To our surprise we learned that there are already three manufacturers of ABS pipe fittings in France, with the ABS pipe apparently being imported.

VIII. NORWAY AND AUSTRIA

Time and distance prevented a visit to these countries. We learned, however, that there is a substantial ABS pipe manufacturer in Austria and two in Norway. In both countries ABS is gaining increasing acceptance at the expense of PVC both because of its superior low temperature impact resistance as well as higher heat resistance.

We had the opportunity of examining the Norwegian pipe standards for drainage pipe. Here PVC is confined to 110 mm. (4") diameter and larger while 3" and smaller waste lines are covered by specifications for ABS and high density polyethylene.

EXHIBIT B

UNIROYAL, LTD.,
Bromsgrove, Worcestershire, August 24, 1970
UNIROYAL INTERNATIONAL,
Division of Uniroyal Inc., Uniroyal Chemical, Navgatuck, Conn.

For the attention of Mr. Rom Rhome.

DEAR ROM: This is a letter to confirm certain findings on DWV pipe in up to 3" diameter.

A new U.K. draft specification for Plastics Waste Systems, released on limited circulation in the last six weeks and which is to be regarded as confidential information, relates to Domestic Waste Systems manufactured in specific plastic materials. *The only materials covered are ABS, Chlorinated PVC, Polypropylene Copolymer* and *HD. P/E. PVC is not included.* Only three sizes of pipe and fittings are covered, namely 1¼", 1½" and 2".

It can therefore be stated that in the U.K. at the present time *no specification exists in the up to 3" size which covers the use of PVC for use in domestic waste systems.* We believe that the use of *PVC is precluded because of the high water temperatures experienced in the U.K.* by the use of such archaic but nevertheless efficient articles as *back boilers.* These are installed into U.K. homes at the rate of 120,000 per annum even now. Water discharge can be intermittent at very near *100° C.* and PVC is unsuitable although I have no documentation to support this.

There are no plans as far as is known to introduce PVC into this specification.

Kind regards, see you in the near future.

Yours sincerely,

R. M. BROUGHTON,
Kralastic Technical Service.

APPENDIX A—SOME USEFUL CONVERSIONS OF METRIC TO BRITISH UNITS OF MEASUREMENT

1. WEIGHTS

In Europe it is the custom to express orders, shipments, and capacities in metric tons rather than in pounds.

One metric ton equals approximately 2207 lbs.

For example, Wavin of Zwolle, Holland is now producing pipe, largely PVC, at an annual rate of 100,000 tons or over 220 million lbs.—which is equivalent to the total sales of PVC pipe in the United States in 1969.

An order of 10 tons amounts to approximately 22,000 lbs.

2. PIPE WALL THICKNESSES

One mm. equals .040" (or precisely .3937").

Some wall thicknesses encountered in Europe and their equivalents in inches are:

1.8 mm.=.072".
3.2 mm.=.125".
4.3 mm.=.172".
5.3 mm.=.212".

In the above sizes 1.8 mm. were the original minimum wall thicknesses on the Continent for waste lines. The next thickness, 3.2 mm. is the new minimum wall thickness for soil and waste lines in Holland and France. This minimum extends down through 1¼" or 32 mm. outside diameter, thereby producing a D/t ratio of 10.1. An equivalent ratio in our 3.5" O.D. pipe would amount to .350" which would be substantially greater than the Schedule 40 3" of .216".

The next thickness, 4.3 mm., is the pressure rated wall for 90 mm. (3½" O.D.) PVC pipe, for 10 atmospheres or 147 psi.

The thickness of 5.3 mm. or .212" is that of PVC pressure pipe rated for 10 atmospheres in the 110 mm. (4" nominal) size. This thickness most nearly approximates the Schedule 40 thickness in the United States in 3" of .216" and 4" of .237".

3. PIPE DIAMETERS

Pipe outside diameters are standardized in all countries subscribing to specifications of the International Standards Organization. Outside diameters are identical for both pressure and drainage pipe. They are expressed in millimeters.

1"=25.4 mm.
3.5"=88.9 mm.

The most common pipe sizes with outside diameters in millimeters and their British nominal equivalents are the following:

32 mm. 1¼".
40 mm. 1½".
50 mm. 2".
75 mm. 3" (2.95" O.D.).
90 mm. 3" (3.54" O.D.).
110 mm. 4".
160 mm. 6".
200 mm. 8".

In the above table of sizes, 90 mm. approximates the 3.5" outside diameter used in the United States for both pressure and drainage. On the Continent 90 mm. has been the standard 3" pipe size for pressure because of the heavier wall rated for 10 atmospheres, while 75 mm. was used for drainage. This diameter was originally produced with a wall thickness of only 1.8 mm. It is now being increased to 3.2 mm. With the heavier wall of 3.2 mm., the bore of 75 mm. will be constricted to 2.70". With more conservative design, 90 mm. would be the more appropriate outside diameter which is equivalent to the U.S. 3" nominal pipe.

4. TEMPERATURE

Everyone is familiar with the fact that 0°C is equivalent to the freezing temperature of water at 32° F, and that 100° C is the boiling point of water at 212°F. One degree C is, of course, equal to 9/5 of one degree F.

However, some other benchmarks in the temperature scale are of interest.

60° C is the test temperature for determining long-term hydrostatic stress test for PVC. It is also the maximum operating temperature recommended for PVC pressure pipe in high temperature systems. 60° C equals 140° F.

70° C or 158° F is the maximum temperature of effluent recommended for PVC drainage systems. ABS drainage pipe, however, is considered suitable for wastes up to 90° C or 194° F. under the Dutch KOMO specification for ABS.

Ambient temperature is considered 20° C or 68° F. in Europe.

5. PRESSURE RATING

In Europe PVC 100 is the standard design stress for unplasticized PVC for pressure piping. The stress is determined by long term burst tests with water at 20° C, extrapolated on a log-log scale to fifty years.

The design stress of 100 kg./cm.^{2} is equivalent to approximately 1400 psi. for a service life of 50 years. In the United States the same PVC material would be given a design stress of 2000 psi. for 100,000 hours or approximately 12 years.

Classes of PVC pipe are rated in multiples of one atmosphere (14.7 psi.). The most common pressure rating is 10 atmospheres or 147 psi. Georg Fischer, for example, manufactures a single line of PVC pressure fittings rated at 10 atmospheres working pressure.

APPENDIX B—AGENCIES, COMPANIES, AND INDIVIDUALS INTERVIEWED

1. UNITED KINGDOM

(a) Chemidus Plastics, Ltd., Brunswick Road, Cobbs Wood, Ashford, Kent, England. R. Broome, Works Director; J. B. Steel, R&D Unit; David Street, R&D Unit.

(b) Hunter Group of Companies, Nathan Way, Woolwich Industrial Estate, London, S.E. 18, England. R. H. Edmondson, Works Director; R. J. Heddon.

(c) Durapipe & Fittings, Ltd., Bentinck Road, West Drayton, Middx., England. Eric E. Denyer, Executive Director.

(d) Allied Ironfounders, Ltd., R. W. S. Division, Ketley, Wellington, Shropshire, England. H. H. M. Milnes, R. W. S. Director.

(e) Lambert Brothers (Walsall) Ltd., Walstead Road West, Staffordshire, England. D. C. Barrett, Engineering Manager.

(f) Fire Research Station, Ministry of Technology and Fire Offices Committee, Boreham Wood, Hertfordshire, England. H. L. Malhoutra.

(g) Building Research Station, Ministry of Technology, Garston, Watford, Hertfordshire, England. M. Lillywhite.

(h) Uniroyal, Ltd., Chemical Division, P. O. Box 12, Bromsgrove, Worcestershire England. G. A. Sullivan, Managing Director; J. M. Kelly, Technical Director; Brian Sitch, Sales Manager; John W. Muncie, Export Manager; Robert Broughton, Technical Service Manager.

2. NETHERLANDS

(a) Polva-Nederland N.V., Postbus 14, Enkhuizen, Elevolaan 5, Holland. Dr. Paul Benjamin.

(b) Dijka N.V., Productieweg 6; Steenwijk, Holland. Dik van Dijk, Sr.; Dik van Dijk, Jr.; Mr. Müller.

(c) Wavin, Zwolle, postbus 173, Händellaan 251, Holland. Dr. W. J. de Putter; W. H. Ros.

(d) TNO—Plastics & Rubber Research, Schoenmaker Neuf 97, Delft, Holland. Dr. T. A. der Kinderen.

(e) KIWA—Institution for Testing of Water Works Materials, Ltd., 273 Sir Winston Churchill-laan, P. O. B. 4570, Rijswijk (Z.H.), Holland. Ir. J. H. F. Kalkman; S. Birkenfeld.

(f) Marbon Europe N.V., P. O. Box 8122, Kabelweg 55, Sloterdijk, Amsterdam, Holland. Alex L. Leigh, Managing Director; H. D. Feeney, Sales Director; P. A. M. Ellis, Applications Development Engineer.

(g) Transmare N.V., Handelmaatschappij, P. O. Box 1120, Rotterdam 1, Holland. Albert Heida.

3. SWITZERLAND AND GERMANY

(a) Georg Fischer Aktiengesellschaft—Plastics Division, Schaffhausen, Switzerland. Christian Moser, Managing Director; Dr. Rudolf Merz; Fritz Reich.

(b) Gebruder Anger, Kunststoffwerk, 80 Einsteinstrasse 104, 8 München, Germany. Obering. Karl Jirka; Axel Below.

4. FRANCE

(a) Plastimer, 98 Boulevard Victor Hugo, 92 Clichy, Paris, France. Bertrand Gruson; Philippe Martin.

(b) Centre Scientifique et Technique du Batiment, (Translation: Scientific and Technical Center for Building), C.S.T.B. 4, Ave. du Recteur—Poincaré, Paris XVI, France.

DOUGLAS INVESTIGATION INCOMPLETE

(Mr. WYMAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WYMAN. Mr. Speaker, if Sherman Adams could get the heave-ho for allegedly accepting a vicuna coat and some rugs from Goldfine and friends, what about the disclosures in the Celler report concerning Justice Douglas' outside income? They cry out for explanation from the Justice himself—not his lawyer.

The Harris committee charges concerning Adams were peanuts compared with the unanswered questions about Douglas. Even the Celler subcommittee papers, that do not reflect a single word of testimony under oath or otherwise, show Douglas receiving nearly a half a million dollars in extrajudicial income while on the Supreme Court. Bills, and gifts, and favors. Reimbursed travel, hotels, meals and all the rest. A thousand dollars a month, on the side, for years and years. So it goes.

And still no one has asked the Justice to testify about these things? Why not?

There should be an objective, meaningful investigation by an independent committee of the House, under oath and with adversary attitude. Then, and only then, can the American people really know whether or not the Justice has been of the "good behavior" on which his judicial tenure is conditioned by the Constitution.

There are many unanswered questions about his activities while a member of our highest Court. Congressman HUTCHINSON's dissent points this out very well. Congressman MCCULLOCH would not sign the Celler subcommittee report. Who did sign it? Three friends of the Justice one of whom is a lameduck.

It would save a great deal of time if Justice William O. Douglas would take himself off the Court. Then if he wants to be a combination of businessman, professional author, entrepreneur and political pundit, he will be free to do so without conflicting with the basic requirement that judges should be judges and refrain from conflicts of interest whether economic or political.

Last night on CBS Eric Sevareid claimed Congressman HUTCHINSON in his dissenting views only felt the Celler subcommittee should have censured Douglas. This is an inaccuracy because the fact is that HUTCHINSON flatout dissented on the ground the investigation was incomplete. Why Sevareid should misstate the fact I do not know, but because of the importance of objectivity in this matter I include Congressman HUTCHINSON's dissent at this point.

MINORITY VIEWS

I dissent. The Subcommittee assembled a very large array of documents pertinent to the charges and then, without taking a word of testimony under oath, finds no cause for action. The Committee's report undertakes to dispose of the charges on the basis of its own interpretation of the documentation without testing any of it in the crucible of cross examination. The Subcommittee was content to place its own interpretation on the documentary evidence which had been garnered ex parte and concluded to pursue the matter no further. Clearly, by disposing of the charges at this time, the special Subcommittee is passing judgment before all the evidence is in. In my view, the report should not dispose of the charges pending against Justice Douglas but rather should reflect the status of the investiagtion to this point.

The report contains a chapter on the Concepts of Impeachment. At the same time, it takes the position that it is unnecessary to choose among the concepts mentioned because it finds no impeachable offense under any. It is evident, therefore, that while a discussion of the theory of impeachment is interesting, it is unnecessary to a resolution of the case as the Subcommittee views it. This chapter on Concepts is nothing more than dicta under the circumstances. Certainly the Subcommittee should not even indirectly narrow the power of the House to impeach through a recitation of two or three theories and a very apparent choice of one over the others, while at the same time asserting that no choice is necessary. The Subcommittee's report adopts the view that a Federal judge cannot be impeached unless he is found to have committed a crime, or a serious indiscretion his judicially connected activities. Although it is purely dicta, inclusion of this chapter in the report may be mischievous since it might unjustifiably restrict the scope of further investigation.

The Subcommittee's report, which is called a final report, addresses itself only to the question of impeachment. Admittedly no investigation has been undertaken to determine whether some of the Justice's activities, if not impeachable, seem so improper as to merit congressional censure or other official criticism by the House. There is considerable precedent for censure or other official rebuke even though a particular activity, while improper, was found not impeachable. This Subcommittee, however, did not investigate with the thoroughness requisite for judging questionable activities short of impeachment. The majority concludes that it finds no grounds for impeachment and stops there. In my opinion, it should have pursued the matter further.

Illustrative of this point is the Dr. Abdulrahman incident. Here was an immigration case where a Kurd whose visas had expired was ordered deported back to his own country. He appealed the order of deportation. Justice Douglas wrote the Commissioner of Immigration, saying that he did not know Dr. Abdulrahman personally but did know the condition of the Kurds in that country and gave as his opinion that the man would be subjected to persecution if he were returned. The position of the Immigration Service was that there were Kurds in the Government of that country, and with Kurds in the Government, the fear of a law-abiding subject against persecution may have been baseless. Subsequent general legislation which passed the Congress provided the legal authority under which Dr. Abdulrahman could remain in the United States and it became unnecessary for him to pursue his appeal. Someone must have asked Justice Douglas to intercede for Dr. Abdulrahman, who according to the Justice was unknown to him. And the Justice did intercede. Who was so uninformed as to believe it proper for a Justice of the Supreme Court to lend his name and influence in a matter which could reach his court; and why did the Justice accede to such a request or pressure? The Subcommittee doesn't know the answer to either of these questions. It hasn't pursued either of them. And if it had considered its authority to inquire into the propriety of activities which it thought not to be impeachable, the Subcommittee would have inquired further into this incident, to leave no stone unturned.

The documentary evidence which the Subcommittee accumulated on the question of whether the Judge was practicing law is sufficiently persuasive on that issue to have indicated a more exhaustive investigation, including testimony under oath. It is evident that Mr. Parvin asked Justice Douglas for legal advice. Whether the Justice utterly reannounced those requests for legal advice is debatable. I am not sure that he succeeded in convincing Mr. Parvin that he was not a legal counselor in matters affecting the Parvin Foundation. Nor am I satisfied that the Justice did not permit himself to be used as a legal advisor by President Juan Bosch with respect to an agreement between the Dominican Republic and the Swiss Consortium, Overseas Industrial Construction. Many people would take issue with the statement in the report that it did not amount to a practice of law, since the Justice gave Bosch the same kind of advice a lawyer gives. He gave advice as to the legal effect and deficiencies of a proposed contractual agreement.

In my view, a Justice of the Supreme Court must avoid even the appearance of impropriety. I conceive the function of the Subcommittee to have been broad enough to include an investigation into improper conduct in its search for impeachable conduct. The decision not to do so, and to conclude the inquiry at this point is a mistake, in my judgment.

I would have the Subcommittee file a second interim report with the Judiciary Committee, setting forth the status of the inquiry to date and conceding frankly that the task is incomplete, the evidence is not all in.

(S) EDWARD HUTCHINSON.

TO RETAIN 5TH ARMY HEADQUARTERS AT FORT SHERIDAN

(Mr. McCLORY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLORY. Mr. Speaker, I have joined in the introduction of a measure which would retain the 5th Army Headquarters at the historic Army post of Fort Sheridan located in my congressional district.

Mr. Speaker, it will be recalled that the headquarters of the 5th Army was established at Fort Sheridan following action taken in the Congress in 1965. This move followed a careful study and a most thorough examination by the committees and membership of this and the other body. It was a subject which

was debated at length in this Chamber and which was considered, reconsidered, delayed, and finally acted upon after the most thorough review.

Mr. Speaker, the essential changes necessary to accommodate the 5th Army Headquarters at Fort Sheridan have been substantially completed. The administrative quarters, the support command facilities, housing and other elements contributing to an effective headquarters command post have been economically and effectively provided. The community has welcomed this move and some 2,000 military and civilian personnel, directly attached to the headquarters command at Fort Sheridan, have adjusted to this move.

Mr. Speaker, this is the only Army headquarters in the great Midwest section of our country serving a 13-State area with virtually complete support elements which make up the great 5th Army.

Mr. Speaker, I compliment my distinguished colleagues on the Armed Services Committee, the gentlemen from Illinois (Mr. PRICE and Mr. ARENDS), and the gentleman from Indiana (Mr. BRAY), the gentleman from Missouri (Mr. HALL), the gentleman from Florida (Mr. BENNETT), the gentleman from Vermont (Mr. STAFFORD), and the gentleman from Michigan (Mr. NEDZI), who have had access to detailed information relating to the complex organization of our Army commands.

Their interest in sponsoring the bill, H.R. 1996 to designate the location of headquarters for the various Army commands is consistent with the responsibility of the Congress to provide for the national defense. Furthermore, Mr. Speaker, this action which has been initiated helps to fulfill our responsibilities as representatives of the people whom we serve, including those who rely upon defense installations for our overall defense needs, and including quite appropriately those dedicated citizens who have made careers of civilian service attached to the Department of Defense and whose careers and welfare, as well as the interests of their families and of the communities involved—are likewise an appropriate responsibility of the Congress.

Mr. Speaker, the bill which we have introduced merits an early hearing before the House Armed Services Committee to be followed by a review and discussion of the issue on the floor of this House.

I commend to the attention of all Members the measure which, indeed, designates by legislation the headquarters of the Army throughout the Nation.

Mr. Speaker, it is my hope and expectation that no move of the 5th Army Headquarters or that of any other Army headquarters will be pursued without the express consent of the Congress. It is my further hope and expectation that the 5th Army Headquarters established pursuant to the authority of the Congress at Fort Sheridan, Ill., will be retained at that location to better serve the needs of the Army and the Nation.

Mr. Speaker, the measure which my colleagues and I have introduced has the strong support of communities in the Lake County area, including the cities of North Chicago, Waukegan, Highwood, and Zion.

There is a ground swell of public interest in this subject and I intend to pursue the subject in detail in the days ahead and to keep the membership fully informed as steps under the pending legislation are pursued. I am hopeful that appropriate administrative and executive action can accompany the legislative action which we are taking here.

THE FOOD STAMP PROGRAM

(Mr. CONABLE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. CONABLE. Mr. Speaker, since I did not participate in the debate on the food stamp program yesterday, I would like to record the nature of my objection to the program which resulted in my negative vote. I strongly support welfare reform. I feel that the present system not only visits many indignities upon the poor, but also fails to make available to them the incentives which make the rest of our system function effectively. The food stamp program is an unnecessary part of our welfare system. It creates not only jurisdictional difficulties, but also administrative problems of a duplicative nature which are unnecessary and tie up the poor in red tape. I prefer the concept of cash welfare and am convinced that the food stamps themselves will become the source of scandal and embarrassment to welfare administrators.

Worse than this, the existence of the food stamp program works against achievement of welfare reform. The double phase-out necessary if both the family assistance plan and food stamp program are implemented means a higher marginal tax on welfare recipients who are being urged to work, and this reduces their incentive to work. The money we are spending on the food stamp program should, therefore, be added to the money we are willing to spend on the family assistance plan, or such revisions of it as the Congress is willing to adopt, and the entire resulting figure should be dispensed efficiently in ordinary money, subject to such safeguards as may be necessary in dealing with the irresponsible elements among the poor. The entire program should be within the jurisdiction of one committee and one agency.

I believe many of my colleagues agree with me about the administrative nightmares we are creating here and I urge them to assume the burden of explaining a vote which may otherwise be politically interpreted as lacking in compassion.

FILING OF PREELECTION STATEMENT

(Mr. HOLIFIELD asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HOLIFIELD. Mr. Speaker, on December 10, an article appeared in the Washington Post which alleged that I had failed to make a timely filing of the preelection statement required by the Federal Corrupt Practices Act of 1925. The law required that this report be filed not later than October 24, 1970.

Mr. Speaker, the Washington Post was erroneous. My preelection statement was notarized on October 23, 1970, in California. It was deposited in the Montebello, Calif., Post Office on October 23, 1970, and I have in my hand a Receipt for Certified Mail (No. 280553) bearing that date. The law provides that the statement is "deemed properly filed when deposited in an established post office."

My concern about the newspaper article led me to call the Clerk of the House of Representatives, and ask that he check his records. I was advised that the certified air mail envelope in which my statement arrived at his office on October 27, 1970, bore no post mark. I have appended to my remarks a letter from the Clerk of the House of Representatives, dated December 10, confirming that my preelection statement was considered to have been properly filed and was not listed by him as a late report.

Mr. Speaker, the lack of a post mark is not conclusive proof of anything, nor is the receipt of uncanceled mail unusual these days. I have with me 3 such letters received in my office in the past week. Two of them are from California. I regret that the lack of a post mark in this case led the writer of the article into error.

Mr. Speaker, the letter from the Clerk of the House is as follows:

WASHINGTON, D.C.,
December 10, 1970.

Hon. CHET HOLIFIELD,
U.S. House of Representatives,
Washington, D.C.

DEAR CHET: In response to your oral request of this date, I have re-examined the Preelection Statement that you filed with the Clerk of the House of Representatives, in accordance with Section 308 of the Federal Corrupt Practices Act, 1925.

The examination revealed that your Preelection Statement was notarized in Los Angeles County, California on October 23, 1970 and then sent by certified air mail to the Clerk, U.S. House of Representatives, Washington. D.C. The Preelection Statement was received in the Clerk's Office on October 27, 1970.

The Act prescribes that such report is to be filed 10 to 15 days prior to the election (not sooner than October 19, 1970 nor later than October 24, 1970) and that the Statement under the terms of the Act is "deemed properly filed when deposited in an established post office." The certified air mail envelope in which your statement arrived bore no post mark.

Since the Preelection Statement was notarized in California on October 23, 1970 and received in the Clerk's Office on October 27, 1970 (with the week-end of October 24 and 25, 1970 intervening between mailing and receipt by the Clerk), *the Clerk considered your Preelection Statement to have been properly filed.* When the Clerk made his report of early and late Preelection Statement filings to the Special Committee to Investigate Campaign Expenditures for the House of Representatives, 1970, your statement *was not listed as an early or late report.*

With kind regards, I remain,
Sincerely,

W. PAT JENNINGS, *Clerk,*
U.S. House of Representatives.

FEDERAL PRIVACY ACT

(Mr. KOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. KOCH. Mr. Speaker, yesterday the senior Senator from North Carolina advised us that he has received information that people in public office, one of those being a Member of this House, have been under surveillance by Army intelligence agents.

This news was very distressing to me and I am sure equally disturbing to all of us sitting in this Congress. It is appalling that we find the military spying on the country's own citizens. We all have heard rumors that the telephones in our congressional offices may be tapped by the FBI. I do not know if this is true, but I would not be surprised if it were the case.

It is time that the Congress look into these matters. In fact, perhaps the House should consider having its own intelligence force to defend ourselves against those in the executive branch who would violate our privacy through phone taps and the preparation of dossiers.

Last year I introduced a Federal privacy bill, H.R. 7214, that would instruct all Government agencies to notify persons of all records maintained on them. Furthermore, persons would be permitted, except in instances of national security, to inspect these records and add explanatory statements where they desire to do so.

With the proliferation of inter-acting data banks and the masses of information being collected by Government agencies, it is imperative that we concurrently establish safeguards to protect the individual's right of privacy. The revelations of Senator SAM ERVIN underscore the need for a Federal privacy law, and so I have asked the distinguished chairman of the Government Operations Committee (Mr. HOLIFIELD) to hold a hearing on my Federal privacy bill. I will be re-introducing this bill on the first day of the 92d Congress and I hope my colleagues will join in cosponsoring it with me.

When I discussed this matter with Chairman HOLIFIELD this morning, he indicated his concern and consented to the public release of my letter addressed to him of this date. The letter and the text of my bill follow:

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 17, 1970.

Hon. CHET HOLIFIELD,
Chairman, Government Operations Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to you because I believe it would be most helpful for the Congress to give consideration as soon as possible to H.R. 7214, a federal privacy bill which I introduced last year. Its relevancy has been highlighted by the disclosure yesterday that the U.S. Army has engaged in political surveillance of elected officials, the three best known being Senator Adlai E. Stevenson, III, former Governor Otto Kerner, and our own colleague, Abner Mikva. My bill would provide that individuals be notified by the government of all records maintained on them by the federal agencies. Furthermore, persons would be permitted, except in instances of national security, to inspect these records and add their own statements pointing out errors, if any or providing explanations where necessary. I will be re-introducing that bill on the first day of the new session and respectfully urge that the bill be made the subject of an early hearing by your Committee.

I think we have seen only the tip of the iceberg in the revelations made public by Senator Sam Ervin and that a hearing on H.R. 7214 would be an appropriate forum to investigate the dimensions of these surveillance activities and the collection of data by government agencies on not only high elected public officials but of the citizenry at large.

Sincerely,

EDWARD I. KOCH.

H.R. 7214

A bill to amend title 5, United States Code, to provide that individuals be apprised of records concerning them which are maintained by Government agencies

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter II of chapter 5 of title 5, United States Code, is amended by adding immediately after section 552 thereof the following new section:

"§ 552a. Individual records

"(a) Each agency which shall maintain records concerning any individual which are indexed according to the individual's name and which contain any information obtained from any source other than such individual shall, with respect to such records—

"(1) notify said individual by mail at his last known address that the agency maintains or is about to maintain a record concerning said individual;

"(2) refrain from disclosing the record or any information contained therein to any person, except with permission of the individual concerned or, in the event said individual cannot be located or communicated with after reasonable effort, with permission from members of the individual's family or guardian after a showing of good cause for such information; or in the event that disclosure of said record is required under section 552 of this chapter or by any other provision of law;

"(3) notify each individual by mail at his last known address of all transfers of information concerning such individual to any other agency;

"(4) maintain an accurate record of the names of all persons inspecting such records;

"(5) permit any individual to inspect his own record and have copies thereof made at his expense; and

"(6) permit an individual to supplement the information contained in his record with any information such individual deems pertinent to his record.

"(b) This section may be enforced in accordance with the provisions of paragraph (3) of subsection (a) of section 552 of this chapter.

"(c) Each agency may establish published rules stating the time, place, fees to the extent authorized, and porcedure to be followed with respect to making records promptly available to an individual, and to otherwise implement the provisions of this section.

"(d) This section shall not apply to records that are—

"(1) specifically required by Executive order to be kept secret in the interest of the national security;

"(2) investigatory files compiled for law enforcement purposes, except to the extent that such records have been maintained for a longer period than reasonably necessary to commence prosecution or other action or to the extent available by law to a party other than an agency; and

"(3) inter- or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.

"(e) This section shall not be held or considered to permit the disclosure of the name of any person who has furnished information contained in any record subject to this section.

"(f) If any provision of this section or the application of such provision to any person or circumstance shall be held invalid, the validity of the remainder of this section and the applicability of such provision to other persons or circumstances shall not be affected thereby.".

(b) The table of sections of subchapter II of chapter 5 of title 5, United States Code, is amended by inserting—

"552a. Individual records."

immediately below—

"552. Public information; agency rules; opinions, orders, records, and proceedings.".

SEC. 2. The amendments made by this Act shall become effective on the ninetieth day following the date of enactment of this Act.

U.S. PRISONERS OF WAR—ONE MODEST, BUT CONSTRUCTIVE PROPOSAL

(Mr. FRELINGHUYSEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FRELINGHUYSEN. Mr. Speaker, the treatment of U.S. prisoners of war in North Vietnam has become both a deep national concern and a national frustration. To date, the combined efforts of the executive branch and Congress to alleviate this unfortunate situation have had little practical effect. Each Member of this body has felt the pressure of rising popular indignation—not unmixed with a sense of futility. And we continue to ask ourselves the question: Is there really nothing more we can do?

One answer has been provided by the Herdegen Co., of Madison, N.J. Right now, this firm points out, the best hope is through letters to the President of North Vietnam. Since the "write-Hanoi" campaign started a year ago, the company observes, "three times as much mail has been received from U.S. prisoners." Apparently, Hanoi is getting the message and is not totally immune to the pressure of U.S. public opinion.

Mr. Speaker, the following is the text of the Herdegen Co.'s most recent appeal in this connection, entitled "By God, Believe It, You Offer the Best Hope for U.S. Prisoners Behind Hanoi Lines." I believe this proposal, in a necessarily limited but practical way, offers a positive course for remedial action. The appeal follows:

BY GOD, BELIEVE IT, YOU OFFER THE BEST HOPE FOR U.S. PRISONERS BEHIND HANOI LINES

President Johnson tried to bring relief. President Nixon is trying. Congress is trying. Astronaut Frank Borman is trying. The American Red Cross is trying.

But right now, you offer the best hope. With letters.

Since the "Write Hanoi" campaign started a year ago, three times as much mail has been received from U.S. prisoners.

Hanoi does read its mail.

Hanoi does care what you think.

Write the President of North Vietnam. Ask him to release the names of the prisoners.

Ask him to let the international Red Cross inspect the prisons and insure medical treatment.

Remind him his country signed the 1949 Geneva Convention.

Write: Office of the President, Democratic Republic of North Vietnam, Hanoi, North Vietnam.

If you've already written, write again. If you haven't, do it now. Because if you don't care, who on this earth will?

REFUGEES THREATENED

(Mr. QUIE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. QUIE. Mr. Speaker, the Czechoslovakian Government has embarked on a dastardly policy of trying to extort hard currencies from refugees who fled that country in 1968. Refugees in this country and other countries are receiving letters from "legal advisory centers" in Prague telling the refugees that they are being prosecuted for leaving the country without a valid exit permit. To provide for their own legal defense, the refugees are asked to send $70 to $100 in hard currency. If a refugee fails to send the money in 5 days, he is advised that his nearest relatives in Czechoslovakia will have to provide it.

This is one of the most heinous forms of extortion and should be fought by the refugees, their families, and the governments of the free world. Unless it is dealt with promptly and successfully, every tyrannical government in the world will start practicing it against refugees who have fled to freedom. This country is now faced with a threat which would make a shambles of its traditional refugee policy.

The President, in his news conference on December 10, reaffirmed a humanitarian U.S. refugee policy, when asked about the Lithuanian defector's return to the Soviet ship. This is reassuring to those of us who are interested in maintaining this type of refugee policy. This Czechoslovakian maneuver must be met with a firm policy statement and threatened economic action to back it up, if necessary.

Yesterday's New York Times article by Tad Szulc reported further details of this incident and I submit it here for my colleagues' attention:

PRAGUE DUNS REFUGEES ABROAD FOR LEGAL FEES ON DEFECTIONS

(By Tad Szulc)

WASHINGTON, December 15.—Many Czechoslovak refugees in the United States, Canada and Western Europe, who fled their country after the Soviet-led invasion in 1968, are being advised from Prague that they face criminal proceedings for "illegal" presence abroad.

Letters from "legal advisory centers" in Prague also inform them that they must make a "down payment" in foreign currency within five days to assure their "legal defense," or the fees will be collected from the refugees' "nearest relatives" in Czechoslovakia.

The payments range from about $70 to $100, and are to be credited to the Prague regional lawyer's union at an official Czechoslovak bank.

There are estimated to be 8,000 Czechoslovak refugees in the United States, 12,000 in Canada and 50,000 in other Western countries.

United States officials said that even if a relatively small number of the refugees agreed to the "down payments" and later the full trial costs, the money would represent a source of badly needed foreign exchange for the Czechoslovak Government.

State Department officials said they had been consulted by several persons who have received letters from Czechoslovakia. The officials said they could offer no assistance or advice since the matter was between a foreign Government and its nationals abroad.

Czechoslovak citizens here and elsewhere began receiving in October the notifications of action pending against them. On Nov. 13, the Prague evening newspaper Vecerni Praha reported that courts were dealing with "hundreds of cases" of illegal departures and illegal stays abroad.

The letters to the refugees inform them that under the provisions of Section 109 of the Czechoslovak penal code, "You can be tried in absentia and may be sentenced to prison for terms of six months to five years, to corrective measures and to confiscation of property."

Those aiding other Czechoslovak citizens to leave the country without permission are subject to prison terms of from 3 to 10 years. A virtual ban on foreign travel was imposed early in 1969.

In most cases, the property of refugees, including apartments and vehicles, has already been confiscated through administrative procedures.

A letter from the "legal advisory centers," signed by individual lawyers, tells a refugee that "since you have not chosen a defense counsel, I have been nominated to represent you."

A letter asks a refugee "to let me know if any circumstances exist which, as your lawyer, I could use for your defense in these proceedings. Especially, let me know whether you submitted an appeal asking for permission to prolong your stay abroad, or whether such an appeal is under consideration by the authorities."

The letters do not say what the final cost of "legal defense" will be, but it is understood that it may go up to $140. The exact number of refugees involved was not known.

Spokesmen for refugee groups here and in Canada said that in many cases the citizens abroad may be willing to pay for "legal defense" to avoid financial or other reprisals against relatives at home. In Canada, refugee groups have advised refugees not to reply to the letters, but to ask Canadian Government authorities to intercede with the Prague Government.

THE "LAME DUCKS" ARE FLYING HIGH, AS PREDICTED

(Mr. HALL asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HALL. Mr. Speaker, the "lame ducks" are flying high. As predicted—those hardy individuals, who just a few weeks ago for a variety of reasons, received a mandate to retire, have now "latched" onto some of the potent new rejuvenating drugs and are once again "flapping" their wings as though they did not have to head south for the winter. It is obvious that the "lame ducks" of the 91st Congress have acquired the art of flying on their back so that they can defy gravity and fall up, instead of down.

Even the redoubtable morning newspaper has seen fit to chastise the "old grey fox" from Tennessee for some of his actions in the other body, an unheard of occurrence. And here in this Chamber, we are daily being asked to vote on "filler" type legislation that should never have been reported out of a committee in the first place, including jobs and positions for some who cannot bring themselves to "cut the cord."

Only recently, the majority leadership of this body joined with their counterpart in the Senate to go on national television and refer to the fiscal irresponsibility of the administration. They failed to mention that the House had padded its stationery and telephone allowances, and expanded the staffs. They also neglected to recall previous actions of permitting a 41-percent congressional pay increase to become law, without an affirmative vote, and their unprecedented vote to legislate a pay increase for a struck union.

Whoever said that no man's life, liberty, or property are safe while the Congress is in session certainly hit the nail on the head. And if Patrick Henry was right when he said: "Taxation without representation is tyranny," what in Heaven's name would he say about taxation with representation?

Mr. Speaker, it is time that the Congress stopped asking what can the country do for us, and start asking what can we do for the country? Let us take the first step by voting to adjourn sine die, while the people of this Nation still retain some modicum of trust in the integrity of their chosen representatives.

THE LATE ROBERT W. LISHMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. STAGGERS) is recognized for 30 minutes.

Mr. STAGGERS. Mr. Speaker—

He cometh forth as a flower and is cut down. He fleeth as a shadow and continueth not.

These age-old words of lamentation refer, in this instance, to my dear friend and highly admired coworker in the house Committee on Interstate and Foreign Commerce, Counsellor Robert W. Lishman. His death at Sibley Hospital on Tuesday of this week left a deep void in the committee staff, as well as in his host of warm and loyal friends. For his charming wife and his upstanding children, his loss is, of course, irreplaceable. We offer to them the assurance that he was a man who walked in the way of honor all his life, and that he leaves behind him a record of achievement that must be envied by his contemporaries. His shadow stands tall and distinct on his age and time.

Bob Lishman spent practically all his life in public service. His skill and devotion have been particularly useful to the heads of government for nearly 40 years. His particular achievements have been well set forth in the public press and elsewhere, and need not be repeated here. It is sufficient to say that because of the brilliance and doggedness of his efforts, a number of avenues leading to ill-gotten gains have been sealed off and closed to the employment of avarice.

Public service is in sore need of men

like Bob Lishman. No allurement of pelf or personal power and fame, no pride in his own position ever sufficed to seduce his honor and integrity. Loyalty to his trust was his guiding star. His lifework will endure through the years in the form of more responsible performance by every public agency. He set new and higher standards of loyalty for those on whom the people must depend.

For our committee, he is indeed a "flower cut down" untimely. It is not for mortals to question the workings of an inscrutable Providence. It is rather for us to cherish his memory by strict adherence to the clear pattern of conduct he left for us. The number of our ways, like his, is determined, but not revealed. While there is yet light, we may build according to the pattern which we admire and which he used for his career. May we be wise, too, in the things that count.

RESOLUTION OF APPRECIATION AND SYMPATHY EXTENDED TO MRS. ROBERT W. LISHMAN

Whereas Robert W. Lishman served as Chief Counsel of the Special Subcommittee on Legislative Oversight of the Committee on Interstate and Foreign Commerce from March 5, 1958 to March 31, 1961, and as Chief Counsel of the Special Subcommittee on Investigations of this Committee from February 8, 1966 until his death on December 14, 1970; and

Whereas in that capacity, Robert W. Lishman rendered tireless, devoted, and invaluable service to the great benefit of this Committee, the Congress, and the American people; and

Whereas his death constitutes a great loss to the Members of the Committee and the Committee staff, and brings with it a realization of the excellent and faithful service he has rendered: Now, therefore, be it

Resolved by the Committee on Interstate and Foreign Commerce, That an expression of deep sorrow and sympathy at the death of Robert W. Lishman, and a feeling of abiding appreciation for his many contributions to the public interest, be extended to Mrs. Robert W. Lishman in the name of all the Members of the Committee he served with such distinction.

Mr. DINGELL. Mr. Speaker, Bob Lishman was a distinguished, dedicated, and courageous public servant who served well the Congress, the Committee on Interstate and Foreign Commerce, and the Special Subcommittee on Investigations. His persistence, knowledge, and energy were remarkable and his accomplishments in the public interest were great. His courageous service to the people through a long and painful illness was a bright mark in the record of the Congress. His efforts contributed much to good government and he will be solely missed.

Mr. KUYKENDALL. Mr. Speaker, I thank the chairman for this opportunity to pay tribute to a distinguished attorney and a valued associate, Robert W. Lishman.

As the chief counsel for our Subcommittee on Special Investigations, Mr. Lishman saw many opportunities for personal agrandizement, but this was not his way. He rejected the opportunity to make his name a household word during two particular investigations, and this, I think, was the measure of the man. Others might have been tempted to climb to fame by pillorying those in the witness chair; he was content to seek the truth, and let others have the glory or the blame.

I was impressed with a quote attributed to him at the time of his appointment, stating his belief that—

The counsel is best seen and not heard, unless the subcommittee tells him to be heard.

It is because of that philosophy that the public still remembers the names of the witnesses and not the lawyer. But our colleagues on the committee will remember the name of Robert Lishman long after we have forgotten why we ever thought the other names were important.

Mr. BROTZMAN. Mr. Speaker, it is with deep regret that I rise to pay tribute to Robert W. Lishman, the highly respected general counsel for the Special Investigations Subcommittee of the House Committee on Interstate and Foreign Commerce.

The important role Mr. Lishman played in a number of highly publicized investigations in the past is well known. However, I think perhaps his outstanding contribution over the years was his unswerving commitment to the integrity of the Federal administrative process.

Drawing on a detailed knowledge of the interaction between the administrative agencies and the industries they regulate, Mr. Lishman, constantly insisted that Federal agencies be held to the highest standards of public responsibility. The investigations he organized and conducted over the years put some very real teeth into congressional oversight of the Federal regulatory process.

The direct results of such improved oversight are not readily apparent to the public at large, but they are significant indeed. For a free people to govern themselves and remain free in the process, dedicated public servants like Robert Lishman are indispensible.

Mrs. Brotzman and I extend our sincere condolences to the Lishman family at this time. Their loss is the country's loss.

Mr. FRIEDEL. Mr. Speaker, during 18 years as a Member of this great body, I have experienced few pleasures more gratifying or lasting than my friendship with Robert W. Lishman.

It was plain to me from the very start of my long association with him that Sam Rayburn had made an unusually fine choice when he asked Bob Lishman to give up his private practice of the law and lead the Commerce Committee's oversight activities.

The late 1950's were not happy years for the Federal Government. The watchdog independent agencies had become corrupted and betoken to the very industries they were obligated to regulate. The executive branch was poisoned by influence peddling. And even the special subcommittee itself had become mired in personality strife which thwarted its effectiveness. Only a man of Bob Lishman's professional and personal stature could have overcome those difficulties and returned the administration of the law to its rightful place in the legislative process.

That Bob Lishman achieved this mission—in the face of almost insurmountable obstacles—would be reason enough for his having earned the enduring gratitude of the U.S. Congress. But in pursuing the just and the right with such vigorous dedication, Bob Lishman never lost sight of the fundamental canons of fariness which would guide, ideally, the conduct of all men. He brought, thereby, a new dignity and respect to Government at a time when needed most.

For this remarkable accomplishment, there are no words to sufficiently express the gratitude of his peers or the American people. Bob Lishman gave the "public interest" a new dimension of honor in serving its pursuit so courageously and selflessly.

I shall sorely miss this extraordinary man and the beautiful vision of mankind which he pursued for all of us.

Mr. VAN DEERLIN. Mr. Speaker, I mourn the passing of Bob Lishman, a truly distinguished public servant. As chief counsel of the Special Subcommittee on Investigations of the House Commerce Committee, Mr. Lishman was an indefatigable watchdog over the myriad activities of the Federal regulatory agencies. His effectiveness over a period of many years was amply demonstrated by his accomplishments, particularly in the field of broadcasting. It was Mr. Lishman, perhaps more than any other individual, who did the spadework leading to the disclosures of payola and rigged quiz shows which rocked the broadcast industry in the late 1950's.

At times, Bob must have felt quite lonely, in his constant struggle with bureaucratic obstinacy and the high pressure tactics of powerful interests threatened with exposure by his relentless probing.

Even toward the end, weakened by illness, he carried on as before. I recall a meeting a short time ago with Bob, during which he was just as eager as always to get on with his work. For to him, the task of protecting the public interest, and persuading the regulators to adhere to the intent of Congress, was a continuing responsibility, with no respites.

He was a model for all who hold the public trust, and he shall be deeply missed.

GENERAL LEAVE TO EXTEND

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

HON. ALLARD K. LOWENSTEIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. JACOBS) is recognized for 1 hour.

Mr. JACOBS. Mr. Speaker, everybody always knew ALLARD LOWENSTEIN is brilliant.

Everybody always knew ALLARD LOWENSTEIN is committed to peace, progress, and justice.

Those qualities are discernible at a distance.

But up close those of us who have been privileged not only to serve in this House,

but to serve in this House with the Honorable ALLARD K. LOWENSTEIN, of New York, and to know him personally beyond cold print—we know him to be a gentleman who has reminded us to remember the true meaning of the word.

A "gentleman" is a man who is gentle, not weak—among other things, ALLARD LOWENSTEIN is a wrestling champion.

Cold print will say brilliant things about the brilliance of ALLARD LOWENSTEIN.

But more than this, much more, we shall remember that he has applied his mammoth talents and energies for good and that he himself is a warm and kind human being rendering never violence in words or deeds for violence done.

To ALLARD LOWENSTEIN, as to few others, can be applied these words of Lincoln:

> I shall do nothing through malice; what I deal with is too vast for malice.

Mr. MIKVA. Mr. Speaker, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman.

Mr. MIKVA. Mr. Speaker, I thank the gentleman from Indiana for yielding.

Mr. Speaker, I am concerned that listening to the words of praise one might think that ALLARD LOWENSTEIN is no longer with us either in flesh or in spirit.

I wish to assure this House and, indeed, the country that ALLARD LOWENSTEIN is very much with us and will continue to be with us.

Even though we who are privileged to serve in the next Congress will not have the pleasure of his company as a Member of this body, I know that ALLARD LOWENSTEIN will be very much a part of the mainstream of the way this country is going not only for the next few years but for many, many decades to come.

Those of us who have had the pleasure of serving with him count ourselves fortunate, as the gentleman from Indiana has suggested. But those of us who will have the privilege of being with ALLARD LOWENSTEIN in the years ahead will have the pleasure of helping him to make this country find itself again.

I know, and I am sure that I express the attitude of many people who have known him, that every path that ALLARD LOWENSTEIN has crossed has been a better path because he has been there.

Mr. Speaker, I thank the gentleman for yielding. I think the country will find out, and I expect that this House will find out, that the Honorable ALLARD LOWENSTEIN of New York and his influence will be very much felt throughout the country and in this House to make the adverse winds against human happiness a little more gentle over this earth.

I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Mr. Speaker, continuing along the line voiced by the gentleman from Illinois (Mr. MIKVA), it is certain that AL LOWENSTEIN will be with us for a long, long time. It will take more than an "Allard-mander" by the New York Legislature to remove him from active participation in the major issues which affect the lives of every American, and peoples throughout the world. After he won a surprise election by a narrow margin in 1968, his district was deliberately carved up to remove his greatest sources of strength. Yet he ran far ahead of the rest of the ticket in his close, losing race.

It has been said that there are no second prizes in politics. Our colleagues put a very high premium on winning, we pat each other on the back for what is termed "good politics," our party leadership always encourages defecting members who plead that the situation in their district will not permit them to support a party policy in the national interest, and the entire structure of Congress puts a premium on success at the biennial elections. Far be it from me to beat the drums for a "political death wish" or to infer that AL LOWENSTEIN operated this way, even though he suffered what was labeled a defeat in 1970. He worked too hard in the campaign, organized too well and campaigned too effectively to be accused of not trying to win. Yet we both worked in the 1950's for Adlai Stevenson, who used to warn politicians to remember that the next generation was more important than the next election.

AL LOWENSTEIN described this political dilemma as follows, in an interview printed in the January 10, 1970 issue of The New Yorker Magazine:

> There is nothing inherently immoral about trying to succeed, and in politics this society's idea of success is to get yourself elected. But once that has become the goal, all the other goals and values can be forgotten. The test of virtue becomes success, and people measure success by whether you get more votes.

I recall vividly an incident which occurred during the 1970 campaign, a very rough, bitter, and dirty campaign in Representative LOWENSTEIN'S district, when a particular issue came up for a rollcall vote. It was a very tough issue. Many Members with tough campaigns like AL'S simply ducked and stayed away, and their constituents understood they were out campaigning. Others who were in Washington for the vote flocked to what appeared to be the popular side. I sensed without talking to AL how he was going to vote. Even though I come from what is now called a "safe" district, I voted on the popular side on a piece of legislation which passed overwhelmingly. I stopped AL in the corridor before the vote, and pleaded with him, for the sake of his reelection, for the sake of his return to perform more effective service in the House of Representatives, for the sake of the overwhelming opinion in his district, not to try to be a "statesman" but to try and be a true politician for once. He looked at me rather quizzically, and did not moralize the issue, did not try to lecture me about my position or attitude, but simply asked a few substantive questions about the pending bill. They were the type of questions which a professor and student would discuss in an advanced graduate seminar. The questions were not posed in order to enforce a preconceived point of view. They were simply asked for information. I became impatient, and told AL he had no business coming down to Washington, leaving his campaign, and then casting a vote which could lose him the election. He again looked at me as though to ask: "Do you really think so?" He waited for the second rollcall. I watched him as he studied the bill, the committee report, and asked several fellow Members, not the usual "How are you voting on this?" type of question—but clear and probing attempts to find out the significance and implications of the bill.

Then at the last minute, he stepped to the well of the House, and voted, along with about half a dozen of his colleagues, on the distinctly unpopular side of the bill.

Cynics will contend that by hurting himself politically, AL LOWENSTEIN hurt his influence in the Nation. I take a different view. His influence and prestige will grow outside of the Congress, and the Congress itself must change to keep in step with the problems, challenges, and standards of this age.

Ever since he was a student at the University of North Carolina, working for Frank Graham, AL LOWENSTEIN has been a tremendous force in American politics and American life. I know he has not yet begun to reach his zenith. Wherever his service is rendered, his influence will be tremendous.

AL LOWENSTEIN is an apostle of reform within our great system of government. What he proposes is not "leftist," nor is it revolutionary. He is a powerful advocate of peaceful and nonviolent change. He wants this Nation to practice what it preaches in the Declaration of Independence and the Constitution, and to put into practical effect the American ideals of freedom, opportunity, and justice in a world and a nation where peace prevails.

Sure, we will miss him here in the next Congress, but only as an ex-Member. The Nation and the world are his stage and his influence will be broader in the months and years to come. The following articles furnish some further clues to the philosophy of AL LOWENSTEIN:

CONGRESSMAN ON THE RUN

(By Erwin Knoll)

The afternoon sun beats down on the Capitol dome, on the gaggle of touring Girl Scouts surging through the East Front parking lot, on the Honorable Allard K. Lowenstein, Member of Congress, from the Fifth District of New York, who sits on the steps outside the House chamber in rumpled summer suit and wilted shirt, lunching on an orange Popsickle.

"We're in a race against time," says the Congressman.

At the moment he happens to be talking about ending the Vietnam war, but the comment is general, all-embracing. Racing against time is Al Lowenstein's way of life.

Since his election to the House last November, Lowenstein has raced twice to Africa to try to arrange additional relief flights for starving Biafrans. Each week he dashes back to his Long Island district, where his victory confounded Republicans and unsettled Democratic regulars, to shore up a shaky political base by making the rounds of service clubs, synagogues, and churches. Occasionally he drops in on his wife, Jennifer, and their infant son. Frequently he confers across the country with New Politics groups, Coalition Democrats—all those who are trying to build on the pieces of last year's Kennedy and McCarthy campaigns. Constantly he talks to students and recent ex-students—the young activisits he attempted to "bring back into the system" in 1968, and whom he is trying to hold in the system still.

This afternoon he is racing against the sun, which threatens to melt his lunch; racing through an interview I have tried for a week to arrange by making four calls a day to his office (the line is often busy); racing in and out of the House chamber, where funds for the Atomic Energy Commission are being debated, to see whether the time has come for him to speak against the testing of multiple independently targeted reentry vehicles (MIRV); racing to find an important letter to the Office of Economic Opportunity that has somehow gone astray in his chaotic office. ("A Congressman's office is bound to reflect his personality," a young member of Lowenstein's staff told me, not without pride.)

Lowenstein's words come in staccato bursts. "I hope Nixon ends the war. I say that as a Democrat—he can have the credit. We can't afford to wait three years. We have to deal with people's discontents. The country is being polarized. We have to recapture the momentum for rational change."

Recapturing the momentum for rational change is Lowenstein's big race—the one he started running early in 1967 when, as a lawyer active in the Byzantine world of New York reform politics, he hit on the unlikely notion that Lyndon B. Johnson could be denied renomination. In turn, he appealed to Senator Robert F. Kennedy, General James M. Gavin, Professor John Kenneth Galbraith, and Senator George S. McGovern to oppose Mr. Johnson in the primaries. Galbraith, a native of Canada, was constitutionally ineligible for the Presidency, and the others declined. Then Lowenstein approached Senator Eugene J. McCarthy, who agreed. As much as any man—as much as McCarthy—Lowenstein changed the course of American political history last year.

Out on the Capitol steps, he talks about Robert Kennedy, not Eugene McCarthy. "A man was killed on the fifth of June last year, and our experiment in democracy—in political action—was stopped. You can't prove that political action can succeed, because it hasn't. But you can't prove that political action can't succeed, because I think we were on the way to success when Robert Kennedy was assassinated."

He had been a member of Robert Kennedy's informal brain trust (and is a member of Edward Kennedy's today), but he kept his commitment to McCarthy last year even after Robert Kennedy entered the Presidential race. In the McCarthy camp, however, he was suspect as a "Kennedy man," and his relations with the Minnesota Senator are not cordial. They had an angry public exchange in New York early last year after McCarthy voted for Russell Long (and against Ted Kennedy) for the Senate Majority Whip's post.

"I think Al has learned his lesson very well," McCarthy told a Brooklyn meeting of the Coalition for a Democratic Alternative. "He has been quite restrained on what he has to say in the House of Representatives. But House members are allowed to be very rash about what they say about the Senate. He can tell you exactly what the Whip election in the Senate meant after being in the House for five days."

"It doesn't take five days in the House," Lowenstein replied. "You don't have to be elected to anything to have views on what the leadership should be."

Lowenstein has been expounding his views on almost every conceivable public issue since his undergraduate days at the University of North Carolina twenty years ago—he has been described as "the oldest student leader in the United States"—and he has freely offered his advice to senior Democratic politicians for at least the past decade. "You running for Congress is like the Pope running for parish priest," Robert Kennedy told him last year. But running for Congress provided an opportunity to put to the test the faith in political action he had been preaching to the disaffected.

"I'm not saying we can change America by the democratic process. I'm saying that if we *can* change America, that's the only way. Is democracy a racket that perpetuates injustice in the name of majority rule? I don't know the answer, but if democracy is not a racket, we're not going to make it work by turning the country into a sea of hate."

"I don't know the answer," Lowenstein keeps saying, but he thinks he knows.

"There is no room in this country for the arrogance of the final assertions of truth," he recently told a student audience at George Washington University. "I cannot say to you with any confidence that you can salvage this country. I think one can agree that the options exists—that the prospects for bringing about social change, and therefore for getting on with the agenda for the country, are good enough to merit the efforts of ordinary people again."

"Al's got this fantastic optimism about the wisdom of the people, if they only know and are helped to understand where we are," one of his aides observed. "He doesn't like to talk about what happens if his approach doesn't work."

Lowenstein is racing against those student radicals who have opted for violent and disruptive tactics—"this minority that has gone wild, that is hurting our effort to end the war and rearrange the national priorities. They're not going to turn the country to social justice and peace by escalating hatred and violence."

At forty, Lowenstein is ten years into the age of mistrust (though he is young enough to have been called "kid" by the cops who kept him from the microphones in the Chicago Amphitheatre last August). He is Public Enemy Number One to much of the student left, which charges that he is concerned with preservation of the Democratic Party rather than of the democratic process. There are dark hints that Lowenstein, who was the last president of the National Student Association before it began its involvement with the Central Intelligence Agency, is a "CIA spook." Even more damning is his onetime service on Hubert Humphrey's staff.

The Congressman reciprocates the radicals' contempt. He calls them "the insane five per cent," and adds: "They don't want to see changes come. They're out to prove the system can't be made to work. They're not allies. Sure, on a few things their goals and mine overlap—but on a few things my goals overlap with Barry Goldwater's."

Still, more than any other politician on the scene today, Lowenstein has a national youth constituency. There is a steady stream of 1968 Clean for Gene alumni in and out of his Congressional office, and his overburdened staff juggles about 100 speaking invitations every week—most of them from campuses. The rule that governs the Congressman's schedule is that he must spend three days a week in the Fifth District, four days in Washington, and one or two days on the road. It is typical Lowenstein arithmetic, and most of the time he makes it work.

Though Lowenstein's stamina is legendary among his friends and physical fitness is one of his enthusiasms, he does not give the appearance of great vigor to the casual observer. Peering through prominent glasses under tousled and receding hair, he looks like a distracted academic—and that is precisely what he has been between stints of feverish political activity.

Born to a middle-class family in Newark, New Jersey, a few months before the start of the Great Depression, Lowenstein came to political awareness in the environment of the liberal optimism that suffused the New Deal years. He attended the University of North Carolina, where he became a disciple and special assistant to Senator Frank P. Graham. After receiving a law degree at Yale in 1954 and serving a two-year hitch as an Army enlisted man, he taught law successively at Stanford, North Carolina State, and the City College of New York. In 1959 Lowenstein was a foreign policy assistant to Senator Hubert Humphrey, and in 1960 he attended the Democratic National Convention as an alternate delegate from New York.

"You can't get anywhere screeching about student violence at Rotary Clubs or on the floor of the House," he says. "If you can't take on violence on the campuses, who the hell are you to be preaching at the country about violence in Vietnam?" And so he flies to colleges and universities from Tuscoloosa to Seattle, and he says such things as these to America's youth:

"We know what the agenda of this country is. We don't need any more recitations of that. We know it so well that we can say it every time we get up in the morning to ourselves; we say it in the frustrations of our day. What we need now is to harness ourselves to tactics that reach that agenda, to do the things that we know need to be done.

"When someone can explain to me what the connection is between shouting down Scotty Reston and beginning on this agenda; when someone can explain to me what makes it possible to justify burning down a building at Stanford in the name of stopping the war in Vietnam; when someone can explain to me what guns at Cornell have to do with racism in South Africa—then I will be willing to discuss whether those tactics are in fact justifiable despite the fact that they violate the Constitution. But at the moment neither principle nor pragmatism is upheld by these tactics. All they do is drive out of the national consciousness what people ought to know is their job, and give them an excuse, a rationalization, a way to evade what the causes of injustice and unrest are.

"And so my message to this generation, which gave us the inspiration a year ago, which let us begin at least to do the things we needed to do and which, without the events of last June fifth, would have led us to the White House and the beginnings of the programs at home—my message is, it's your job because it's your lives.

"I get closer and closer to senility every day, but this country's going to be here for a long time, one way or the other. You burn it down, you've still got to live in it; you turn it into an armed camp, you've still got to live in it; you throw away the coalition of disaffected and unhappy and concerned Americans because you don't like the pace at which they're moving, because you don't have the patience to talk with them and instead you want to spit in their faces, you still have to live with what happens. And anyone who tells you something else is trying to lead you into something much worse than what we've got now."

The Popsickle is dripping, and Lowenstein is talking to me about what we've got now. We've got the Democratic Party. "Nationally," he says, "the Party is where we want it to be in terms of the issues we fought it on last year. There aren't any Johnsonians around, outside the Deep South and such isolated dukedoms as Chicago. We're the mainstream of the Party. Whoever the candidate is next time, he'll be committed to last year's heresy.

"It's a complete political misreading to say there is a swing to the right. There is a swing against anarchy, disorder, and violence. There is a coalition of disaffected and unhappy Americans—the middle class, the middle-aged, the Middle West, the middle everything—that we can work with on the war and domestic needs if we can make them understand that we care about the problems they suffer from just as we care about the problems of the young, the black, and the poor.

"The great danger is polarization. We're in a race against time," he says again.

Racing against time, Lowenstein conducts forums on the South Shore of Long Island, seeking the views of his constituents on issues ranging from cigarette advertising to

the anti-ballistic missile system. Racing against time, he sometimes works around the clock in Washington; his secretary restrains him from returning telephone calls at 1:30 a.m. He has no residence in the Capital—not even a hotel room—but lives out of suitcases and beds down at the homes of friends when he indulges himself in the luxury of sleep.

Such idiosyncrasies have been duly noted by Washington's gossip mills. But in the House, Lowenstein has surprised many and dismayed some by behaving, by and large, like a model freshman Representative. He hasn't made many waves. Unlike his colleague, Representative Shirley Chisholm of Brooklyn, he acquiesced without a fight in the leadership's bizarre decision to assign him to the Agriculture Committee.

On the floor, he speaks often—against the war, the ABM, the Spanish bases agreement, the rechristened Un-American Activities Committee, and for tax reform, electoral reform, Congressional reform—but he rarely speaks out of turn. Only infrequently does he allow his frustration and impatience to show.

"Mr. Chairman," he erupted during debate of a supplemental appropiration for the Vietnam war, "I feel like Alice must have in Wonderland. Or maybe Rip Van Winkle. We talk as if nothing goes on outside this room. We talk as if it were five years ago. We talk nonsense in circles—vicious circles. Outside this room this country spirals into worsening crisis. We are impervious. We debate the longest war in our history, the most disputed adventure of our national experience, for half an hour. Thirty minutes. Then time is up. But if we cannot discuss these matters here, where can we? What is it we are so busy doing here?"

"Who's making his peace in D.C.?" the Long Island newspaper Newsday asked back in May in a headline over an account of Lowenstein's life on Capitol Hill. Newsday correspondent Myron S. Waldman wrote that the Congressman's "caution . . . has disappointed some of his liberal colleagues. 'He's like Nixon,' one of them said. 'He hasn't started to unveil yet. He's extremely bright, but I'm sorry that he hasn't been more of a blood-and-guts guy.' Said another: 'He's trying to be responsible in dissent by playing ball with the establishment. They'll never let him get away with it.'"

On the sunny steps outside the House chamber, Lowenstein isn't playing ball with the establishment. Congress must be reformed, he says. "It's like an endless blanket extending in every direction, and you're trapped underneath. . . . Congress like Calcutta—nothing prepares you for it. Absolutely nothing can prepare you for the extraordinary difficulty of getting anything done." A moment later, optimism is restored: "We're going to get reform this year." The system will be made to work.

Someone comes out of the House chamber any says, "They're talking about MIRV." Al Lowenstein, racing against time, is off and running, leaving some of his lunch in an orange puddle on the Capitol steps.

POLARIZE OR PERSUADE—AN INTERVIEW WITH CONGRESSMAN ALLARD K. LOWENSTEIN

(By David Hapgood)

Question: Mr. Lowenstein, where are we in this country now?

Lowenstein: We are at a turning point. Great nations don't have many turning points but we are at one now. The central issue, of course, is the war. The Nixon Administration seems to be trying to polarize the country on other issues, anything to avoid that central one. It wants to focus everyone's attention on things like who's for disruption—things out of an earlier Nixon incarnation, like who's helping the Commies. The famous silent majority may or may not be susceptible to these kinds of appeals, but they certainly wouldn't support a policy that meant staying on in Vietnam for the next several years. That's why the Administration uses our vocabulary about getting out of Vietnam and then tries to distract everyone from what its policy really is, by provoking fights over side issues, or even nonissues, in terms designed to make those who disagree with it seem like fringe groups or prisoners of fringe groups.

Question: Can Nixon's strategy work?

Lowenstein: It could, if we let him define the issues. If he succeeds in defining the choice as himself or the radical fringe, it's obvious which way the uncommitted middle will go. The line is that they can have peace by supporting him—even if he's vague about just when—and they can stop the Communists and have domestic tranquility in the bargain. Very beguiling. The trouble is it won't work, and sooner or later he'll have to pay the price of purchasing short-range support at such a terrible long-range price.

But the sad fact is that another year of war, another major credibility problem with the government, and the whole country will be paying a terrible price, not just the President. Where will the country be if the President continues to frustrate the yearning for peace among the most committed groups—the kids for instance—while retaining a transient "majority" support from people who think he's ending the war and don't understand the impatience of those who can see he's not and who are expected to bear the brunt of the continued fighting? Talk about bitterness, division, mistrust in the process of democracy—think where we'll be if we have to go through another year or two of this sort of polarizing, with more and more people turning to disruption on the grounds that nothing else works. That, of course, is the heart of the Agnew strategy—drive the people most actively opposed to the present policy into behavior that will alienate everyone else, and thus polarize the country not on the central question, but on the subordinate ones.

Question: What kind of strategy should the peace movement follow?

Lowenstein: We have to get out again and show people that the present policy cannot produce what people think they're going to get, that making peace contingent on what Hanoi and Saigon do is not going to make peace at all. After all, the key political fact is that the majority is with us on *goals*—that's why the Administration uses our vocabulary to describe its goals. And we have to oppose tactics that shift the argument from the merits of the war and that endanger basic constitutional safeguards in the process.

Question: Can a middle-class liberal who is against the war and for social justice make a case to what some people call Middle Americans?

Lowenstein: Of course. Very few try. What a travesty it is on all our theories of democracy when people talk only to themselves or to other people who agree with them. That was one of the great things about Robert Kennedy—not only trying to convert people to his point of view, but learning and growing from hearing other people. Most Americans now want change, they are unhappy with the way things are going. Lots of people who were for Kennedy switched to Wallace, as everyone knows—they were upset and looking for leadership that seemed concerned about their problems and that gave hope of change. That's why it's so important to make our case effectively to reach people who are upset with things, with candidates who will reach to the best in them, not the hates and fears—candidates who present and who will follow programs that will make things change for the better. That's also why Robert Kennedy's death was such a tragedy—the only death I know that gets harder to take as time goes on.

Question: How do you go about achieving change in American politics?

Lowenstein: My own view is that the best hope for the kind of change we need so desperately now is by working with sort of floating coalitions—alliances with whoever agrees with you on given issues. You don't change your views to get these kinds of alliances, but neither do you demand that other people agree with you on everything else to work with you on one specific problem. I won't suddenly become a segregationist to work with people against the draft. But if I can work with people against the draft who don't agree with me on segregation, and work with people against segregation who don't agree with me on the draft, and if I can work with people against the war who don't agree with me on anything else, that's hopeful, it seems to me. Some people want to apply a kind of political saliva test to all prospective allies to be sure they're pure on every issue. "Pure," of course, means in agreement with them. Well, that's moral arrogance. Talk about imposing conformity! Besides, it doesn't work very well. A great deal of what happens in elections in this country depends on the candidates, and it's rare to find a candidate with whom you can agree on every issue. I'm not even sure it's necessarily good to find such a candidate—it may mean someone has quit thinking.

Question: Do you think the peace movement has made progress in spite of Kennedy's death and what that meant?

Lowenstein: Of course we've made progress, more of it than we sometimes realize. The number of people who are against the war is much greater than it was a year or two ago, to say nothing of the early days. Yesterday's heresy has become today's rhetoric. Everyone is now for withdrawing the troops. That's far from enough, but if we're frustrated because the war is still going on, think how frustrated the hawks must be to know that their most cherished goals have been abandoned even by their most cherished spokesmen. No more talk of military victory, invading the North, or even blockading Haiphong.

The danger is that in our great frustration we won't notice that we're on the verge of winning—that we'll quit just before the seige would succeed, like the British quitting Gallipoli in the First World War only to discover when the memoirs came out that the Turks would have surrendered the next day.

Question: There seems to be much more frustration among the young people in the peace movement than among older people. Why?

Lowenstein: There are lots of reasons, but the most important one has to be the obvious fact that they're supposed to fight the war for everyone else. Tell a kid facing the draft to be patient—he may be dead or maimed because everyone is so patient. That's like telling the mother of a starving child to be patient about getting food. It's easier to be patient about the war if you're not about to be drafted. People under 30 have never known what it is for their country to be right in a war—all they've known is the Dominican Republic and Vietnam. The men they have admired the most have been murdered—Kennedy, King, Kennedy. Think of whom they've had to choose their Presidents from, and think of what has happened to the promises made by Presidential candidates when they have become President. It's not exactly a record designed to inspire confidence in the democratic process.

Remember also the special trauma of the recent assassinations. Not only were the greatest voices of reconciliation and reform suddenly gone, but the idea of self-government seemed itself to be an illusion. After all, ordinary people had shown how much effect they could have on the direction of the country through electoral politics. And before any of the changes they had worked for could be consummated, Robert Kennedy was dead and Richard Nixon was President.

Two Presidents in a row got there only because a man was killed who would have pursued an opposite course on the things of greatest concern to young people. Now there's a nagging subconscious feeling that maybe there's no point in going on with it. So while I think it's true that we may be on the verge of a breakthrough on the war, it's also true that the country's not far from unraveling. That's what I meant when I said before that we're at a great turning point, which should provide incentive enough for people who love this country to try even harder to make things work as they should.

Question: What's the problem between you and the New Mobilization Committee? We read that you were invited to speak in San Francisco, then disinvited the same day. And in Washington, we're told, the Mobe didn't want you on the podium.

Lowenstein: That's right. They invited moderates to give themselves respectability; then, in my case, they rescinded the invitation as soon as they felt they could get away with it. In Washington, they only accepted people like Coretta King and Senators McGovern and Goodell under very great pressure.

Question: What's the nature of the disagreement?

Lowenstein: It goes to the heart of what you think the anti-war movement is and what it should be. There is a small group of people who want to gain control of the movement, to place it in the hands of a far-out minority. They want it to be a small sect of the faithful. They're really not interested in winning over the undecided people in the middle, in picking up support on the war from people they may disagree with in other ways. For example, I was booed down when I said I welcomed Averell Harriman's opposition to the war even though he was against the Mobilization. That was a lunatic business. I tried to say what a great thing it was that a man of Harriman's stature, who had been part of the previous Administration, had come around to our point of view about the war. People screeched and yelled and howled me down. These people talk a lot about not being exclusive, but that's not how they operate in practice. I think what they really want is confrontation. You might call them the Agnews of the peace movement.

Question: Why are they so bitter toward you and other moderates?

Lowenstein: Because if we win, they lose. If we succeed, they have no constituency. The only way that extreme groups on the edges can get control of anything substantial in this country is if we can't—in Edward Kennedy's phrase—end wars and right wrongs. So, though they'll talk about "nonexclusionary" efforts, they see nothing wrong with shouting down someone who doesn't conform to their particular prejudices. But heaven help anyone who dares criticize their behavior.

Question: Are there issues besides the war on which you think this constituency—the people who were here November 15—should also be working?

Lowenstein: Of course. There's the whole neglected agenda of this country, everything from hungry children to polluted rivers . . . all the situations that Robert Kennedy used to call "unacceptable."

Question: How about Congressional reform? Liberals don't seem to take much interest in that subject.

Lowenstein: Well, nobody pays much attention to Congress in that sense—attention to its internal workings. Which is not surprising. The Congress, particularly the House, so demeans itself by the way it conducts its business that serious people don't take it very seriously. We couldn't even get a record vote on deploying the ABM! The country's torn up about the draft, the war, poverty, race, housing, pollution. But just try to get a sensible debate in the House on the things that matter most. No wonder more and more people tend to dismiss the Congress as irrelevant. And what a mistake it is to do that. If people were a little more aware of why Congress does so poorly about so many things, basic procedures could be changed. What a difference that would make on all the substantive problems. We're pressing for a reform bill to be considered this session—we'll need help from around the country, a kind of national lobbying effort to put this problem somewhere higher in people's priorities. Otherwise, the legislative institutions will go on decaying. And democracy is not helped by greater reliance on government by confrontation or government decree.

Question: What's your mood these days? Are you pessimistic?

Lowenstein: There's too much to do, too much at stake, to worry much about the odds. What a beautiful place this could be! Nothing like it in all the universe, through an eternity—that's what kept going through my mind on the long trek from Arlington to the Capitol the other night. It was very cold in the dark, but there was no break in the line of people guarding candles, singing quietly, passing the great national shrines of America and on the great centers of political power. What a beautiful generation we have produced—what vibrant, good, gentle people. I kept wondering if any country could be so stupid, so self-righteous and closed, to throw all this away. I decided if we were that stupid and self-righteous and closed, we would deserve what we'd get; and to end up that way by default would be the most unacceptable thing of all.

A Reporter at Large

On January 3, 1969, two weeks before his fortieth birthday, Allard K. Lowenstein rose, with four hundred and twenty-nine other persons, on the floor of the House of Representatives and was sworn in as a member of the Ninety-first Congress. For the swearing-in ceremony, Lowenstein, who frequently wears a rumpled beige windbreaker, slacks, and no necktie, was dressed with more care than usual; he had on a freshly pressed gray suit and a plain dark tie, and his hair was neatly combed. This was not the first time that he had come to Capitol Hill to work. In 1949, he had been an aide to Senator Frank Graham, a North Carolina Democrat, and in 1959 he had worked as a foreign-policy assistant to Hubert Humphrey, when Humphrey was a senator from Minnesota. Lowenstein had long been interested in politics, but his appearance on Capitol Hill in 1969 was not the result of any political ambitions developed during his days as a legislative aide. It was, rather, a by-product of a campaign he had engaged in to end the war in Vietnam. In 1967 and 1968, he had led the movement to prevent President Johnson's renomination, first urging Senator Robert F. Kennedy to oppose the President, and then, when Senator Kennedy hesitated, urging Senator Eugene J. McCarthy to take on that task. As an additional contribution to the reformist, anti-war movement, Lowenstein decided to run for the House from New York's Fifth Congressional District, which was once a part of the First District, then a part of the Second District, and later a part of the Third District, and which takes in most of the Southern third of Nassau County. In a sense, Republicans might be said to have held the seat from 1914 to 1964, when Herbert Tenzer, a Democrat, won the office, and now, having served two terms, he was retiring, leaving the seat vacant. The local insurgent Democratic anti-war group asked Lowenstein to run in the primary, and after several weeks of wavering he made up his mind to do so. "The most persuasive argument for running was that the direction of the country was wrong, and if we didn't have candidates who said so and won we would have no way of showing that the country wanted to change direction," Lowenstein said later. "The value of running was not just that you could do a good job if you won. It was also the fact of winning an election on the issues of the war and the reordering of national priorities—the phrase was new and sounded sort of highbrow and vague then—in a district that was supposed to be resistant to this point of view."

Lowenstein, having won the nomination by a considerable margin in the primary, defeated the Republican candidate, Mason Hampton, Jr., by 99,193 votes to 96,427 on November 5th. A few days after the election, he told me that, in a sense, he was not prepared to take the seat in Congress. "I have a certain awe about elections," he said. "The fact of being elected is high in the hierarchy of things I was raised to think of as a great honor, and I had never really seen myself as doing that. By the end of the campaign, I expected to win, but I had never sat down and thought about what would happen next. It seemed to me that that was best, because if I didn't win I wouldn't be as disappointed, and if I did—well, there would be plenty of time to think it out afterward. So finding myself in the House had something of an Alice in Wonderland quality about it—something amazing, because it was unexpected and because I felt this great awe for the electoral process."

After his first week in Washington, Lowenstein returned to New York less amazed. He came to my apartment one evening, wearing his windbreaker and a pair of baggy pants. I asked him how the week had gone, and he told me that at the end of his second day in Congress the Majority Leader, Representative Carl Albert, had made him Acting Majority Leader—a job that carries with it the right to adjourn the House. The appointment, which is made almost every day and carries responsibilities that last only for a few minutes, is one of the courtesies that the House leaders extend to their less influential fellow-representatives—a mark of recognition and a sign of welcome. Lowenstein was not as deeply impressed by the gesture as perhaps he was supposed to be until a colleague, congratulating him, mentioned another congressman who had been given a brief turn as Acting Majority Leader—in his case, only after many months in the House. The newspapers of his district—so the story went—had been so struck by this swift rise that they publicized it sufficiently to make it a factor in his subsequent reflection; Lowenstein did recognize a touch of irony in Albert's awarding him a microphone, however. It was Carl Albert who, as chairman of the 1968 Democratic National Convention, had turned off the floor mike when Lowenstein, a delegate from New York, tried to second a motion to recess the Convention while violence was going on in the streets of Chicago. Once Lowenstein had become a member of Congress, Albert made a point of telling him, "You're not a bit like they told me. You're not a long-hair-and-beard type at all." At any rate, it came about that on his second day in Congress Lowenstein spoke his first words there, and spoke them as Acting Majority Leader of the House. He was chided by his wife, Jenny, when he emerged. "How is it that when Carl Albert finally gives you a mike, all you can think of to say is 'I move that this House do now adjourn'?" she demanded. But that was the scope of the appointment, and those first words were the initial gesture in what Lowenstein came to call "the charade."

Later that week, Lowenstein attended a bipartisan briefing session for new representatives. Little was said about legislation or about the purpose and power of the House. The session consisted of a series of tips on the special political etiquette of favors that members expect from each other and should be prepared to repay, on how to get one's name on a bill, on how to impress constit-

uents—in sum, helpful hints about how to get reelected. Lowenstein was both amused and distressed. "That's the trouble with most politicians," he told me. "This slogan that getting yourself reelected is the first rule of politics can lead to a really pernicious attitude. The notion of being elected is inherently virtuous, if you believe in it. We don't believe in royalty and inherited office, or in office as the result of trial by combat. We're raised to think democracy is the best way, and democracy means elections. But if you add the general human ambition to make the most of your own future to the state of mind of people raised to believe in elections, you can end up with a dangerous combination. There is nothing inherently immoral about trying to succeed, and in politics this society's idea of success is to get yourself elected. But once that has become the goal, all the other values and goals can be forgotten. The test of virtue becomes success, and people measure success by whether you get more votes. So why shouldn't you think first about how to get more votes? So that becomes the 'first rule' of that kind of politics. It's also what makes the whole process so much less productive and honest. If you don't want to fall into that trap, you have to say no, you won't accept that view of things. My first rule in Congress is that if I don't do more by being there about the things I care about than I would if I weren't there, then I shouldn't be there. That rule will help make a lot of decisions much easier."

The week of the briefing session, Lowenstein went to the Democratic caucus, the organizational meeting of all House Democrats, at which he hoped to raise a question that he and a number of other representatives had discussed in the interval between the election and the swearing-in. Lowenstein and the others wanted to open the rules of the House to debate and amendment, including those on how committees function, how bills can be brought to the floor, how debating time on the floor is assigned—in effect, the very workings of the institution. He and his friends did not have the slightest expectation of winning, but they did hope to provoke a vote in the caucus on whether or not Democrats should seek a debate on the rules instead of adopting them automatically—the traditional way. When the caucus chairman brought up the question of rules, however, it was simply to say that the rules would be passed. The question of debate was never considered. Lowenstein was astonished. He and his friends hadn't even been defeated—they had just been ignored.

Next, Lowenstein attended a meeting of the Democratic Study Group, a less formal body, consisting of about half the House Democrats, all of whom profess some degree of liberal leaning. There, too, he found that nothing outside the routine happened, or, evidently, could be made to happen.

In the months that followed, I saw Lowenstein from time to time—at an airport, in a snack bar, in the corridors of the Longworth House Office Building, and even at his desk in the Longworth Building, after midnight, but he was always too busy working on his dozens of projects to provide me with any real idea of what they amounted to. He was commuting to Long Island and was also making trips to Biafra, Ethopia, Vietnam, and Czechoslovakia, and to what seemed to be every state in the Union. By the time we could meet again for a long, uninterrupted talk, he had been in Congress for more than six months and his perspective had changed somewhat. The time for our talk became available when Lowenstein came to New York to pay a long-deferred visit to his mother-in-law, who lives in Sagaponack. I was to meet him at the Westbury station of the Long Island Rail Road one August day around noon. Lowenstein didn't come on the train he was supposed to be on, or the next one. When I went to telephone his home—he lives in Long Beach—all the booths were occupied, and I waited nearby. In one booth, a slim, distraught young woman tried simultaneously to extract information from somebody on the line, keep track of a child, and explain to a young man who was standing beside the booth that there had been a mix-up. "Al is in Albertson," she said to him after completing her call. "No one knows where that is. He's trying to get a taxi. I suppose we'd better wait here."

I guessed that she had something to do with Lowenstein, and introduced myself. The three turned out to be Jenny Lowenstein, the Lowensteins' son Frankie, who is now two years old, and Steven Engstrom, a University of Arkansas student who had heard Lowenstein give a speech at a college in North Carolina, had asked the university if he might use a foundation fellowship to spend the summer as an aide of Lowenstein's, and had eventually been accepted. Engstrom lived in the Lowensteins' house in Long Beach, helped run Lowenstein's district office in Baldwin, drove Lowenstein's car (sometimes as chauffeur), babysat with Frankie, and joined the Lowensteins in such other activities as writing speeches, washing dishes, arranging schedules, and doing research on local issues.

The four of us waited at the station, and at last Lowenstein, wearing windbreaker and slacks, arrived in a rattling taxi. He paid the driver, remarking proudly to his wife that, by a miracle, he had thought to put some money in his pocket the night before. Lowenstein explained to us that he had been delayed at Albertson, a stop on what is surely the slowest of the Long Island Rail Road's runs. We all piled into the family car, and Engstrom drove. Lowenstein and I were in the back seat, and Mrs. Lowenstein sat in front, clutching Frankie, who kept trying to wriggle over the front seat and onto his father's lap. Mrs. Lowenstein asked her husband if he had eaten. He said no, and she peeled waxed paper off a squashed cream-cheese-and-jelly sandwich she had brought along for Frankie. Lowenstin ate it hungrily, remarking between bites that Albertson was near his district but, thank goodness, nobody there had recognized him. (Presumably, he was grateful to be left alone for an interval.) "That's the advantage of not looking like a congressman," he said.

We all asked at once what a congressman looks like.

"Well, sort of ponderous, I guess—in a good suit," he said. "I never think of myself as a congressman. I'm sometimes surprised when people remind me that I am one. Outside Washington, congressmen aren't a dime a dozen, and people sometimes think it's quite something to meet one. When you go into somebody's house, you have to adjust to the realization that your being there may mean something to people. I think that when you realize that, you should try to be responsive to it. If people act as though they are honored by your being somewhere, you want to try not to let them feel let down or taken advantage of. Some people want to tell you what they're doing for you, how they helped in the campaign—that kind of thing. I've had to work at overcoming a long-standing aversion to publicity. For a long time, it seemed to me that doing things with publicity somehow put the motive for doing them in doubt. When I toured migrant-labor camps on Long Island, I thought I should go alone, but that was the last thing the people who were arranging the tour wanted. They wanted to publicize the conditions in the camps. That's why they wanted me to come—to attract some press and maybe some TV coverage. Often, people who want you to do things want you to do them for the publicity, so if you agree that the cause is a good one you have to work that out and live with it. You can't do much in Congress if you aren't prepared to try to spotlight some of the problems you're concerned with. More often than not, of course, the problem is how to spot light them effectively. Then, too, you have to get used to a lot of hostile stuff—you know, jealous or bitter people who want to hurt your reputation or get your goat by impugning your motives or inventing malicious tales. If you were to let that sort of thing bother you, you couldn't do very much else. All in all, I'm glad to be in Congress. It's a good time to be there—there's so much that needs to be done. The day-to-day work is a good test of your patience, but I'm used to the long pull—to burrowing along for a while before you can see any results. People make a great distinction between being on 'the inside' and being on 'the outside,' and now I get asked a lot how it feels to be on 'the inside.' Well, I wouldn't know, because where I am is not 'inside' very much, and it hasn't made much difference in the way. I try to work. It does make it easier to be heard—at least, outside Washington."

Lowenstein doubts whether he has had much success at being heard in Washington, and, particularly, in the House itself. "My view of how to be an effective congressman has changed a lot since I got there," he told me. "The biggest single difference is that I've learned that all the tests people normally use to decide whether you're a good congressman have almost nothing to do with whether you *are* a good congressman. They are really tests of whether you're keeping up a good facade—things like attending roll calls, getting your name on bills and in the *Congressional Record*, appearing active in the House. If you work at the facade, it can preclude doing what you should be doing; it can determine how you use your time and energy, and even remove the incentive to do the real job. What nobody understands is that the facade is irrelevant to what Congress ought to be and what it ought to be doing. Some people who make a real effort to follow what you're doing take what they read in the *Congressional Record* as evidence of what you've done. Well, it's nothing of the kind, since almost everything that appears in the *Record* has been what is called 'revised and extended.' Or they look at your roll-call attendance, which is in large part a measure of how many times you've interrupted something you should be doing to do something pointless. It means running over to the floor and answering to your name. Which is fine if you are voting on something, but most roll calls are taken to see if a quorum is present—another part of the charade, since people leave as soon as they've answered to their names. Why would you stay to hear everybody else answer to his name? The fact is that even though the House spends more than a quarter of the time it's in session listening to everyone's name being called, there is still no clear record of how members have voted on most things that really matter. Something of great significance may be brought to the floor under what is called a closed rule, which means that you can't offer any amendments and the proposal must be voted up or down precisely as it emerged from committee. That's just plain wrong, and on basic issues like tax legislation it is outrageous. And even when a closed rule is not invoked, the House procedure prevents a recorded vote on many questions of wide interest. For instance, when most of the bills that matter are reported out to the House floor the House sits as a committee of the whole to consider them. And votes in a committee of the whole are not recorded, so on many crucial amendments there is no way to tell how anyone voted. The recorded vote on final passage often tells nothing useful, because by then the bill may have become virtually non-controversial, or may be such a hodgepodge that a simple yes or no becomes a very complicated vote to cast. The basic fault is in the way the House views itself, the way it takes its responsibilities. There ought to be a clear record of how elected representatives vote on great issues. There ought to be a way to vote separately

on separate questions—that is, there ought to be a way to offer amendments. And, as far as debate or discussion is concerned, most self-respecting high-school student councils would stage sit-ins rather than operate under rules like the ones that apply a good deal of the time in the House."

Almost from the moment of his swearing-in, Lowenstein allied himself with a bipartisan group of younger members who had been working to bring about fundamental changes in House rules and customs. "It took a while to realize how bad some of the procedures are and how hard it is to change them," he told me. "It also takes a particular kind of guts to challenge what have come to be almost gentlemen's agreements—to risk the disapproval of those who control committee assignments, floor time during debates, and so on." In fact, after his motion to adjourn on the second day he said virtually nothing on the floor of the House for several weeks. "I learned a lot about how the place works," he said, "and my admiration grew for this small group of people who had thrown themselves into the effort to get changes at least considered."

The car was rolling through Suffolk County now, and Lowenstein sighed. "Of course, there would be a revolt if members had no way at all to go on record about things that are important to their constituents," he said. "So there are escape valves, such as the unanimous consent that the leadership always gets, just before debate on a legislative proposal ends, for every member of the House to put in the *Record* whatever he'd like to put there, as if he had spoken during the debate. Then, there are what are called the 'one-minute rule' and the 'special order.' Every day that the House meets, any member can speak for one minute on any subject. You use your minute to get up and say, 'I ask unanimous consent to revise and extend my remarks and include extraneous matter.' In the *Record*, it looks as if you'd taken on the space program, or pollution, or hunger, or anything else, but you don't have to say a word. You can just hand in a paper. If you're especially conscientious, or you feel very deeply about something, you can actually speak about it for sixty seconds, to an empty House and empty gallery. For a while, I decided never to use the one-minute rule. It seemed phony and somehow deceptive. Gradually, I came to realize that that wasn't a very sensible kind of protest, since it had no effect on anyone but me. And there is, of course, some value in getting things in the *Record*. It is read by some influential people, and it can be distributed widely. The special order is another escape hatch that eases resentments. Any member can ask for a special order to discuss anything that's on his mind when legislative business is finished for the day. This, too, has almost nothing to do with influencing the House, but the speeches go into the *Record*. You can see that, if you play the game and accept the charade, you can give the appearance of being a very diligent congressman with relatively little difficulty. Conversely, if you're doing what you should be doing, it can look as if you were doing nothing. But more important than the effect of all this on individuals is the cumulative effect on the legislative process, and on House morale."

Lowenstein paused to think. "Another thing you have to understand is that the House, in some ways, isn't very representative," he went on. "There's almost never anyone there under thirty. Think what it tells about the place that I'm considered very young! And, of course, there are only nine blacks, when, proportionately, there should be about fifty. Almost a fifth of the population of the South is black, but there are no blacks at all among the hundred-odd Southern members, and on votes that would be of greatest concern to blacks we're lucky if we pick up half a dozen Southern votes for the position the blacks would take if they were there. And this kind of built-in unrepresentativeness is made much worse by the seniority system, which gives enormous extra power to whoever lasts the longest. The people who last the longest, naturally, are the people who come from districts least affected by the two-party system and most removed from the normal swings and political pressures that affect everyone else. The degree of dissatisfaction with all this is a measure of a generation gap as much as anything. The average member now has been in for something over five and a half terms, and that is the line that tends to divide members, more than party or ideology, on questions of congressional reform. And this reminds me of a hopeful political drift in the Congress which hasn't been noticed much yet by the press. There has been a good start toward a kind of spontaneous coalition that is not the traditional conservative one of Northern Republicans and Southern Democrats. In the country at large, this coalition would be regarded as very moderate and rather middle-aged, but in Congress it passes for liberal and young. It's made up largely of newer members from both parties, who don't have much seniority, but if it keeps growing, one of its effects could be to make seniority less significant. That, in turn, could have a very healthy effect on the workings of the committee system. As things stand now, the committee chairmen have enormous power—they can pretty much decide on when committees meet, and if and on what to hold hearings; they create subcommittees, approve members' trips, push whatever bills they want to push, and so on. Since almost everybody on a committee wants favors from the chairman, in most committees he can run things pretty much as he likes. The majority of bills that are important to a member—because they give him prestige and convey the impression that he's doing a good job for his district—are not, in fact, controversial. Out of the more than twenty-nine thousand public and private bills introduced in the last Congress, only six hundred and forty public bills and three hundred and sixty-two private ones were passed, and of those that were actually considered relatively few were fought over. Which of the non-controversial bills that are proposed get to have hearings generally depends on the whim of some committee chairman, and that often means they depend on his good will toward the sponsor of the bill."

Lowenstein went on to discuss what a congressman should be doing, as opposed to what he is expected to appear to be doing. He divided the job into four major parts, the first of which he likened to the functions of an ombudsman. "Since we don't have that kind of official—one who deals with problems that are separate from political and general issues—every elected official has to help communities and individuals with all sorts of difficulties that have to arise in a society as complicated and impersonal as this one," he said. "Some people think that an ombudsman's functions are somehow unworthy of a congressman—that they are kind of a vote-buying device, and cheapen the office. My view is that if you aren't prepared to do that kind of work for people—who should have an ombudsman somewhere—then you shouldn't run for office. Think of what can happen to individuals in a country that suffers from bureaucratic elephantiasis. Like this morning—I was on the phone about a fellow who's in the Army. He was shot and hospitalized and hasn't got much of a stomach left. But instead of getting a disability discharge he's on orders to Vietnam. You can't find out why—it's the gigantic military machine grinding away. We got him stopped in Oakland as he was about to board a plane for Vietnam. Now he'll be held back for a month while they make another investigation. If they decide to send him after that, you can't do anything. But holding it up this long means that there's a chance this particular absurdity won't go through, and that would be to the advantage of the Army as well as of the boy. When things like this happen—things involving a miscarriage of justice—you should be glad if you can help. Of course, people are sometimes disappointed, because they think you can do more than you really can. And if people want you to do something that is improper, you don't do it if you're working the way you should. But I've found that, most of the time, when people know you're committed to a certain view of public functions they don't ask you for improper things. Maybe they're afraid you'll react by exposing them."

We were running through Manorville now, and Lowenstein paused to look out the car window at a group of children at play. Then he resumed. "One big problem is finding time. The second part of a congressman's job—it overlaps with helping indivdual constituents, but it's a completely separate business—is to do what you can about community problems that come up. If a bridge collapses or some housing doesn't get built or a racial crisis develops, you have to try to help ease the situation. Sometimes that means just being there, because sometimes you can't do much more than that. Holding forums, as we have been doing in my district, can be helpful. It's important at this time in our history for people to have opportunities to express and hear different points of view about things that bother them. In Nassau County, we invite everyone to these forums, and all kinds of people come, either as speakers or just to participate from the audience. Mr. Joseph M. Margiotta, the Republican chairman in Nassau, said that Republicans mustn't come;it would 'lend dignity' if they came, he said. But he's given to making suggestions that nobody pays much attention to. We've had meetings on the war, on taxes, on the ABM, on campus disturbances, on how to finance education, and so forth. They must be interesting, because people keep coming—even Republicans, despite poor Mr. Margiotta. Some Republicans come because they believe in the principle of open forums, or at least, want to use them if they're going to happen anyway; others come because they want you to do something for them, or because they're friends. We have had some bad racial incidents in a number of towns—people beaten up and hospitalized. When something like that happens, you go to the groups and individuals who are the angriest or the most deeply offended and try to help work things out so that difficulties can be eased without further violence. Of course, where the problems cover a wider area it's harder to do anything effective about them. But the city and the suburbs, for example, do have many similar interests, and if someone were to bring people together to work regionally—to lobby in Congress, and so on—that could be helpful. However, most of the time everyone is feuding with everyone else. Politicians are afraid of potential rivals. So, there's always the problem of who should lead this kind of effort.

"That gets into the question of how the parties affect government. So many of the complications created by partisanship are pointless, but I guess in our kind of setup they're natural, and maybe unavoidable. Republicans and Democrats both tend to be all for bi-partisan or non-partisan efforts to do things they'll get credit for doing, and very unenthusiastic about bipartisan efforts that won't help the party, or some official the party likes. That may seem obvious, but it can make difficulties. For instance, if the Republicans are in power the Democrats will be reluctant to help the Republicans get credit for doing something non-controversial, since that may strengthen the Republicans and enable them to do things that are controversial. There's another twist to the non-partisan business. The White House

is very anxious for us Democrats not to criticize Administration policy in Vietnam. Its people want us to help cool everybody down who is upset about the ambiguities and pace of the withdrawal; they say that we should give them time in Vietnam, that we shouldn't be 'partisan' about Governor Rockefeller's trip to Latin America or about the surtax, and so on. You know the argument—we've only got one President, and if we criticize his defense or foreign policy, that's partisan, and politics stops at the water's edge and anything else is not worthy of Americans, et cetera. But when we find Republicans who privately agree with us about problems that ought to be just as non-partisan, like poverty or campus disorders, the Administration all of a sudden discovers the virtues of the two-party system. So it's O.K. for them to put pressure on other Republicans not to work with us for programs the Administration doesn't want, on the ground that Republicans shouldn't be working with Democrats. I guess it's all supposed to be clever politics—to get us to support what the Administration is doing and still try to be sure it doesn't look as if there were bipartisan support for what we're doing. What makes the whole partisan approach especially senseless now is that neither party makes enough sense as a party to justify using the traditional distinction of party label to prevent cooperation among people who essentially agree with each other. Conservatives of both parties generally seem to understand this much better than moderates and liberals. Still, as things stand today, it seems to me there's no real question but that the Democratic Party is worth fighting for. It's come a long way in the last year or so.

Do you know anyone who's hankering for a restoration of Johnsonism? I feel more hopeful about the direction of the Democratic Party than I have in a long time, and more loyal to it. On matters of conscience, though, I don't think either community opinion or party should be decisive. You should follow your conscience and do what you think should be done, then try to explain it to the community, which has a right to reject you at the next election if it feels you've gone against what it wants. I get lots of mail saying that my position on the war doesn't represent the district and I should resign, and so on. I wish there were some way the public could express itself directly on a matter as preëmpting as the war—it would reduce that feeling of being unable to influence policy which is the cause of so much disenchantment with American democracy these days. Perhaps some kind of referendum could be worked out, or an electoral test of some kind. A year is a very long time for people to go before they have a way to say what they want to do about Vietnam and everything that flows from it. Consequently, my office sends out questionnaires periodically to try to find out how people in the district feel about things like troop withdrawals, the federal budget, the draft, student disorders, the surtax—that sort of thing. I can't promise to fit my views to the results, but I do want to know what people are thinking. Then we can discuss why we differ, if we do. Where there's a substantial disagreement between a representative and his constituency, it seems to me important for both to have the chance to rethink their positions, even though no change may result on either side."

Lowenstein leaned back and stretched. "Another thing a congressman finds he should do is attend a lot of functions," he continued. "Some people think it adds prestige to have a congressman present—or, at least, it shows that a congressman is interested. You try to attend, since people usually can't get a senator or a governor to come. That's part of the problem of time. Do you go to one more church function, one more bar mitzvah, one more meeting of a veterans' group, one more historical-society meeting? There's always more to do, so unless you deliberately set yourself to hack out little enclaves, your personal life can become nonexistent. Droopy is going to say we don't hack out enough." Droopy is Lowenstein's nickname for his wife, and also her nickname for him.

Near Riverhead, we stopped at a roadside restaurant for lunch. Lowenstein had canned vegetable soup, a hot dog, a root beer, and an ice-cream cone. "That's the way he eats," his wife said. "He doesn't even notice that it all tastes like plastic." A few minutes later, the Lowensteins dropped me off at a friend's house, and we parted for the day. As it turned out, I had to wait quite a long time to learn what Lowenstein considered the third and fourth parts of a representative's job.

The next morning, I arrived at the home of Mrs. Lowenstein's mother and found all the members of the household except Lowenstein sitting around a back-yard swimming pool. He was indoors, telephoning. When he came out, he was ready to start for his district headquarters in Baldwin, and we had arranged that he would drop me off at the railroad station there. Again Engstrom was at the wheel and I shared the back seat with Lowenstein. As we rode along, the talk turned to money, which for Lowenstein is a problem second only to the problem of time. His parents once owned a series of restaurants in Manhattan, but neither he nor his family is wealthy. He graduated from the University of North Carolina and from Yale Law School, put in two years in the Army, practiced law briefly in New York, and then taught law at Stanford, North Carolina State, and the City College of New York. Now he earns forty-two thousand dollars a year, but he says that not much of his salary stays with him. "I spend a good deal more on office expenses each month than we get in allowances," he said as we drove along. "I paid my own way to Vietnam, Biafra, and so on, so even though neither my wife nor I drink or spend much on clothes, money is not our long suit. I sleep in friends' rooms in Washington to save renting an apartment there. The forums I was telling you about cost seven or eight hundred dollars every two weeks, what with the printing, the expenses of whoever speaks, and receptions before and after. I send out a newsletter every few months, so that people know what I'm doing. This costs between thirteen hundred and fifteen hundred dollars each time, and that's without anything fancy. Money is one reason most congressmen don't try to do much about many national issues. They tend to limit themselves to local questions, plus maybe one national issue they can work on through the committee they're assigned to. That's not a criticism. How much can anyone do with limited staff, and all the mail and whatnot to cope with?

If you aren't independently wealthy, you can't have a staff that's capable of putting things together much beyond what you can come up with from the sources available to everyone—the executive departments, the lobbies, the staffs of congressional committees, the Library of Congress. That's one reason lobbies can be so influential. They have people who are able to spend all their time collecting data on why pollution is good for River X. What congressman can match that? And what are congressmen supposed to do about explaining the intricacies of a tax bill? So most members make their peace with the situation—they get active on some issue that is big in their district and will help them there. Another thing about money. Some members bolster their income by leaving their name on a law firm. I would find that difficult. To my mind, the question would arise 'How come you can do both?' If you aren't too busy in the House to maintain a law practice, then it's hard to believe you're doing all you should be doing in Congress. And if you aren't really practicing, why should you have your name on a law firm? Isn't that trading on the name of the Congress? Of course, some men would like to give up outside arrangements of this kind but are afraid that if they did they'd lose their financial independence—they'd be too dependent on staying elected or getting appointed to some political job. I'm not sure I should say all this until I have worked out specific proposals for dealing with the whole mess—conflict of interest, campaign expenses, the adequate financing of staffs, and the rest. It's not just the question of names on law firms. There's the problem of owning stock. Lots of congressmen get money out of things that Congress legislates about. But to limit conflicts of interest between proposed legislation and private sources of income you have to get into everything that is regulated by government agencies. So what should you do? Right now, I have to find some way to meet these expenses—the office, the trips, and so on. You can use a lecture bureau, but I'd hate to wind up speaking to the highest bidder. I made a rule when I entered Congress that I didn't want to know which speech invitations were for a fee, let alone for how much. In the long run, I guess it's better to give lectures than to be in a law firm, and better to be in a law firm than to have a source of income that might influence how you vote. As you can see, this whole problem is very complicated. And it has been ignored too long."

Shortly before we reached the station, Lowenstein, who was dressed much as he had been the day before, rubbed his hand across his chin, which was stubbly, and said, "I can't go into the office like this." He asked Engstrom to drop him at a barbershop for a shave, and we said goodbye.

The next time I saw Lowenstein long enough to have a solid talk with him was at my apartment on a recent Sunday night. He had told me that he had to attend one of his district forums and two other meetings that evening but thought he would be free by eleven-thirty. A little after midnight, Mark Arnold, a Dartmouth senior who had taken Engstrom's place when the summer ended, arrived to pick up Lowenstein and drive him home. I told him that Lowenstein hadn't shown up yet, and asked him to wait. At one-thirty, Lowenstein arrived. When I asked if he had had any dinner or supper, he said no, so I got some food from the refrigerator, and we settled down near a coffee table to talk about what he thought a congressman should do outside his district—the two remaining parts of the four parts of a representative's job, as he saw it. But he had something else he wanted to talk about first. Since our last conversation, he said, the "procedural horrors" of the House had made his earlier comments seem far too mild. Indeed, he seemed a great deal more steamed up than he had been during our discussions in the car. "Do you know that we are not allowed to have a roll-call vote on whether to deploy the ABM?" he asked. "And that on the Vietnam resolution the President wanted passed because it was so vital to his plan for peace, there were no hearings, and discussion was limited to four hours—which averages out to thirty seconds a member—and there was no way to introduce amendments? And we've voted on amendments to bills that appropriate billions of dollars without having amendments *explained*, let alone discussed. Half the votes on bills that matter occur after debates in which most of the newer members get forty-five seconds or a minute to speak. If only the country understood what goes on! But the whole procedure is designed to make that impossible." He pulled some papers out of a briefcase. "Here, I brought you a couple of statements I made in the House," he said. "They're pretty low-key, but they tell a little of what I feel."

I looked at the material he had handed me, which was from the *Congressional Record*. One statement was about the Vietnam resolution. "We mock democracy when we treat this resolution as if it were a footnote to a bill about fishing rights on Mars," it went. "If we do not have the opportunity for adequate debate and to consider amendments on this of all resolutions, we will simply subject these proceedings to further ridicule. Members not permitted to speak here will not thereby be silenced. They will be angered. We are becoming increasingly what we treat ourselves as if we already were . . . second-class citizens with dwindling relevance to the awful events that surround and soon may engulf us."

I asked him if he felt that indignation over such procedures was rising generally in the House, and he said that he thought it was—that the response to statements like the one he showed me had been encouraging. He said that one of his most outspoken protests had come about almost by accident, because he had been recognized unexpectedly at the end of the acrimonious debate on the military-appropriations bill. By then, it was clear that no vote on deploying the ABM would be allowed. House members had begun the chant of "Vote! Vote!" that always arises when the dinner hour is approaching and a roll-call vote remains as a block to leaving the hall. Several friendly members had counselled him not to speak, Lowenstein said, in view of the mood of the House. He could put his remarks in the *Record*, they reminded him, and no one would know he had not spoken them. "But I decided to speak," he told me. "I got up and asked if anyone thought that behaving the way we were behaving would increase respect for the Congress or for the concept of representative democracy. I asked if anyone could justify rules that concealed our position on something as vital as the ABM. I ended up by saying that the House wouldn't dare to go on in its present condition—that basic procedures would have to be revised soon. I thought at the time that what I was saying would mark the beginning of a kind of ostracism in the House, but that hasn't happened. Some of the younger members were enthusiastic, and this was perhaps predictable, but the reaction of several venerable figures was most unexpected—some all but embraced me in the well of the House, and others made a point of phoning later on to congratulate me. Whatever the reason for all that, it's clear that the potential for revolt is far greater than it was a while ago. The groundwork was laid by some really good people over the years, and now it has been reinforced by concern about the war and matters growing out of the war. It looks as if we'll finally get a reform bill out of the Rules Committee sometime soon.

There probably won't be much basic reform in the bill, but just getting the whole thing opened up that way will be a start, and if we can build a national awareness of what's at stake in something that sounds as dull as 'reforming Congress' we may really get somewhere eventually. I think lots of members would like to see some changes made."

Lowenstein was nibbling at an apple now, and I managed to get him to discuss the two remaining aspects of his job.

"If you simply deal with individual and local problems, you're not doing a very good job, because you've been elected to a national legislature, and that means you ought to be concerned about national needs and the national direction," he said. "That's especially true at a time like this, when very few local problems can be solved if we don't reverse the country's lockstep toward disaster. In that sense, it was particularly useful to have been elected from a Republican district after taking unequivocal positions against the war and for deep reforms at home. But how can a representative function effectively on great national questions? It's completely inadequate to say, 'Well, I'm going to vote right.' That's not the end of your obligation. It's barely the beginning. You have to be willing to take the fight outside your district, because one district isn't going to change things. You must go wherever you're able to rally support than can affect the way Congress or the President will act on these issues. About student violence, for instance—you have to go to the campuses to try to explain why it's both wrong and damaging. You could put yourself or record as opposing campus violence by denouncing it in Rotary Clubs or in the well of the House, but that would be playing out the charade again. Now, I'm not saying that giving speeches around the country makes you a better congressman. But, if you can, you ought to help to build strength around the country against policies you oppose, so that when a related issue comes to a vote some public opinion has been aroused."

Lowenstein was now sipping a glass of root beer. "Fourth, you can also do something about things that trouble you inside the Congress itself. It can be useful to talk to members about the war and the national priorities. And you can also talk to them about things that may be more important to your district than they are elsewhere. Take jet noise—not many districts have jet airports to harass them. But the congressional custom of 'You help me on this and I'll help you on that' can be brought into play and a few interested members can build a lot of support for a bill to decrease jet noise. The best place for this kind of lobbying is on the floor of the House. One member got very big on the idea of prohibiting the sale of switchblade knives by mail, and he worked so hard lobbying one by one that he got seventy-five members to back his bill. Rallying public opinion and lobbying individual members are the greatest contributions you can make to influencing the legislative process in your first term. In the House, as elsewhere, personal relations make a great difference if you want to get things done. A member may want you to speak at some function that one of his constituents has organized, or meet a delegation coming to see him, or simply come and have a drink. Then, too, if you're going to somebody's district, you try to tell him ahead of time and perhaps chat with him about your trip afterward. A while ago, when I marched in Charleston with the hospital workers, who were on strike, I called up Representative Mendel Rivers beforehand to tell him what I intended to do. It's no great secret that our political views are about as far apart as views can get, but our relationship has remained cordial. I'm not much good at hating people, and there are lots of people in Congress—and out—whom I like a great deal more than I agree with. One of the unexpected things—to me, anyway—about the House is how affable the leadership is. For instance, Carl Albert and Speaker McCormack show a great deal of interest in the new members and are patient and helpful about the little things that confuse you at the beginning. Of course, if you have a great interest in getting a particular bill passed, you have to have the help of the committee chairman concerned."

I was somewhat surprised by Lowenstein's mention of Representatives Rivers, Albert, and McCormack, because it had seemed to me that throughout our conversations Lowenstein talked about the intimate workings of the House of Representatives as though it were composed of Lowenstein and four hundred and thirty-four nameless members. I asked him about this.

"Well, one of the common-sense customs is that you don't discuss other congressmen in a personal way," he said. "You can see how doing that would undermine the kind of relationships we've been talking about. Sometimes you may have to do it, but the general rule—and I think it's a good one—is to talk about the issue or the approach instead of about individuals."

"At least, one can assess congressmen in general," I suggested.

Lowenstein nodded. "They're more like seismographs than you'd expect," he said. "Most of them are rather timid, considering their relative eminence. There's a real desire to represent their districts accurately on major issues, but there's also a tendency to misread the country, partly because the cumulative effect of being in the House is like that of being in a rather pleasant cocoon. There's a serious underestimation of what leadership, including their own, could do. Most members see themselves as leaders only in local matters, and the result is that that's what they tend to become individually, to the detriment of the House collectively. It's one of the sad consequences of believing the old saw that the first rule of politics is to get reelected. But even if Congress should now start to do much better—if the rules are changed and members begin to show more guts—the quality and direction of the President's leadership would still be the single most critical element at this particular turning point. When President Kennedy died, the country was in relatively good spirits and was moving forward. We had great problems, but people were hopeful, and the spirit of hope was contagious. I was in Mississippi in the summer and fall of 1963, with the civil-rights movement.

Life was a nightmare, but nobody doubted that we were going to win—that America would come to the rescue of her downtrodden. America was going to be something good, and even Mississippi would come around. Who feels that way now? The awful change in the national mood is the result of something more than Vietnam and the defense budget. It is the result of President Johnson's overall conduct as well. People in a democracy get sour if they feel they are being deceived. If the top leaders of a democratic society use words to conceal, or to mislead and divide, a mood of revulsion sets in among the people—revulsion against the government and against each other. So few people are in a position to reach the country quickly, to change this kind of mood. That's why Franklin and Eleanor Roosevelt meant so much—far more than all their specific programs and statements put together. And that's why the double loss of Martin Luther King and Robert Kennedy was so totally devastating. It's why I hoped that Nixon would do well—that he would seize the opportunity presented by succeeding Johnson. It's why I was so reluctant to criticize Nixon once he was elected. Presidential leadership could have made it so much easier to piece things together again after the nightmare of 1968. Everyone wanted to help him. If he had set the right tone and tried to move in the direction we needed to go in, the country would have moved quickly. There was really an eagerness for guidance and impetus from the top. It could have been contagious; it could have touched so many people so quickly. People wanted almost pathetically to trust a President. But Nixon seems to be frittering his moment away. He's buying popularity now at a terrible future price by promising things that are inconsistent and therefore cannot all be delivered. He has started this sad business of saying one thing and then saying another, and is thus risking the same kind of disenchantment that Johnson incurred. All this talk that Nixon can carry this state or that state in 1972 is so silly. The same kind of prophecies were made about Johnson. They mean precisely nothing three years ahead of time. People are going to judge Nixon by whether they feel that the things they are unhappy about have been changed. If he would begin, even now, to tackle the tough things candidly, to move away from the mistakes of the past, a lot of people would rally to help him. I know I would. But the impression is

growing that we're all watching a juggling act—a skillful juggling act but still a juggling act—which sooner or later has to end with things crashing to a halt."

Lowenstein leaned back and became silent for a few moments, and then went on. "If the President won't lead the country toward basic change, our job is to put together a majority coalition to work for the kind of changes that will make things better. Change in *some* direction is inevitable. What is not certain is whether it will be in a Robert Kennedy direction or a Spiro Agnew direction. In the Depression, such enormous numbers of people were hungry or out of work that you could put together that kind of coalition, based on the reality of the needs people felt. Now, even with the war, a majority of the country lives comfortably. The people who are disaffected over their economic situation don't come close to a majority. In a sense, this country suffers from its own great material success. The fact is that economic rights and opportunities are withheld from the people who are outnumbered. Out of the frustration of having no way to get things changed, or even to get represented adequately, the unhappy people who are consigned to a permanent minority can turn to upheaval and disruption. We have to make a new majority for change that will include them. And will include the middle class, too, which is miserable about inflation, taxes, overcrowding, pollution. We must make middle-income people understand that solving their problems is related to solving the problems of the poor. It's not the poor who are getting the money out of the middle class—it's the war, the so-called defense budget. The middle class pays a disproportionate amount of taxes not because of welfare but because of oil companies. And what is collected unfairly is spent absurdly. What the McCarthy and Kennedy campaigns were doing—and I think everyone knows this by now—was bringing together the poor, both black and white, and the Spanish-speaking people, and great numbers of relatively well-off Americans who are upset about the war or discontented with the quality or style of life in this country. All those people together would make up quite a majority, and that was the basis of the 1968 alliances. It was what elected me.

If there were effective national leadership for that kind of alliance now, it would carry the country. But, given the urgency of our situation, I am not optimistic about where the country is headed if the President can't soon be made to realize what's going on and to try to do the things that are so desperately needed. First of all, I think we are going to come apart as a people if we don't get out of Vietnam soon, and that would mean paying for this extended national stupidity with an eternity of awfulness. What might be worst of all about that would be realizing how close we came to getting started in the right direction. You might almost say that the margin was one bullet. I wonder what could have happened to us if Franklin Roosevelt had been killed in 1933. Could we have coped with John Nance Garner and the Depression at the same time? It's frightful how much more this country needs and misses Robert Kennedy now than it did even a year and a half ago. But saying that simply underscores how much harder we must work than we have been working."

It was now nearly 4 a.m., and Lowenstein and Arnold had to go. In a few hours, Lowenstein would be back in Washington. Just before he left, he said, "I don't know what I will do if the effort to bring change through electoral democracy fails. The far left thinks—really, hopes—that an explosion is inevitable. You know the line: the whole society is hopelessly sick and Vietnam is only a symptom. I think that's untrue. But if enough people came to believe that—came to feel that it no longer mattered what they said or did—the belief could lead to our undoing. The only thing I'm sure about is that we must not fail simply because we didn't try, and try with all the energy and brains we can muster. If we did fail, would I join the revolution? Would I leave the country? After all, I would be obsolete. But I don't engage in the luxury of wondering what I would do if the effort shouldn't work. I'm committed to the notion that it will work."

Mr. MARSH. Mr. Speaker, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Virginia.

Mr. MARSH. Although AL LOWENSTEIN and I rarely agreed on the major issues that confronted this Chamber, and many of the public issues of our day, nevertheless I did see in him a determined, tireless worker, a man who is very dedicated, and I would certainly join with others in wishing him the very best in the future.

Mr. JACOBS. I thank the gentleman for his contribution, and I would observe that one of the really great qualities of our colleague, the gentleman from New York (Mr. LOWENSTEIN) is his outstanding ability to understand the other fellow's point of view and, above all, to understand that, according to our traditions and our concept of government, the other fellow is entitled not only to his point of view but, above all, to be respected for his honest point of view. I especially thank the gentleman from Virginia for his contribution.

I yield to the gentleman from California.

Mr. WALDIE. I thank the gentleman for yielding.

Mr. Speaker, there are a few Members of the House, unfortunately—and I certainly am not among those few—who stand as a symbol or a gauge of the conscience of the House. I think ALLARD LOWENSTEIN was one such. I know that in my own personal approach to many of the problems of the country, when I was inclined on occasion to take a course of action that might be dictated by political expediency or perhaps some other equally unworthy motive, I was frequently prodded back into a conscience position, not by any conversation with AL LOWENSTEIN, but merely by observing his conduct on the issue, particularly the few times when he ventured to the well of the House to address the House. I particularly remember the first time he spoke in the well of the House, I had never met him prior to that time. The image that had been portrayed to me through a cursory reading of his background and his activities prior to coming into the House was a sadly distorted image. I was not only impressed then, as I have been each time he has spoken a word, by the cogency and by the passion with which he expresses his conviction, but also by the response of his colleagues in the House of all differing ideological views and differing approaches to life.

I think in AL LOWENSTEIN there was this ability to touch a common thread that the House will sorely miss, and I hope that that ability is in a position that the nation will not have lost it.

I thank the gentleman for yielding.

Mr. JACOBS. I thank the gentleman.

I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I think perhaps better than in any other document, the true AL LOWENSTEIN can be found in the speech which he delivered to, I believe it was, Harvard University 2 years ago.

I do not believe there was a more eloquent appeal to reason, a more eloquent appeal to nonviolence, a more eloquent appeal to the consciences of us all, and a more eloquent appeal against polarization than we could find in that speech.

Mr. Speaker, I will insert into tomorrow's RECORD a copy of that most perceptive speech.

(Mr. OBEY asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. ADDABBO. Mr. Speaker, I rise to join with my colleagues in this tribute to our colleague, Congressman ALLARD K. LOWENSTEIN who will not be with us in the 92d Congress. During these past 2 years, AL has won the respect and friendship of a great many Members of this Chamber because of his sincere and energetic devotion to the workings of Congress.

Few men have come to the Congress with the advance buildup and reputation of an ALLARD LOWENSTEIN but even fewer have been able to live up to that reputation and earn the admiration of their colleagues in the way that the gentleman from New York has done.

Because our congressional districts are adjoining ones—at least prior to the last reapportionment—we shared many of the same problems and issues. I always found AL to be responsible in his approach to those problems and dedicated in his efforts to bring relief to his constituents. He was never partisan in his approach to these problems but always made an effort to bring about an effective coalition of concerned Members. This perhaps was his greatest contribution to the 91st Congress and one which should benefit those of us who serve in the next Congress—the desire to work together instead of in conflict.

Mr. VAN DEERLIN. Mr. Speaker, with numerous colleagues on both sides of the aisle, I am saddened by the prospect of the impending departure from this body of our good friend, AL LOWENSTEIN.

I know many of us regarded Al as a kind of political enfant terrible when he joined us 2 years ago. He came in the wake of reams of publicity about his role in the presidential politics of the Democratic Party—a role that was as controversial as it was vital.

But the real AL LOWENSTEIN turned about to be a somewhat different man than the one we had read about in the newspapers. True, he was independent, an uncompromising fighter for the causes which he believed were just. And he was not the sort to be intimidated, either by the Washington establishment, or by the brutal gerrymandering of his own district.

But there was another dimension to the real AL LOWENSTEIN, one that we did not really begin to appreciate until we met AL and got to know him. Our discovery was that in addition to his more widely reported virtues he is also a gentleman of the first order. I for one have never heard him speak an unkind word about anyone, even his most bitter oppo-

nents. Instead, as was amply demonstrated on at least one occasion in this body, he has developed a wide circle of admiring friends covering the entire political spectrum.

I greatly regret that AL is now leaving us, but I also am comforted by the thought that a man of his abundant talents and humaneness will not be allowed to remain for long outside the main arena of public affairs.

Mr. RYAN. Mr. Speaker, I am pleased to join in the tribute to our colleague from New York (Mr. LOWENSTEIN) whose unusual talents have made a major impact upon the House of Representatives during his brief service over the span of 2 years. It has been my privilege to have known him as a friend for more than 10 years and to have been associated with him in many causes about which we both feel deeply. I cherish his friendship and know what a loss his departure means for the Congress. However, knowing him as I do, I am sure that, as he continues to seek a better America and a better world, no matter what path he follows, his efforts will influence and shape future events, and the Congress will experience the reverberations. Hopefully, it will also respond.

Always concerned wherever people are oppressed and freedom is denied—be it Southwest Africa, Spain, Mississippi, or New York—ALLARD LOWENSTEIN's efforts against tyranny have been many and varied. From the United Nations to the Halls of Congress he has spoken out for the oppressed and dispossessed. Whether it be South Africa's apartheid system or the white political power structure of Southern segregation, the entrenched political power of Tammany Hall or the congressional seniority system, he has been involved in the struggle for change. His presence and his voice in Congress have helped to challenge outmoded assumptions which must yield to change if this Nation is to meet its responsibilities.

ALLARD LOWENSTEIN has always maintained a close relationship with students on our college campuses where he is a familiar figure as he offers hope and shows that the political system need not be unresponsive. In fact, it was his faith in the good sense of the American people which persuaded so many young people to participate in the 1968 Democratic Presidential primaries—political events which did help to swing the country around, making the Vietnam war an issue of national debate, and the primaries a referendum on the war. He has the ability to communicate his sense of commitment to others, thus building a devoted following which is prepared to do what is necessary to attempt to seek justice and to right wrong.

ALLARD LOWENSTEIN, in just 2 years, has left his mark on the House. As a friend, and as a colleague, I am grateful for his having served with us. I know he will continue fighting for the goals we share, and that will benefit all of us.

Mr. VANIK. Mr. Speaker, I wish to join my colleagues in paying special tribute to a devoted colleague and a good friend, ALLARD LOWENSTEIN.

It is my hope and it is my belief that our colleague's absence from public life will only be temporary. The people of New York have, over the years provided the Nation with inspired leadership that has pushed forward the frontiers of human compassion and brotherhood. ALLARD LOWENSTEIN strove in his work in this House for peace in the world, social justice and security in life for all men everywhere. He has left his indelible mark on this House.

In his brief 2 years in the House, Congressman LOWENSTEIN has brought a breath of fresh air, new ideas, and a daring to challenge the "conventional wisdom"—a conventional wisdom that has led to conventional ideas that have failed to solve the challenge of this new era.

He has been one of the few who has sought "to strive, to seek, and not to yield."

GENERAL LEAVE TO EXTEND

Mr. JACOBS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

TAKE PRIDE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation. Since the beginning of this century the shortened work week brought on by the pursuance of technological excellence and increased efficiency has added over 1,000 free hours to the average American's free time.

PANAMA CANAL: TARGET OF GLOBAL SOVIET NAVAL CHALLENGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 20 minutes.

Mr. FLOOD. Mr. Speaker, in the course of my studies of Isthmian canal policy and problems over the past decade, the importance of the Panama Canal as the gateway to the Pacific has become increasingly apparent. It was the existence of this interoceanic waterway that enabled victory in World War II, served U.S. forces during the Korean war, permitted the rapid concentration of our naval forces during the Cuban missile crisis, and has been indispensable in supporting the war in Vietnam. Its value as a strategic crossroads explains the sustained policy by the Soviet Government since 1917 to wrest its control from the United States.

In many of my addresses I have listed other strategic waterway areas and among them are the Suez Canal-Red Sea rout to the Indian Ocean, Southern Africa around that great continent, Chile controlling the Straits of Magellan and the maritime traffic around Cape Horn, Gilbraltar, and the Strait of Malacca. These positions have been objects of Soviet attack in great flanking movements by means short of open hostilities in preparation for what is now taking place—a global Soviet naval challenge of the United States.

These facts render imperatively necessary the continued U.S. sovereign control of the Panama Canal and its protection frame of the Canal Zone, which are key targets for Soviet conquest of the Caribbean, and no amount of sophistry can alter the dangers that would be invited by their surrender. Moreover, a newsstory by Benjamin Welles in the New York Times of December 7, 1970, states that in recent years the number and quality of Soviet agents in Latin America have been increased, clearly indicating the importance of the Western Hemisphere in Communist planning.

Because of its pertinence to current discussions of world strategy, I quote as part of my remarks an informative summary by Dr. Anthony T. Bouscaren, professor of political science of LeMoyne College, of the Soviet naval threat in which control of the Panama Canal is a prime objective.

THE GLOBAL SOVIET NAVAL CHALLENGE

(By Dr. Anthony T. Bouscaren)

Despite the tremendous technological progress made in air transportation and strategic weapons systems in this century, free use of the seas—which cover three-fourths of the earth's surface—continues to be essential to the security of this country, whether to defend ourselves or our allies. Ninety-seven percent of all the material sent to Vietnam has gone by sea.

Fully cognizant of our dependence on seaborne transportation, the Soviet Union has developed a naval strategy aimed at interdicting our sea lanes. Since World War II they have placed increasing priority on submarines, aware of the fact that the last two world wars were almost lost because of the Allied problem in keeping the sea lanes open.

EXPANDED ROLE OF THE SUBMARINE

With the rapid advancement of technology since the end of World War II, the role of the submarine in naval warfare has expanded. Nuclear power, long range missiles, sophisticated electronics, computers—all combine to make the submarine many times more potent and versatile than before. The nuclear-powered ballistic missile submarine has become our most viable deterrent strategic weapon. The Soviets are presently engaged in a massive construction program to build a fleet of similar submarines, and a part of this fleet is now on station off our coasts. Present projections indicate that by mid-1974 their ballistic missile submarine fleet will equal ours. The Soviets are also building large numbers of high-speed, torpedo-firing nuclear-powered submarines which can fire long-range cruise missiles, capable of being armed with conventional or nuclear warheads. Ships of the Soviet Navy are systematically present in all oceans, challenging the Allied control of the seas.

SOVIET CONSTRUCTION PROGRAM EXCEEDS OURS

Starting with 200 diesel-powered submarines at the end of World War II, the Soviets embarked on the largest "peacetime" submarine construction program in history, producing over 570 modern submarines in 25 years—most designed for long-range operations. During the same period we built 105 submarines. In two years alone—1955 and 1956, the Soviets completed 150 submarines, one and one-half times the total

number of submarines produced in this country during the past 25 years. The Soviets now possess the largest and most modern submarine building yards in the world, giving them several times the nuclear submarine construction capacity possessed by the United States. In addition, ten times as many naval architects and marine engineers are graduating in the U.S.S.R. than in the U.S. According to the latest unclassified data the Soviet now have between 355 and 363 submarines, all built since 1945, with at least 75 being nuclear-powered. The total U.S. force is 147, of which 88 are nuclear-powered. Based on current force levels and estimated Soviet nuclear submarine building rates, they will be ahead of us numerically by the end of this year.

One of the new Soviet sub designs is the *Yankee* class nuclear-powered ballistic missile boat, introduced in 1968. These submarines are very similar to our *Ethan Allen* Polaris Submarine, and are capable of launching 16 ballistic missiles submerged. The Soviets now have 13 of the *Yankee* class operational and they are building 12 a year. It is estimated that they will surpass our Polaris fleet by mid 1973.

SOVIET NAVY A WORLD-WIDE FORCE

The Soviet submarine force, like the entire Soviet Navy, has become capable of sustained open-ocean operations and is being used in support of foreign policy in many areas of the world. During the recent large-scale naval maneuvers that included over 200 ships in both Atlantic and Pacific Oceans and nine adjoining seas, the Soviets deployed a large number of nuclear submarines away from their home bases, supplied by large sea-going tenders capable of remaining at sea for six months, servicing and repairing submarines while underway. Commenting on these maneuvers, Soviet Admiral Gorshkov, Commander-in-Chief of the Soviet Navy declared: "Whereas until quite recently some areas of the world's oceans were considered restricted areas in which the navies of the imperialist powers ruled supreme and where our ships seldom ventured, now there are no such areas."

The Soviets are pulling ahead both in the speed of their submarines and in submarine weaponry. They possess a torpedo capability comparable to our own, and they have also successfully developed and put to sea some 65 submarines capable of firing long-range cruise missiles. These boats represent a threat to our world-wide surface shipping, our naval surface forces, and our free use of the seas. We do not possess a comparable weapons capability.

By the end of 1975, when we put into operation the last submarine currently authorized, the United States will have a total of 109 nuclear submarines. During the same period the Soviets will probably add at least 70 nuclear subs for a total of between 145 and 153—giving them a numerical superiority of fifty percent in nuclear submarines. We are building only three submarines a year, while the Soviets are building ten to twelve.

Admiral Hyman Rickover, among others, has recommended that the current high speed attack submarine (SSN 688 Class) building program be increased from three to at least five per year. He also recommends commencing on a new design high-speed submarine capable of firing long-range submarine-to-surface cruise missiles. To increase the invulnerability of the Polaris submarine, Admiral Rickover advocates increasing the range of the missile—thus providing greater ocean areas to hide in. This means pushing ahead with the development of the Underseas Long Range Missile System (ULMS).

There is some evidence that the Soviets have developed a base in Cienfuegos, Cuba, which can service its submarine fleet in this part of the world. One of the many advantages of the base would be a facility for the repair and adjustment of ballistic missiles carried by the YANKEE class sub. The development of this base provides the Soviets with an additional option for offensive strategy.

With the achievement of superiority in ICBM's, the development of space weapons, the rapid build-up on the seas and the elaborate and sophisticated support given to subversive movements in this hemisphere, the Soviets would appear to be on the threshold of a major break-through, far exceeding the temptation of 1962 which led to the Cuban missile crisis.

SEA-BASED ESPIONAGE

For some time now, the Soviets have been conducting an elaborate program of espionage against our military and space installations all along the Atlantic coast. The port of Charleston is one of the bases for our Polaris nuclear submarines. Soviet spy ships have been repeatedly sighted near the harbor waters at Charleston, sometimes anchoring right by the harbor buoy at the entrance to the port, to record the "sonic signatures" of the Polaris submarines and other U.S. naval vessels entering or leaving the port. A notorious case concerns the activities of the Soviet trawler *Laptev*, in its efforts last July and August to monitor the test firings of the Poseidon missile from the U.S.S. *Madison*, based at Charleston. The harassment by the *Laptev* actually caused the postponement of the Poseidon test launch, and almost involved a serious accident at sea.

The *Laptev* is a Soviet intelligence collection ship—AGI—and only nominally a trawler. Designated as the *Khariton Laptev*, this vessel is listed by Jane's[1] as an oceanographic survey ship of the *Nikolai Zubov* class. The Soviet Union has deployed intelligence collection ships in electronic surveillance operations against U.S. naval and land targets since the end of the Korean war. Soviet AGI's have operated along the east coast of the United States with patrols lasting about two months. Their main area of interest has been the Virginia Capes, amphibious training areas off the North Carolina littoral, naval operating areas off Charleston, and Cape Kennedy. Such patrols also cover the Puerto Rico naval operating areas and U.S. space vehicle recovery areas. Soviet AGI's which have operated off the east coast during the past year we are as follow: *Teodolit* (12 Aug. 1969 to 1 Nov. 1969), *Krenometr* (28 Oct. 1969 to 3 Jan. 1970), *Lotlin* (20 Jan. 1970 to 2 April, 1970), *Teodolit* (31 March, 1970 to 13 June, 1970), and *Laptev* (2 June, 1970 to present).

THE CARIBBEAN

With respect to the Cienfuegos submarine base, when it becomes fully operational, the Soviets will have the capability not only of reaching our south, southwest and midwest, but also the Panama Canal and much of central and South America. Nuclear missiles fired against the United States from a Caribbean launching area would, of course, outflank our IBM defenses in Montana and the Dakotas. Thus all the more urgency to place part of our IBM defenses at sea in the Navy's mobile SABMIS[2] system.

The threat of Soviet subs in Cienfuegos is not limited to that posed by Yankee class missile boats. The Carribbean is our principal highway for transportation of South American strategic raw materials to this country; it is also the Atlantic approach to the Panama Canal, as well as the route that tankers must traverse to move Venezuelean oil to the United States and Europe.

Those who forever argue against any strengthening of our armed forces to meet Soviet escalation have said: "How can we blame the Russians for the Cienfuegos base if we have Polaris bases in Scotland and Spain?" One answer is that Holy Loch (Scotland) and Rota (Spain) are a thousand miles from the U.S.S.R. while Cienfuegos is but 150 miles from the United States. In 1962 the doves equated our belated response to the Soviet build-up in Cuba to the initial placement of IRBM's[3] in that country. They fail to distinguish between the use of force for offensive and defensive purposes.

THE MEDITERRANEAN

Of almost equal concern is the Soviet naval build-up in the Mediterranean. The Soviet fleet has port facilities at its disposal in Port Said, Alexandria and Latakia (Syria). It has also made use of facilities in Algeria. Thus far Soviet fleet activities appear to have primarily political and intelligence objectives. But there are situations where the Soviet fleet could threaten vital communications routes of the three southern flank countries—Greece, Italy and Turkey—which depend on sea routes to carry the great bulk of their imports and exports. The Soviet fleet is in a position to hinder British, French and American submarines and the Sixth Fleet. The presence of landing vessels in the Soviet fleet gives it the capability of carrying out operations which could adversely affect Albania, Yugoslavia, Israel and Lebanon. Finally, increased Soviet activity in the Persian Gulf and in the Middle East oil-producing states and the presence of the Soviet fleet in the Mediterranean could be viewed as part of a long-term strategy aimed at establishing a major influence in the oil-producing states.

Soviet activity in the Mediterranean has not been confined to the build-up of a permanent fleet. Soviet technicians and military advisers have been placed in Egypt, Syria, Algeria, and perhaps Libya as well. The post-1967 build-up in Egypt has led to the present crisis, including the Egyptian violations of the cease-fire. The strategic naval base of Mers-el-Kebir could be used by Soviet submarines and naval vessels to track the passage of western submarines and naval vessels between the western Mediterranean and the Atlantic.

Soviet naval expansion in the Mediterranean is part of a new Soviet global naval strategy, which encompasses the North Atlantic, Caribbean and Indian oceans and the Persian Gulf. Soviet naval strength has changed in recent years from being primarily a defensive fleet to being a more aggressive one, particularly in view of the greater emphasis on long-range submarines, landing craft and the introduction of Helicopter carriers.

Soviet Fleet Admiral Gorshkov said recently: "The pride of our navy is atomic submarines, which are fitted out with missiles of various purposes which can be launched from under water. The submarines, together with naval missile-carrying and anti-submarine aviation having high-speed, long-range airplanes, are the basis of the striking might of the Navy."

The Soviet challenge is there for all to see. What will our response be?

[1] Jane's Fighting Ships, 1970.

[2] SABMIS—Seaborne Anti-Ballistic Missile Intercept System.

[3] IRBM's—Inter-mediate Range Ballistic Missiles.

MEANY CALLS JOBS BILL VETO OUTRAGEOUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. O'HARA) is recognized for 10 minutes.

Mr. O'HARA. Mr. Speaker, George Meany, president of the AFL–CIO, has today correctly denounced the President's veto of the jobs bill as "outrage-

ous." Mr. Meany's very restrained statement deserves the attention of the House and I include his remarks at this point:

The President's veto is outrageous.

It is a devastating attack on the unemployed, the unskilled, and the poor, at a time of widespread joblessness, created by Administration economic policies.

It demonstrates the Administration's refusal to support its talk of reviving the economy with action and funds where they count most—in upgrading the skills of the labor force and creating jobs for the long-term unemployed.

The veto is a direct Presidential rejection of a constructive form of sharing Federal revenue with the hard-pressed state and local governments, especially the cities.

The President's veto message misrepresents the bill's language and intent. Despite the President's rationalization, the fact is that the bill would have created useful jobs needed by the community—not dead-end, make-work jobs.

The President has moved the cities closer to fiscal disaster, dashed the hopes of millions who had looked to public service employment as a way off welfare rolls, and has insured the unemployment rate will continue to climb unchecked.

This is a setback for the unemployed, but it is only a temporary setback. We intend to do everything in our power to help establish a badly needed national manpower policy and program, including job creation for the long-term jobless. And we intend to win.

REPORT OF THE PRESIDENTIAL COMMISSION ON OBSCENITY AND PORNOGRAPHY

(Mr. SCHADEBERG asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SCHADEBERG. Mr. Speaker, I wish to take this opportunity to congratulate President Nixon for rejecting the Report of the Presidential Commission on Obscenity and Pornography, a Commission of which he was privileged to appoint only one member.

One would think that his rejection of the report, and the action taken by the Senate on October 13 in rejecting the report would lay to rest the matter of the legalization of pornography.

However, it is disturbing to me to find that some of the Federal courts in recent decisions have rejected the legislative intent of Congress and have based liberal decisions upon the recommendations of the report. In so doing, they fly in the face of our expressed concern which reflects the opinions of millions upon millions of Americans who have petitioned Congress to prohibit the proliferation of pornographic material.

These actions by the courts make it difficult for local communities to act with any degree of authority to prevent smut of every degree from being forced upon young people by adults who make a business of profiting by the destruction of the moral fiber of our society.

Mr. Speaker, I believe it would be wise for this House to go on record not only in rejecting the majority report, but in adopting the minority Hill-Link report. I have introduced such a resolution today with the hope that if the House cannot act on it in these closing days of this Congress, the matter will merit serious consideration in the 92d Congress.

Surely we must do no less than some of our citizens are during to prevent the degradation of our society. The following is what one business has decided to do:

[From the San Francisco Examiner, Dec. 8, 1970]

DRAWING THE LINE ON PORNO ADS

There comes a time when even the most open-minded editors must draw the line.

So far as the editors of the Examiner are concerned, that time is now.

The line we draw is against advertising in our columns by the dispensers of depraved "entertainment" offered presently in more than two score theaters throughout this area.

We are not bluenoses. We do not seek to impose the Puritan ethnic on the community in general or our readers in particular.

However, we can no longer permit our advertising columns to be exploited by the panderers of moral pollution.

In the past, we have editorialized against smut, filth and obscenity.

We have quietly and patiently urged movie makers and night club operators to upgrade and improve their offerings.

Over the years we have refused countless thousands of dollars in advertising that we felt exceeded the bounds of good taste.

We sought to base our position on the laws of the land and looked for guidance to the Supreme Court's decision in the Eros case, which found a production obscene because advertising for it appealed to the prurient.

This approach, though, merely laundered the advertising appearing in our columns and thus tended to hide the slime of the shows being presented.

We grudgingly accepted the decision of the Supreme Court that "community standards" should determine what is obscene and what is not.

After witnessing the results of this decision, we are now convinced that community standards do not determine what is pornography. Quite the contrary. We believe the results in San Francisco are proof positive that proliferating pornography creates debased community standards.

In this beautiful city, our standards sink lower and lower.

Today we have movie houses showing women engaged in sexual acts with dogs and other animals.

Today we have films showing groups of perverts performing vile acts that must demoralize homosexuals who are fighting for acceptance in our complex society.

Today we have films denigrating and disgracing the dignity of womanhood and motherhood as prostitutes perform sordid acts that defy description.

Today we have films showing young girls being beaten, raped and defiled in sexual aberrations practiced only by those with maniacal or criminal minds.

As community standards have fallen, our crime rates soared. The score on rape cases, drug cases, bodily assault and juvenile delinquency are higher than ever. And going higher.

San Francisco is fast gaining international disrepute as the smut capital of the world.

Do not be confused. We are not discussing the relaxed standards of some movies produced by large studios. While we do not endorse many of the acts and attitudes that are labeled sophisticated in today's age of social permissiveness, we are not at this time referring to such movies and plays.

We are denouncing the hard core pornography that flourishes in all too many parts of our city and offers dangerous entrapments for our young people.

We are denouncing the sexual depravity on film and stage that can—and does—breed moral pollution and social degeneracy.

We should have thrown this ugliness out of our advertising columns long ago. We are sorry we delayed.

It is out now. And it will stay out.

If this action on our part invites lawsuits, we will welcome carrying our case to the highest courts in the land. Not only the Supreme Court . . . but also the higher court of public opinion.

THE LATE ROBERT W. LISHMAN

(Mr. ROGERS of Florida asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ROGERS of Florida. Mr. Speaker, it was with a deep sense of sadness that I received word of the death of Robert W. Lishman, our esteemed Chief Counsel of the Special Subcommittee on Investigations of the Committee on Interstate and Foreign Commerce. I know that all Members share my feelings of loss and join me in extending to his family our deepest sympathies.

Mr. Lishman's achievements both in Government and the private practice of law were many and well-known when he was selected on March 5, 1958, by Speaker Sam Rayburn to be Chief Counsel to the Subcommittee on Legislative Oversight. In that capacity he brought to the attention of Congress and the American public many abuses within the governmental agencies responsible to Congress and the House Committee on Interstate and Foreign Commerce. Probably the Sherman Adams-Bernard Goldfine matter, the rigging of televised quiz shows and the disc jockey payola scandals are the best known but perhaps his most significant contribution was the organization and direction of a panel study into the ethics of the relationships between regulatory agencies and the industries they regulate. In an era when Congressional Committees were being publicly criticized for their sometimes questionable regard for individual rights, the Subcommittee on Legislative Oversight was singled out for public commendation for its exemplary treatment of witnesses and its due concern for its responsibilities to the public.

In March of 1961 Mr. Lishman left the subcommittee to return to private practice in Washington and eventually to retire. It was only at the chairman's urging that he came out of retirement on February 8, 1966, to become the Chief Counsel of the Special Subcommittee on Investigations. Again, his abiding concern for the public interest, which was always primary to him, led him into investigations of trafficking in broadcast licenses, deceptive broadcast programing practices, and questions of the responsibilities of administrative agencies to the public rather than to the industry they regulate.

We all knew of the sickness which was ravaging Mr. Lishman's body and were heartened by his sheer courage in refusing to surrender while work remained unfinished. His last official act as Chief Counsel was to forward on November 20 a staff study analyzing the FCC's 1970 policy statement. In his letter forwarding this study he referred back to his first association with the subcommittee in 1958 and summarized his personal views of what he believed was his essential duty. He constantly reminded us that the House of Representatives must control its independent agencies. He was emphatic on having a staff which could and would act without fear or favor and not

succumb to the blandishments of regulated business. He worked ceaselessly to strengthen the independence of the regulatory agencies and to assure the best functioning of the administrative process.

His genuine compassion for everyone he ever met or was associated with, his wide-ranging familiarity with and understanding of the governmental process and his abiding concern for the public interest, long before consumer protection became a national issue, were the measure of this man. As great as our loss of such a highly professional and talented man must be, our personal loss must be even greater.

With his passing we have lost a loyal and great friend and a truly dedicated public servant.

FEDERAL-AID HIGHWAY ACT OF 1970—CONFERENCE REPORT

Mr. FALLON submitted the following conference report and statement on the bill (H.R. 19504) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes:

CONFERENCE REPORT (H. REPT. 91–1780)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 19504) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Federal-Aid Highway Act of 1970".

REVISION OF AUTHORIZATION OF APPROPRIATIONS FOR INTERSTATE SYSTEM

SEC. 102. Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "and the additional sum of $2,225,000,000 for the fiscal year ending June 30, 1974" and inserting in lieu thereof the following: "the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1974, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1975, and the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1976".

AUTHORIZATION OF USE OF COST ESTIMATE FOR APPORTIONMENT OF INTERSTATE FUNDS

SEC. 103. The Secretary of Transportation is authorized to make the apportionment for the fiscal years ending June 30, 1972, and June 30, 1973, of the sums authorized to be appropriated for such years for expenditures on the National System of Interstate and Defense Highways, using the apportionment factors contained in revised table 5, House Document Numbered 91–317.

EXTENSION OF TIME FOR COMPLETION OF SYSTEM

SEC. 104. (a) The second paragraph of section 101(b) of title 23, United States Code, is amended by striking out "eighteen years" and inserting in lieu thereof "twenty years" and by striking out "June 30, 1974" and inserting in lieu thereof "June 30, 1976".

(b)(1) The introductory phrase and the second and third sentences of section 104 (b)(5) of title 23, United States Code, are amended by striking out "1974" each place it appears and inserting in lieu thereof at each such place "1976".

(2) Such section 104(b)(5) is further amended by striking out the two sentences preceding the last sentence and inserting in lieu thereof the following: "The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives on April 20, 1970. Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1972, and June 30, 1973. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1972. Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1974, and June 30, 1975. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1974. Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal year ending June 30, 1976."

HIGHWAY AUTHORIZATIONS

SEC. 105. (a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated:

(1) For the Federal-aid primary system and the Federal-aid secondary system and for their extension within urban areas, out of the Highway Trust Fund, $1,100,000,000 for the fiscal year ending June 30, 1972, and $1,100,000,000 for the fiscal year ending June 30, 1973. The sums authorized in this paragraph for each fiscal year shall be available for expenditure as follows:

(A) 45 per centum for projects on the Federal-aid primary highway system;

(B) 30 per centum for projects on the Federal-aid secondary highway system; and

(C) 25 per centum for projects on extensions of the Federal-aid primary and Federal-aid secondary highway systems in urban areas.

(2) For the Federal-aid primary system and the Federal-aid secondary system, exclusive of their extensions in urban areas, out of the Highway Trust Fund, $125,000,000 for the fiscal year ending June 30, 1972, and $125,000,000 for the fiscal year ending June 30, 1973, such sums to be in addition to the sums authorized in paragraph (1) of this subsection. The sums authorized in this paragraph for each fiscal year shall be available for expenditure as follows:

(A) 60 per centum for projects on the Federal-aid primary highway system; and

(B) 40 per centum for projects on the Federal-aid secondary system.

(3) For the Federal-aid urban system, out of the Highway Trust Fund, $100,000,000 for the fiscal year ending June 30, 1972, and $100,000,000 for the fiscal year ending June 30, 1973.

(4) For traffic operation projects in urban areas as authorized in section 135 of title 23, United States Code, out of the Highway Trust Fund, $100,000,000 for the fiscal year ending June 30, 1972, and $100,000,000 for the fiscal year ending June 30, 1973.

(5) For forest highways, out of the Highway Trust Fund, $33,000,000 for the fiscal year ending June 30, 1972, and $33,000,000 for the fiscal year ending June 30, 1973.

(6) For public lands highways, out of the Highway Trust Fund, $16,000,000 for the fiscal year ending June 30, 1972, and $16,000,000 for the fiscal year ending June 30, 1973.

(7) For forest development roads and trails, $170,000,000 for the fiscal year ending June 30, 1972, and $170,000,000 for the fiscal year ending June 30, 1973.

(8) For public lands development roads and trails, $5,000,000 for the fiscal year ending June 30, 1972, and $10,000,000 for the fiscal year ending June 30, 1973.

(9) For park roads and trails, $30,000,000 for the fiscal year ending June 30, 1973.

(10) For parkways, $20,000,000 for the fiscal year ending June 30, 1972, and $20,000,000 for the fiscal year ending June 30, 1973.

(11) For Indian reservation roads and bridges, $30,000,000 for the fiscal year ending June 30, 1972, and $30,000,000 for the fiscal year ending June 30, 1973.

(12) For carrying out section 319(b) of title 23, United States Code (relating to landscaping and scenic enhancement), $1,500,000 for fiscal year ending June 30, 1972, and $10,000,000 for fiscal year ending June 30, 1973.

(13) For necessary administrative expenses in carrying out section 131, section 136 and section 319(b) of title 23, United States Code, $1,500,000 for the fiscal year ending June 30, 1971, $1,500,000 for the fiscal year ending June 30, 1972, and $3,000,000 for the fiscal year ending June 30, 1973.

(14) Nothing in the first eleven paragraphs of this section shall be construed to authorize the appropriation of any sums to carry out section 131, 136, 319(b), or chapter 4 of title 23, United States Code.

(b)(1) No State shall receive less than one-half of 1 per centum of the total apportionment for each of the fiscal years 1972 and 1973 under paragraph (5) of subsection (b) of section 104 of title 23, United States Code. In addition to all other authorizations for the Interstate System for the two fiscal years ending June 30, 1972, and June 30, 1973, there is authorized to be appropriated out of the Highway Trust Fund not to exceed $55,000,000 for each such fiscal year for such System. Such authorization shall be apportioned to each of the States receiving apportionments under section 103 of this Act of less than one-half of 1 per centum for each such fiscal year, so as to ensure that each such State will receive for each such fiscal year an amount equal to one-half of 1 per centum of the total apportionment for each such fiscal year under section 103 of this Act, as required by the first sentence of this paragraph.

(2) By January 1, 1972, the Secretary shall report to Congress on his recommendation for the apportionment of funds and matching requirements for work on Federal-aid highways in States which have completed, or are nearing completion, of construction on Interstate System mileage located in their State, and for all States after completion of the Interstate System.

FEDERAL-AID URBAN SYSTEM

SEC. 106. (a) Subsection (a) of section 101 of title 23, United States Code, is amended as follows:

(1) After the definition of the term "Secretary" add the following new paragraph:

"The term 'urbanized area' means an area so designated by the Bureau of the Census."

(2) After the definition of the term "Federal-aid secondary system" add the following new paragraph:

"The term 'Federal-aid urban system' means the Federal-aid highway system described in subsection (d) of section 103 of this title."

(3) The definition of the term "Interstate System" is amended to read as follows:

"The term 'Interstate System' means the

National System of Interstate and Defense Highways described in subsection (e) of section 103 of this title."

(b)(1) Subsections (d) and (e) of section 103 of title 23, United States Code, are relettered (e) and (f), respectively, including all references thereto, and section 103 is further amended by adding immediately after subsection (c) the following subsection (d):

"(d) The Federal-aid urban system shall be established in each urbanized area. The system shall be so located as to serve the major centers of activity, and designed taking into consideration the highest traffic volume corridors, and the longest trips within such area and shall be selected so as to best serve the goals and objectives of the community as determined by the responsible local officials of such urbanized area based upon the planning process required pursuant to the provisions of section 134 of this title. No route on the Federal-aid urban system shall also be a route on any other Federal-aid system. Each route of the system shall connect with another route on a Federal-aid system. Routes on the Federal-aid urban system shall be selected by the appropriate local officials and the State highway departments in cooperation with each other subject to the approval of the Secretary as provided in subsection (f) of this section. The provisions of chapters 1, 3 and 5 of this title that are applicable to Federal-aid primary highways shall apply to the Federal-aid urban system except as determined by the Secretary to be inconsistent with this subsection."

(2) Relettered subsection (f) of section 103 of title 23, United States Code, is amended by inserting after "the Federal-aid secondary system," the following: "the Federal-aid urban system,".

(3) Subsection (a) of section 103 of title 23, United States Code, is amended to read as follows:

"(a) For the purposes of this title, the four Federal-aid systems, the primary system, the urban system, the secondary system, and the Interstate System, are established and continued pursuant to the provisions of this section."

(c)(1) Section 104 of title 23, United States Code, is amended by adding at the end thereof the following:

"(f) Not to exceed 50 per centum of the amounts apportioned in accordance with paragraph (3) of subsection (b) of this section may be expended for projects on the Federal-aid urban system."

(2) Subsection (b) of section 104 of title 23, United States Code, is amended by adding at the end thereof the following new paragraph:

"(6) For the Federal-aid urban system:

"In the ratio which the population in urbanized areas, or parts thereof, in each State bears to the total population in such urbanized areas, or parts thereof, in all the States as shown by the latest available Federal census."

(d) Subsections (d) and (e) of section 105 of title 23, United States Code, are relettered (e) and (f), respectively, including all references thereto, and section 105 is further amended by adding immediately after subsection (c) a new subsection (d):

"(d) In approving programs for projects on the Federal-aid urban system, the Secretary shall require that such projects be selected by the appropriate local officials and the State highway department in cooperation with each other."

(e) Subsection (b) of section 106 of title 23, United States Code, is amended to read as follows:

"(b) In addition to the approval required under subsection (a) of this section, proposed specifications for projects for construction on (1) the Federal-aid secondary system, except in States where all public roads and highways are under the control and supervision of the State highway department, and (2) the Federal-aid urban system, shall be determined by the State highway department and the appropriate local road officials in cooperation with each other."

(f) Subsection (a) of section 120 of title 23, United States Code, is amended by striking out "and the Federal-aid secondary system" and inserting in lieu thereof a comma and the following: "the Federal-aid secondary system, and the Federal-aid urban system".

(g) Subsection (b) of section 135 of title 23, United States Code, is amended by inserting after "urban areas" the following: "and on the Federal-aid urban system"

PROHIBITION OF IMPOUNDMENT OF APPORTIONMENTS AND DIVERSION OF FUNDS

SEC. 107. Subsections (c) and (d) of section 101 of title 23, United States Code, are amended to read as follows:

"(c) It is the sense of Congress that under existing law no part of any sums authorized to be appropriated for expenditure upon any Federal-aid system which has been apportioned pursuant to the provisions of this title shall be impounded or withheld from obligation, for purposes and projects as provided in this title, by any officer or employee in the executive branch of the Federal Government, except such specific sums as may be determined by the Secretary of the Treasury, after consultation with the Secretary of Transportation, are necessary to be withheld from obligation for specific periods of time to assure that sufficient amounts will be available in the Highway Trust Fund to defray the expenditures which will be required to be made from such fund.

"(d) No funds authorized to be appropriated from the Highway Trust Fund shall be expended by or on behalf of any Federal department, agency, or instrumentality other than the Federal Highway Administration unless funds for such expenditure are identified and included as a line item in an appropriation Act and are to meet obligations of the United States heretofore or hereafter incurred under this title attributable to the construction of Federal-aid highways or highway planning, research, or development, or as otherwise specifically authorized to be appropriated from the Highway Trust Fund by Federal-aid highway legislation."

INCREASED FEDERAL SHARE

SEC. 108. (a) Section 120 of title 23, United States Code, is amended by striking out "50 per centum" each place it appears and inserting in lieu thereof at each such place the following: "70 per centum".

(b) The amendments made by subsection (a) of this section shall take effect with respect to authorizations for appropriations for fiscal years beginning after June 30, 1973.

EMERGENCY RELIEF

SEC. 109. (a) The first sentence of subsection (a) of section 125 of title 23, United States Code, is amended to read as follows: "An emergency fund is authorized for expenditure by the Secretary, subject to the provisions of this section and section 120 of this title, for (1) the repair or reconstruction of highways, roads, and trails which he shall find have suffered serious damage as the result of (A) natural disaster over a wide area such as by floods, hurricanes, tidal waves, earthquakes, severe storms, or landslides, or (B) catastrophic failures from any cause, in any part of the United States, and (2) the repair or reconstruction of bridges which have been permanently closed to all vehicular traffic by the Sate after December 31, 1967, and prior to December 31, 1970, because of imminent danger of collapse due to structural deficiencies or physical deterioration."

(b) Section 120(f) of title 23, United States Code, is amended by adding before the last sentence thereof the following new sentence: "As used in this section with respect to bridges and in section 144 of this title, 'a comparable facility' shall mean a facility which meets the current geometric and construction standards required for the types and volume of traffic which such facility will carry over its design life."

TRAINING PROGRAMS

SEC. 110. Section 140 of title 23, United States Code, is amended by inserting "(a)" immediately before "Prior" and by adding at the end thereof the following new subsection:

"(b) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer highway construction training, including skill improvement programs. Whenever an apportionment is made under subsections 104 (b)(1), (b)(2), (b)(3), (b)(5), and (b)(6) of this title of the sums authorized to be appropriated for expenditure upon the Federal-aid primary and secondary systems, and their extensions within urban areas, the Interstate System, and the Federal-aid urban system for the fiscal years 1972 and 1973, the Secretary shall deduct such sums as he may deem necessary not to exceed $5 million per fiscal year, for administering the provisions of this subsection to be financed from the appropriation for the Federal-aid systems. Such sums so deducted shall remain available until expended. The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), shall not be applicable to contracts and agreements made under the authority herein granted to the Secretary."

URBAN HIGHWAY PUBLIC TRANSPORTATION

SEC. 111. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 142. Urban highway public transportation

"(a) To encourage the development, improvement, and use of public mass transportation systems operating motor vehicles on highways, other than on rails, for the transportation of passengers (hereinafter in this section referred to as 'buses') within urbanized areas so as to increase the traffic capacity of the Federal-aid systems, sums apportioned in accordance with paragraphs (3), (5), and (6) of subsection (b) of section 104 of this title shall be available to finance the Federal share of the costs of projects for the construction of exclusive or preferential bus lanes, highway traffic control devices, bus passenger loading areas and facilities, including shelters, and fringe and transportation corridor parking facilities to serve bus and other public mass transportation passengers.

"(b) The establishment of routes and schedules of such public mass transportation systems shall be based upon a continuing comprehensive transportation planning process carried on in accordance with section 134 of title 23, United States Code.

"(c) For all purposes of this title, a project authorized by subsection (a) of this section shall be deemed to be a highway project, and, except as provided in subsection (d) of this section, the Federal share payable on account of such project shall be that provided in section 120 of this title.

"(d) No project authorized by this section, other than a project for fringe or transportation corridor parking facilities, shall be approved unless—

"(1) such project (A) will avoid the construction of a highway project under this title which increases automobile traffic capacity, (B) will provide a capacity for the movement of persons at least equal to that which would be provided by the avoided highway project, and (C) will not exceed in the amount of the Federal share, the Federal share of the cost of the avoided highway project; or

"(2) no other feasible or prudent highway

project can provide the additional capacity for the movement of persons by motor vehicles on highways (other than on rails) provided by this project.

"(e) No project authorized by this section shall be approved unless the Secretary of Transportation has received assurances satisfactory to him from the State that public mass transportation systems will have adequate capability to fully utilize the proposed project."

(b) The analysis of chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"142. Urban highway public transportation."

TERRITORIAL HIGHWAY PROGRAM

SEC. 112. (a) Chapter 2 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 215. Territorial highway program

"(a) Recognizing the mutual benefits that will accrue to the Virgin Islands, Guam, and American Samoa, and to the United States from the improvement of highways in such territories of the United States, the Secretary is authorized to assist each such territorial government in a program for the construction and improvement of a system of arterial highways, and necessary interisland connectors designated by the Governor of such territory and approved by the Secretary. Federal financial assistance shall be granted under this subsection to such territories upon the basis of a Federal contribution of 70 per centum of the cost of any project.

"(b) In order to establish a long-range highway development program, the Secretary is authorized to provide technical assistance for the establishment of an appropriate agency to administer on a continuing basis highway planning, design, construction and maintenance operations, the development of a system of arterial and collector highways, including necessary interisland connectors, and the establishment of advance acquisition of right-of-way and relocation assistance programs.

"(c) No part of the appropriations authorized under this section shall be available for obligation or expenditure with respect to any territory until the Governor enters into an agreement with the Secretary providing that the government of such territory (1) will design and construct a system of arterial and collector highways, including necessary interisland connectors built in accordance with standards approved by the Secretary; (2) will not impose any toll, or permit any such toll to be charged, for use by vehicles or persons of any portion of the facilities constructed or operated under the provisions of this section; (3) will provide for the maintenance of such facilities in a condition to adequately serve the needs of present and future traffic; (4) will implement standards for traffic operations and uniform traffic control devices which are approved by the Secretary.

"(d) (1) Three per centum of the sums authorized to be appropriated for each fiscal year for carrying out subsection (a) of this section shall be available for expenditure only for engineering and economic surveys and investigations, for the planning of future highway programs and the financing thereof, for studies of the economy, safety, and convenience of highway usage and the desirable regulation and equitable taxation thereof, and for research and development, necessary in connection with the planning, design, and maintenance of the highway system, and the regulation and taxation of their use.

"(2) In addition to the percentage provided in paragraph (1) of this subsection, not to exceed 2 per centum of sums authorized to be appropriated for each fiscal year for carrying out subsection (a) of this section may be expended upon request of the Governor and with the approval of the Secretary for the purposes enumerated in paragraph (1) of this subsection.

"(e) None of the funds authorized to be appropriated for carrying out this section shall be obligated or expended for maintenance of the highway system.

"(f) The provisions of chapters 1 and 5 of this title that are applicable to Federal-aid primary highway funds, other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section."

(b) The analysis of chapter 2 of title 23, United States Code, is amended by adding at the end thereof the following:

"215. Territories highway development program."

(c) There are hereby authorized to be appropriated for carrying out subsection (a) of section 215 of title 23, United States Code, out of any sums in the Treasury not otherwise appropriated—

(1) not to exceed $2,000,000 per fiscal year for the Virgin Islands for the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973.

(2) not to exceed $2,000,000 per fiscal year for Guam for the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973.

(3) not to exceed $500,000 per fiscal year for American Samoa for the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973.

(d) Sums authorized to be appropriated for the fiscal year ending June 30, 1971, shall be available for obligation immediately upon enactment of this section in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code. Sums authorized to be appropriated for the fiscal year ending June 30, 1972, and the fiscal year ending June 30, 1973, shall be available for obligation at the beginning of the fiscal year for which authorized in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code.

DARIEN GAP HIGHWAY

SEC. 113. (a) Chapter 2 of title 23, United States Code, is further amended by adding at the end thereof the following new section:

"§ 216. Darien Gap Highway

"(a) The United States shall cooperate with the Government of the Republic of Panama and with the Government of Colombia in the construction of approximately two hundred and fifty miles of highway in such countries in the location known as the 'Darien Gap' to connect the Inter-American Highway authorized by section 212 of this title with the Pan American Highway System of South America. Such highway shall be known as the 'Darien Gap Highway'. Funds authorized by this section shall be obligated and expended subject to the same terms, conditions, and requirements with respect to the Darien Gap Highway as are funds authorized for the Inter-American Highway by subsection (a) of section 212 of this title.

"(b) The construction authorized by this section shall be under the administration of the Secretary, who shall consult with the appropriate officials of the Department of State with respect to matters involving the foreign relations of this Government, and such negotiations with the Governments of the Republic of Panama and Colombia as may be required to carry out the purposes of this section shall be conducted through, or authorized by, the Department of State.

"(c) The provisions of this section shall not create nor authorize the creation of any obligations on the part of the Government of the United States with respect to any expenditures for highway survey or construction heretofore or hereafter undertaken in Panama or Colombia, other than the expenditures authorized by the provision of this section.

"(d) Appropriations made pursuant to any authorization for the Darien Gap Highway shall be available for expenditure by the Secretary for necessary administrative and engineering expenses in connection with the Darien Gap Highway program.

"(e) For the purposes of this section the term 'construction' does not include any costs of rights-of-way, relocation assistance, or the elimination of hazards of railway grade crossings."

(b) The analysis of chapter 2 of title 23, United States Code, is hereby amended by adding at the end thereof the following:

"216. Darien Gap Highway."

(c) There is hereby authorized to be appropriated not to exceed $100,000,000, to remain available until expended to enable the Secretary of Transportation to carry out section 216 of title 23, United States Code.

ADMINISTRATION

SEC. 114. (a) Subsection (a) of section 303 of title 23, United States Code, is amended to read as follows:

"(a) (1) In addition to the Administrator of the Federal Highway Administration authorized by section 3(e) of the Department of Transportation Act, there shall be a Deputy Federal Highway Administrator appointed by the Secretary of Transportation, with the approval of the President. The Deputy Federal Highway Administrator shall perform such duties as the Federal Highway Administrator shall prescribe. There shall also be an Assistant Federal Highway Administrator who shall be the chief engineer of the Administration and shall be appointed, with the approval of the President, by the Secretary of Transportation under the classified civil service and who shall perform such functions, powers, and duties as the Federal Highway Administrator shall prescribe.

"(2) The Administrator of the Federal Highway Administration shall be compensated at the annual rate of basic pay of level II of the Executive Schedule in section 5313 of title 5, United States Code. The Deputy Federal Highway Administrator shall be compensated at the annual rate of basic pay of level IV of the Executive Schedule in section 5315 of title 5, United States Code. The Assistant Federal Highway Administrator shall be compensated at the annual rate of basic pay of level V of the Executive Schedule in section 5316 of title 5, United States Code."

(b) All provisions of law enacted before the date of enactment of this Act which are inconsistent with the amendment made by subsection (a) of this section are hereby repealed to the extent of such inconsistency.

(c) The President may authorize any person who immediately before the date of enactment of this Act held the office of Director of Public Roads to act as Deputy Administrator of the Federal Highway Administration created by the amendment made by subsection (a) of this section until the first Deputy Administrator is appointed in accordance with such amendment. The President may authorize any person acting as Deputy Administrator in accordance with this subsection to receive compensation at the rate authorized for the Office of Deputy Administrator. Such compensation, if authorized, shall be in lieu of, and not in addition to, any other compensation from the United States to which such person may be entitled.

TRAINING AND RESEARCH FELLOWSHIPS

SEC. 115. (a) Chapter 3 of title 23 of the United States Code is amended by adding at the end thereof the following new section:

"§ 321. National Highway Institute

"(a) The Secretary is authorized and directed to establish and operate in the Fed-

eral Highway Administration a National Highway Institute hereafter referred to as the 'Institute'. The Institute shall develop and administer in cooperation with the State highway departments, training programs of instruction for Federal Highway Administration and State and local highway department employees engaged or to be engaged in Federal-aid highway work. Such programs may include, but not be limited to, courses in modern developments, techniques, and procedures, relating to highway planning, environmental factors, acquisition of rights-of-way, engineering, construction, maintenance, contract administration, and inspection. The Secretary shall administer all authority vested in him by this title or by any other provision of law for the development and conduct of educational and training programs relating to highways through the Institute. Sums authorized to be deducted for administrative purposes by subsection (a) of section 104 of this title shall be available for carrying out this subsection.

"(b) Not to exceed one-half of 1 per centum of all funds apportioned for any fiscal year beginning after June 30, 1970, to any State under paragraphs (1), (2), (3), and (6) of section 104(b) of this title shall be available for expenditure by the State highway department, subject to approval by the Secretary, for payment of not to exceed 70 per centum of the cost of tuition and direct educational expenses (but not travel, subsistence, or salaries) in connection with the education and training of State and local highway department employees as provided in this section.

"(c) Education and training of Federal, State, and local highway employees authorized by this section may be provided by the Secretary, or, in the case where such education and training is to be paid for under subsection (b) of this section, by the State, subject to the approval of the Secretary, through grants and contracts with public and private agencies, institutions, and individuals."

(b) The analysis of chapter 3 of title 23 of the United States Code is amended by adding at the end thereof:

"321. National Highway Institute."

(c) Section 307(a) of title 23 of the United States Code is amended by inserting immediately after the period at the end of the third sentence thereof the following new sentence: "The Secretary is also authorized, acting independently or in cooperation with other Federal departments, agencies, or instrumentalities, to make grants for research fellowships for any purpose for which research is otherwise authorized by this section."

BRIDGES ON FEDERAL DAMS

SEC. 116. (a) Section 320(d) of title 23 of the United States Code is amended by striking out "$13,000,000" and inserting in lieu thereof "$16,761,000".

(b) All sums appropriated under authority of the increased authorization of $3,761,000 established by the amendment made by subsection (a) of this section shall be available for expenditure only in connection with the construction of a bridge across Markland Dam on the Ohio River near Markland, Indiana, and Warsaw Kentucky. No such sums shall be appropriated until all applicable requirements of section 320 of title 23 of the United States Code have been complied with by the appropriate Federal agency, the Secretary of Transportation, and the States of Kentucky and Indiana.

CONSTRUCTION OF REPLACEMENT HOUSING

SEC. 117. (a) Sections 510 and 511 of title 23, United States Code including all references thereto are hereby renumbered as sections 511 and 512 respectively.

(b) Chapter 5 of title 23, United States Code, is amended by inserting immediately after section 509 the following new section:

§ 510. Construction of replacement housing

"(a) The Secretary may approve as a part of the cost of construction of any project on any Federal-aid system the cost of (A) constructing new housing, (B) acquiring existing housing, (C) rehabilitating existing housing, and (D) relocating existing housing, as replacement housing for individuals and families where a proposed project on the Federal-aid system cannot proceed to actual construction because replacement housing is not available and cannot otherwise be made available as required by section 502 of this title. For the purposes of this subsection the term 'housing' includes all appurtenances thereto.

"(b) State highway departments shall, wherever practicable, utilize the services of State or local governmental housing agencies in carrying out this section."

(c) The analysis of chapter 5 of title 28, United States Code, is amended by adding after

"509. Relocation assistance programs on Federal highway projects."

the following:

"510. Construction of replacement housing."

(d) The definition of the term "construction" in section 101(a) of title 23, United States Code, is amended to read as follows:

"The term 'construction' means the supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, and mapping (including establishment of temporary and permanent geodetic markers in accordance with specifications of the Coast and Geodetic Survey in the Department of Commerce), acquisition of rights-of-way, relocation assistance, elimination of hazards of railway grade crossings, acquisition of replacement housing sites, and acquisition, and rehabilitation, relocation, and construction of replacement housing."

BRIDGE ALTERATION PROGRESS PAYMENTS

SEC. 118. Section 7 of the Act of June 21, 1940 (54 Stat. 497), as amended (33 U.S.C. 517) is amended as follows:

(1) In the first sentence strike all after "Following" to and including "Chief of Engineers" and insert in lieu thereof "service of the order requiring alteration of the bridge, the Secretary of Transportation".

(2) In the second sentence insert "of Transportation" between "Secretary" and "may".

(3) In the third sentence strike out the last word and insert in lieu thereof "Transportation".

ALASKA HIGHWAY

SEC. 119. (a) The President, acting through the Secretaries of State and Transportation, is authorized to undertake negotiations with the Government of Canada for the purpose of entering into a suitable agreement authorizing paving and reconstructing the Alaska Highway from Dawson Creek, Canada (including a connecting highway to Haines, Alaska), to the Alaska border, including, but not limited to, necessary highway realinement.

(b) The President shall report to Congress not later than one year after the date of enactment of this section the results of his negotiations under this section.

EFFECTIVE DATE OF RELOCATION PROVISIONS

SEC. 120. Section 37 of the Federal-Aid Highway Act of 1968 is amended to read as follows:

"EFFECTIVE DATE

"SEC. 37. (a) Except as otherwise provided in subsection (b) of this section, this Act and the amendments made by this Act shall take effect on the date of its enactment, except that until July 1, 1970, sections 502, 505, 506, 507, and 508 of title 23, United States Code, as added by this Act, shall be applicable to a State only to the extent that such State is able under its laws to comply with such sections. Except as otherwise provided in subsection (b) of this section, after July 1, 1970, such sections shall be completely applicable to all States. Section 133 of title 23, United States Code, shall not apply to any State if sections 502, 505, 506, 507, and 508 of title 23, United States Code, are applicable in that State, and effective July 1, 1970, such section 133 is repealed, except as otherwise provided in subsection (b) of this section.

"(b) In the case of any State (1) which is required to amend its constitution to comply with sections 502, 505, 506, 507, and 508 of title 23, United States Code, and (2) which cannot submit the required constitutional amendment for ratification prior to July 1, 1970, the date of July 1, 1970, contained in subsection (a) of this section shall be extended to July 1, 1972."

FUTURE FEDERAL-AID HIGHWAY PROGRAM

SEC. 121. (a) The Secretary of Transportation shall develop and include in the report to Congress required to be submitted in January 1972, by section 3 of the Act of August 28, 1965 (79 Stat. 578; Public Law 89–139), specific recommendations for the functional realinement of the Federal-aid systems. These recommendations shall be based on the functional classification study made in cooperation with the State highway departments and local governments as required by the Federal-Aid Highway Act of 1968 and submitted to the Congress in 1970, and the functional classification study now underway of the Federal-aid systems in 1990.

(b) As a part of the future highway needs report to be submitted to Congress in January 1972, the Secretary shall also make recommendations to the Congress for a continuing Federal-aid highway program for the period 1976 to 1990. The needs estimates to be used in developing such programs shall be in conformance with the functional classification studies referred to in subsection (a) of this section and the recommendations for the functional realinement required by such subsection.

(c) The recommendations required by subsections (a) and (b) of this section shall be determined on the basis of studies now being conducted by the Secretary in cooperation with the State highway departments and local governments, and, in urban areas of more than fifty thousand population, utilizing the cooperative continuing comprehensive transportation planning process conducted in accordance with section 134 of title 23, United States Code. The highway needs estimates prepared by the States in connection with this report to Congress shall be submitted to Congress by the Secretary, together with his recommendations.

(d) As a part of the future highway needs report to be submitted to Congress in January 1972, the Secretary shall report to Congress the Federal-aid urban system as designated, and the cost of its construction.

HIGHWAY BEAUTIFICATION AUTHORIZATIONS

SEC. 122. (a) Section 131(m) of title 23, United States Code, is amended to read as follows:

"(m) There is authorized to be appropriated to carry out the provisions of this section, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for the fiscal year ending June 30, 1966, not to exceed $20,000,000 for the fiscal year ending June 30, 1967, not to exceed $2,000,000 for the fiscal year ending June 30, 1970, not to exceed $27,000,000 for the fiscal year ending June 30, 1971, not to exceed $20,500,000 for the fiscal year ending June 30, 1972, and not to exceed $50,000,000 for the fiscal year ending June 30, 1973. The provisions of this chapter relating to the obligation, period of availability and expenditure of Federal-aid primary highway funds shall apply to the funds author-

ized to be appropriated to carry out this section after June 30, 1967."

(b) Section 136(m) of title 23, United States Code, is amended to read as follows:

"(m) There is authorized to be appropriated to carry out this section, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for the fiscal year ending June 30, 1966, not to exceed $20,000,000 for the fiscal year ending June 30, 1967, not to exceed $3,000,000 for the fiscal year ending June 30, 1970, not to exceed $3,000,000 for the fiscal year ending June 30, 1971, not to exceed $3,000,000 for the fiscal year ending June 30, 1972, and not to exceed $5,000,000 for the fiscal year ending June 30, 1973. The provisions of this chapter relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967."

HIGHWAY BEAUTIFICATION COMMISSION

SEC. 123. (a) There is hereby established a commission to be known as the Commission on Highway Beautification, hereinafter referred to as the "Commission".

(b) The Commission shall be comprised of eleven members as follows:

(1) two majority and two minority members of the Senate Committee on Public Works to be appointed by the President of the Senate;

(2) two majority and two minority members of the House Committee on Public Works to be appointed by the Speaker of the House of Representatives;

(3) three persons to be appointed by the President of the United States from among persons who are not officers or employees of the United States.

(c) The Chairman shall be elected from among the members of the Commission by a majority vote of such members. Any vacancy which may occur on the Commission shall not affect its powers or functions but shall be filled in the same manner in which the original appointment was made.

(d) The organization meeting of the Commission shall be held at such time and place as may be specified in a call issued jointly by the senior member appointed by the President of the Senate and the senior member appointed by the Speaker of the House of Representatives.

(e) Six members of the Commission shall constitute a quorum, but a smaller number, as determined by the Commission, may conduct hearings.

(f) Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(g) Members of the Commission who are not Members of Congress or officers or employees in the executive branch shall each receive $100 per diem when engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

(h) The Commission shall (1) study existing statutes and regulations governing the control of outdoor advertising and junkyards in areas adjacent to the Federal-aid highway system; (2) review the policies and practices of the Federal and State agencies charged with administrative jurisdiction over such highways insofar as such policies and practices relate to governing the control of outdoor advertising and junkyards; (3) compile data necessary to understand and determine the requirements for such control which may now exist or are likely to exist within the foreseeable future; (4) study problems relating to the control of on-premise outdoor advertising signs, promotional signs, directional signs, and signs providing information that is essential to the motoring public; (5) study methods of financing and possible sources of Federal funds, including use of the Highway Trust Fund, to carry out a highway beautification program; and (6) recommend such modifications or additions to existing laws, regulations, policies, practices, and demonstration programs as will, in the judgment of the Commission, achieve a workable and effective highway beautification program and best serve the public interest.

(i) The Commission shall, not later than one year after the funding of this section submit to the President and the Congress its final report. It shall cease to exist six months after submission of said report. All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the Archives of the United States.

(j) The Chairman of the Commission shall request the head of each Federal department or independent agency which has an interest in or responsibility with respect to the control of outdoor advertising and of junkyards to appoint, and the head of such department or agency shall appoint, a liaison officer who shall work closely with the Commission and its staff in matters pertaining to this section.

(k) In carrying out its duties the Commission shall seek the advice of various groups interested in the problems relating to the control of outdoor advertising and junkyards including, but not limited to, State and local governments, public and private organizations working in the fields of environmental protection and conservation, communications media, commercial advertising interests, industry, education, and labor.

(l) The Commission or, on authorization of the Commission, any committee of two or more members may, for the purpose of carrying out the provisions of this section, hold such hearings and sit and act at such times and places as the Commission or such authorized committee may deem advisable. Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued only on the authority of the Commission and shall be served by anyone designated by the Chairman of the Commission.

(m) The Commission is authorized to secure from any department, agency, or individual instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this section and each such department, agency, and instrumentality is authorized and directed to furnish such information to the Commission upon request made by the Chairman.

(n) There are hereby authorized to be appropriated such sums, but not more than $200,000, as may be necessary to carry out the provisions of this section and such moneys as may be appropriated shall be available to the Commission until expended.

(o) The Commission is authorized to appoint and fix the compensation of a staff director, and such additional personnel as may be necessary to enable it to carry out its functions. The Director and personnel may be appointed without regard to provisions of title 5, United States Code, covering appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Any Federal employees subject to the civil service laws and regulations who may be employed by the Commission shall retain civil service status without interruption or loss of status or privilege. In no event shall the staff director or any other employee receive as compensation an amount in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code. In addition, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed $100 per diem for individuals.

(p) The Commission is authorized to enter into contracts or agreements for studies and surveys with public and private organizations and, if necessary, to transfer funds to Federal agencies from sums appropriated pursuant to this section to carry out such of its duties as the Commission determines can best be carried out in that manner.

ELIMINATION OF SEGMENTS OF INTERSTATE SYSTEM NOT TO BE CONSTRUCTED

SEC. 124. Section 103 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) The Secretary, on July 1, 1973, shall remove from designation as a part of the Interstate System every segment of such System for which a State has not established a schedule for the expenditure of funds for completion of construction of such segment within the period of availability of funds authorized to be appropriated for completion of the Interstate System, and with respect to which the State has not provided the Secretary with assurances satisfactory to him that such schedule will be met. Nothing in the preceding sentence shall be construed to prohibit the substitution prior to July 1, 1973, of alternative segments of the Interstate System which will meet the requirements of this title. Any segment of the Interstate System with respect to which a State has not submitted plans, specifications, and estimates for approval by the Secretary by July 1, 1975, shall be removed from designation as a part of the Interstate System. No segment of the Interstate System removed under authority of the preceding sentence shall thereafter be designated as a part of the Interstate System."

URBAN AREA TRAFFIC OPERATIONS IMPROVEMENT PROGRAMS

SEC. 125. Subsection (b) of section 135 of title 23, United States Code, is amended by striking out ", if such project" and all that follows down through and including the period at the end of such subsection and inserting in lieu thereof a period and the following: "If such project is located in an urban area of more than fifty thousand population, such project shall be based on a continuing comprehensive transportation planning process carried on in accordance with section 134 of this title."

AUTHORITY FOR DEMONSTRATION PROJECTS

SEC. 126. Subsection (c)(3) of section 307 of title 23, United States Code, is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "including demonstration projects in connection with such purposes."

ECONOMIC GROWTH CENTER DEVELOPMENT HIGHWAYS

SEC. 127. (a) Chapter 1 of title 23, United States Code, is further amended by adding after section 142 thereof a new section as follows:

"§ 143. Economic growth center development highways

"(a) In order to demonstrate the role that highways can play to promote the desirable development of the Nation's natural resources, to revitalize and diversify the economy of rural areas and smaller communities, to enhance and disperse industrial growth, to encourage more balanced population patterns, to check, and, where possible, to reverse current migratory trends from rural areas and smaller communities, and to improve living conditions and the quality of the environment, the Secretary is authorized to make grants to States for demonstration projects for the construction, reconstruction,

and improvement of development highways on the Federal-aid primary system to serve and promote the development of economic growth centers and surrounding areas, encourage the location of business and industry in rural areas, facilitate the mobility of labor in sparsely populated areas, and provide rural citizens with improved highways to such public and private services as health care, recreation, employment, education, and cultural activities, or otherwise encourage the social and economic development of rural communities, and for planning, surveys, and investigations in connection therewith.

"(b) Each Governor may transmit to the Secretary his recommendations for (1) the selection of economic growth centers within the State, (2) priorities for the construction of development highways on the Federal-aid primary system to serve such centers, and (3) such other information as may be required by the Secretary, for his consideration in approving the selection of economic growth centers for demonstration projects.

"(c) Upon the application of the State highway department of any State in which an economic growth center approved by the Secretary as eligible for a demonstration project is located, the Secretary is authorized to pay up to 100 per centum of the cost of engineering and economic surveys or other investigations necessary for the planning and design of development highways on the Federal-aid primary system needed to provide appropriate access to such growth center, including publicly owned airport facilities and public ports for water transportation which may be established to serve it, in order to carry out the purposes of this section.

"(d) Except as otherwise provided in this section, all of the provisions of this title applicable to Federal-aid primary highways except those which the Secretary determines are inconsistent with this section shall apply to development highways and to funds authorized to carry out this section. For the purposes of sections 105, 106, and 118 of this title, funds authorized to carry out this section shall be deemed to be apportioned on January 1 next preceding the commencement of the fiscal year for which authorized. No State shall receive in any fiscal year more than 15 per centum of the funds authorized to carry out this section for such fiscal year.

"(e) The Federal share of the cost of any project for construction, reconstruction, or improvement of a development highway under this section shall be increased by not to exceed an additional 20 per centum of the cost of such project, except that in no case shall the Federal share exceed 95 per centum of the cost of such project.

"(f)(1) Except in the case of a project subject to paragraph (2) of this subsection, no project shall be approved by the Secretary under this section until he has determined that such project will promote the aims and purposes set forth in subsection (a) of this section and that the economic growth center to be benefited will meet such criteria as he, after consultation with the Secretary of Commerce, deems necessary, including, but not limited to, the following: (1) growth centers shall be geographically and economically capable of contributing significantly to the development of the area, and (2) growth centers shall have a population not in excess of one hundred thousand according to the latest available Federal census. In approving projects the Secretary shall give preference to those areas offering the most potential for future economic growth.

"(2) In the case of a project proposed to be conducted within the Appalachian region as defined in section 403 of the Appalachian Regional Development Act of 1965, no project shall be approved by the Secretary under this section until he shall have consulted with the Federal Cochairman of the Appalachian Regional Commission. In the case of a project proposed to be conducted within an economic development region as defined in title V of the Public Works and Economic Development Act of 1965, no project shall be approved by the Secretary under this section until he shall have consulted with the Federal Cochairman for such region and the Secretary of Commerce. In consultation with the appropriate official, the Secretary shall establish criteria for the selection of growth centers eligible for assistance under this section such that the aims and purposes set forth in subsection (a) of this section will be promoted. Such criteria shall include, but not be limited to, the following: (1) growth centers shall be geographically and economically capable of contributing significantly to the development of the area, (2) growth centers shall have a population not in excess of one hundred thousand persons according to the latest available Federal census, and (3) the selection of such growth centers within the Appalachian region and the economic development regions shall take into account the purposes of the Appalachian Regional Development Act of 1965 and the Public Works and Economic Development Act of 1965. In approving projects the Secretary shall give preference to those areas offering the most potential for future economic growth and he shall make arrangements for close coordination throughout the development and implementation of the project with the Federal Cochairman of the Appalachian Regional Commission, or with the appropriate Federal Cochairman of an economic development region, and the Secretary of Commerce, as the case may be.

"(g) There is authorized to be appropriated out of the Highway Trust Fund not to exceed $50,000,000 for the fiscal year ending June 30, 1972, and not to exceed $50,000,000 for the fiscal year ending June 30, 1973."

(b) The analysis of chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"143. Economic growth center development highways."

FEDERAL SHARE OF ENGINEERING COSTS

SEC. 128. Section 120 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) At the request of any State, the Secretary may from time to time enter into agreements with such State to reimburse the State for the Federal share of the costs of preliminary and construction engineering at an agreed percentage of actual construction costs for each project, in lieu of the actual engineering costs for such project. The Secretary shall annually review each such agreement to insure that such percentage reasonably represents the engineering costs actually incurred by such State."

DISTRICT OF COLUMBIA

SEC. 129. (a) In the case of the following routes on the Interstate System in the District of Columbia authorized for construction by section 23 of the Federal-aid Highway Act of 1968, the government of the District of Columbia and the Secretary of Transportation shall restudy such projects and report to Congress not later than 12 months after the date of enactment of this subsection their recommendations with respect to such projects, including any alternative routes or plans:

(1) East Leg of the Inner Loop, beginning at Bladensburg Road, I–295 (section C4.1 to C6),

(2) North Central and Northeast Freeways, I–95 (section C7 to C13) and I–70S (section C1 to C2).

(b) The government of the District of Columbia and the Secretary of Transportation shall study the project for the North Leg of the Inner Loop from point A3.3 on I–66 to point C7 on I–95, as designated in the "1968 Estimate of the Cost of Completion of the National System of Interstate and Defense Highways in the District of Columbia", and shall report to Congress not later than 12 months after the date of enactment of this subsection their recommendations with respect to such project including any recommended alternative routes or plans.

INDIAN RESERVATION ROADS AND BRIDGES

SEC. 130. The definition of the term "Indian reservation roads and bridges" in section 101(a) of title 23, United States Code, is amended to read as follows:

"The term 'Indian reservation roads and bridges' means roads and bridges that are located within or provide access to an Indian reservation or Indian trust land or restricted Indian land which is not subject to fee title alienation without the approval of the Federal Government on which Indians reside whom the Secretary of the Interior has determined to be eligible for services generally available to Indians under Federal laws specifically applicable to Indians."

RICHMOND-PETERSBURG TURNPIKE

SEC. 131. The Secretary of Transportation is authorized to amend any agreement heretofore entered into under the provisions of section 129(d) of title 23, United States Code, in order to permit the continuation of tolls on the existing Richmond-Petersburg Turnpike to finance the construction within the existing termini of such turnpike of two lanes thereon in addition to the lanes in existence on the date of enactment of this section necessary to meet traffic and highway safety requirements. Any amended agreement entered into for such purposes shall provide assurances that the existing turnpike (including the additional lanes) shall become free to the public upon the collection of tolls sufficient to liquidate all construction costs, and the costs of maintenance, operation, and debt service during the period of toll collections to liquidate such construction costs, but in no event shall tolls be collected after date of maturity of those bonds outstanding on the date of enactment of this section issued for consideration of such turnpike having the latest maturity date.

AIRPORT AND WATERPORT ACCESS

SEC. 132. Section 105 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) In preparing programs to submit in accordance with subsection (a) of this section, the State highway departments shall give consideration to projects providing direct and convenient public access to public airports and public ports for water transportation, and in approving such programs the Secretary shall give consideration to such projects."

FEDERAL PARTICIPATION IN THE IMPROVEMENT OF TOLL ROADS

SEC. 133. Section 129 of title 23, United States Code, is amended by redesignating subsection (e) as subsection (f), including any reference thereto, and by inserting immediately before such redesignated subsection (f) the following:

"(e) Notwithstanding the provisions of subsection (b) of this section, the Secretary may permit Federal participation in the reconstruction and improvement of any toll road providing for only two lanes of traffic, which is designated part of the Interstate System on the date of enactment of this subsection as he may find necessary to bring such two lane toll road to the geometric and construction standards for the Interstate System in order to provide for the safe use of such highway as part of the Interstate System and to facilitate the removal of tolls therefrom. Federal participation in such reconstruction and improvement shall be on the same basis and in the same manner as

in the construction of free Interstate System highways under this chapter. No Federal participation shall be permitted pursuant to this subsection except on two lane toll roads which were designated as a part of the Interstate System on or before June 30, 1968. Before Federal participation under this subsection, the State highway department and the toll road authority involved shall enter into an agreement with the Secretary which shall provide that—

"(1) no indebtedness which is to be liquidated by the collection of tolls (in addition to indebtedness in existence on date of enactment in this subsection) shall be incurred after the date of enactment of this subsection.

"(2) all tolls received from the operation of the toll road, less the actual cost of such operation and maintenance, shall be applied to the repayment of only those bonds outstanding on the date of enactment of this subsection constituting a valid lien against such toll road and its maintenance and operation and debt service during the period of toll collection;

"(3) the toll road shall become free to the public upon collection of tolls sufficient to liquidate all such bonds."

FRINGE AND CORRIDOR PARKING FACILITIES

SEC. 134. (a) Section 137 of title 23, United States Code, is amended to read as follows:

"§ 137. Fringe and corridor parking facilities

"(a) The Secretary may approve as a project on the Federal-aid urban system the acquisition of land adjacent to the right-of-way outside a central business district, as defined by the Secretary, and the construction of publicly owned parking facilities thereon or within such right-of-way, including the use of the air space above and below the established grade line of the highway pavement, to serve an urban area of fifty thousand population or more. Such parking facility shall be located and designed in conjunction with existing or planned public transportation facilities. In the event fees are charged for the use of any such facility, the rate thereof shall not be in excess of that required for maintenance and operation (including compensation to any person for operating such facility).

"(b) The Secretary shall not approve any project under this section until—

"(1) he has determined that the State, or the political subdivision thereof, where such project is to be located, or any agency or instrumentality of such State or political subdivision, has the authority and capability of constructing, maintaining, and operating the facility;

"(2) he has entered into an agreement governing the financing, maintenance, and operation of the parking facility with such State, political subdivision, agency, or instrumentality, including necessary requirements to insure that adequate public transportation services will be available to persons using such facility; and

"(3) he has approved design standards for constructing such facility developed in cooperation with the State highway department.

"(c) The term 'parking facilities' for purposes of this section shall include access roads, buildings, structures, equipment, improvements, and interests in lands.

"(d) Nothing in this section, or in any rule or regulation issued under this section, or in any agreement required by this section, shall prohibit (1) any State, political subdivision, or agency or instrumentality thereof, from contracting with any person to operate any parking facility constructed under this section, or (2) any such person from so operating such facility.

"(e) The Secretary shall not approve any project under this section unless he determines that it is based on a continuing comprehensive transportation planning process carried on in accordance with section 134 of this title."

(b) The analysis of chapter 1 of such title is amended by striking out the matter relating to section 137 and inserting in lieu thereof the following:

"137. Fringe and corridor parking facilities."

(c) Section 11 of the Federal-Aid Highway Act of 1968 is hereby repealed.

PUBLIC HEARINGS

SEC. 135. (a) Subsection (a) of section 128 of title 23, United States Code, is amended by adding at the end thereof the following new sentence: "Such certification shall be accompanied by a report which indicates the consideration given to the economic, social, environmental, and other effects of the plan or highway location or design and various alternatives which were raised during the hearing or which were otherwise considered."

(b) Subsection (b) of such section 128 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "and report."

ECONOMIC, SOCIAL, ENVIRONMENTAL, AND OTHER IMPACT

SEC. 136. (a) Section 109(g) of title 23, United States Code, is amended to read as follows:

"(g) The Secretary shall issue within 30 days after the day of enactment of the Federal-aid Highway Act of 1970 guidelines for minimizing possible soil erosion from highway construction. Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines."

(b) Such section 109 is further amended by adding at the end thereof the following:

"(h) Not later than July 1, 1972, the Secretary, after consultation with appropriate Federal and State officials, shall submit to Congress, and not later than 90 days after such submission, promulgate guidelines designed to assure that possible adverse economic, social, and environmental effects relating to any proposed project on any Federal-aid system have been fully considered in developing such project, and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for fast, safe and efficient transportation, public services, and the costs of eliminating or minimizing such adverse effects and the following:

"(1) air, noise, and water pollution;

"(2) destruction or disruption of man-made and natural resources, aesthetic values, community cohesion and the availability of public facilities and services;

"(3) adverse employment effects, and tax and property value losses;

"(4) injurious displacement of people, businesses and farms; and

"(5) disruption of desirable community and regional growth

Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

"(i) The Secretary, after consultation with appropriate Federal, State, and local officials, shall develop and promulgate standards for highway noise levels compatible with different land uses and after July 1, 1972, shall not approve plans and specifications for any proposed project on any Federal-aid system for which location approval has not yet been secured unless he determines that such plans and specifications include adequate measures to implement the appropriate noise level standards.

"(j) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall develop and promulgate guidelines to assure that highways constructed pursuant to this title are consistent with any approved plan for the implementation of any ambient air quality standard for any air quality control region designated pursuant to the Clean Air Act, as amended."

(c) Subsection (b) of section 307 of title 23, United States Code, is amended by adding the following sentence: "The highway research program herein authorized shall also include studies to identify and measure, quantitatively and qualitatively, those factors which relate to economic, social, environmental, and other impacts of highway projects."

INTEREST PAYMENTS FOR REPLACEMENT HOUSING

SEC. 137. Section 506 of title 23, United States Code is amended by redesignating subsection (b) as subsection (c) and inserting a new subsection (b) as follows:

"(b) (1) In addition to the amounts otherwise authorized by this title, the State agency shall make an interest payment to compensate such owner for any increased rate of interest which such owner is required to pay for financing such replacement dwelling.

"(2) This interest payment shall be computed and allowed only if there was an existing mortgage against the dwelling transferred to the State and such mortgage was a valid lien on said premises for at least one year prior to the institution of negotiations for the acquisition of such property, and if the mortgage for the replacement dwelling bears a higher rate of interest than the interest rate on the mortgage of the transferred dwelling; but, in no event shall such interest on the replacement dwelling be greater than the maximum interest allowable under State law.

"(3) The value of the interest payment shall be the difference in the interest rate existing on the balance of any mortgage on a transferred dwelling and the interest rate on the mortgage of the replacement dwelling for the remainder of the term of any such mortgage on such transferred dwelling reduced to discounted present value.

"(4) The discount rate as above provided shall be the maximum rate of interest permitted to be paid on savings deposits by any savings bank within the State pursuant to the rules and regulations of the Federal Deposit Insurance Corporation."

ALASKAN ASSISTANCE

SEC. 138. (a) Subsection (b) of section 7 of the Federal Aid Highway Act of 1966 is amended to read as follows:

"(b) There is hereby authorized to be appropriated for construction of Federal-aid highways of the State of Alaska, out of the Highway Trust Fund and in addition to funds otherwise made available to the State of Alaska under title 23, United States Code, $20,000,000 for each of the fiscal years ending June 30, 1972 and June 30, 1973."

(b) Any right-of-way for roads, roadways, highways, tramways, trails, bridges, and appurtenant structures reserved by section 321(d) of title 48, United States Code (61 Stat. 418, 1947), not utilized by the United States or by the State or territory of Alaska prior to the date of enactment hereof, shall be and hereby is vacated and relinquished by the United States to the end and intent that such reservation shall merge with the fee and be forever extinguished.

FERRY BOATS

SEC. 139. Section 129 of title 23, United States Code, is amended by adding at the end thereof the following:

"(f) Notwithstanding section 301 of this title, the Secretary may permit Federal participation under this title in the construction of ferry boats, whether toll or free, subject to the following conditions:

"(1) It is not feasible to build a bridge, tunnel, combination thereof, or other normal highway structure in lieu of the use of such ferry.

"(2) The operation of the ferry shall be

on a route which has been approved under section 103 (b) or (c) of this title as a part of one of the Federal-aid systems within the State and has not been designated as a route on the Interstate System.

"(3) Such ferry shall be publicly owned and operated.

"(4) The operating authority and the amount of fares charged for passage on such ferry shall be under the control of the State, and all revenues derived therefrom shall be applied to actual and necessary costs of operation, maintenance, and repair.

"(5) Such ferry shall be operated only within the State or between adjoining States, and no part of its operation shall be in any foreign or international waters.

"(6) No such ferry shall be sold, leased, or otherwise disposed of without the approval of the Secretary. The Federal share of any proceeds from such a disposition shall be credited to the unprogramed balance of Federal-aid highway funds of the same class last apportioned to such State. Any amount so credited shall be in addition to all other funds then apportioned to such State and available for expenditure in accordance with the provisions of this title."

FUTURE ADDITIONS TO INTERSTATE SYSTEM

SEC. 140. The existing language of section 139 of title 23, United States Code, shall be designated as subsection (a) and a new subsection (b) added as follows:

"(b) Whenever the Secretary determines that a highway on the Federal-aid primary system would be a logical addition or connection to the Interstate System and would qualify for designation as a route on that system in the same manner as set forth in paragraph 1 of subsection (d) of section 103 of this title, he may upon the affirmative recommendation of the State or States involved designate such highway as a future part of the Interstate System. Such designation shall be made only upon the written agreement of the State or States involved that such highway will be constructed to meet all the standards of a highway on the Interstate System within twelve years of the date of the agreement between the Secretary and the State or States involved. The mileage of any highway designated as a future part of the Interstate System under this subsection shall not be charged against the limitations established by the first sentence of section 103(d) of this title. The designation of a highway as a future part of the Interstate System under this subsection shall create no Federal financial responsibility with respect to such highway except that Federal-aid highway funds otherwise available to the State or States involved for the construction of Federal-aid primary system highways may be used for the reconstruction of a highway designated as a route on the Interstate System under this subsection. In the event that the State or States involved have not substantially completed the construction of any highway designated under this subsection within the time provided for in the agreement between the Secretary and State or States involved, the Secretary shall remove the designation of such highway as a future part of the Interstate System. Removal of such designation as result of failure to comply with the agreement provided for in this subsection shall in no way prohibit the Secretary from designating such route as part of the Interstate System pursuant to subsection (a) of this section or under any other provision of law providing for addition to the Interstate System. No law, rule, regulation, map, document, or other record of the United States, or of any State or political subdivision thereof, shall refer to any highway under this section, nor shall any such highway be signed or marked, as a highway on the Interstate System until such time as such highway is constructed to the geometric and construction standards for the Interstate System and has been designated as a part of the Interstate System."

DEFINITIONS

SEC. 141. Section 101(a) of title 23, United States Code, is amended as follows:

(1) The definition of the term "forest highway" is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and which is on a Federal-aid system."

(2) The definition of the term "public lands highways" is amended by striking out "means" and inserting in lieu thereof "means those" and by striking out the period at the end of such definition and inserting in lieu thereof a comma and the following: "which are on the Federal-aid systems."

COST REDUCTION

SEC. 142. Section 106 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) In such cases as the Secretary determines advisable, plans, specifications, and estimates for proposed projects on any Federal-aid system shall be accompanied by a value engineering or other cost reduction analysis."

URBAN TRANSPORTATION PLANNING

SEC. 143. (a) Section 134 of title 23, United States Code, is amended by inserting "(a)" at the beginning of the first paragraph thereof and by adding at the end thereof the following:

"No highway project may be constructed in any urban area of fifty thousand population or more unless the responsible public officials of such urban area in which the project is located have been consulted and their views considered with respect to the corridor, the location and the design of the project."

(b) Section 134 of title 23, United States Code, is further amended by adding at the end thereof a new subsection as follows:

"(b) The Secretary may define those contiguous interstate areas of the Nation in which the movement of persons and goods between principal metropolitan areas, cities, and industrial centers has reached, or is expected to reach, a critical volume in relation to the capacity of existing and planned transportation systems to efficiently accommodate present transportation demands and future growth. After consultation with the Governors and responsible local officials of affected States, the Secretary may by regulation designate, for administrative and planning purposes, as a critical transportation region or a critical transportation corridor each of those areas which he determines most urgently require the accelerated development of transportation systems embracing various modes of transport, in accordance with purposes of this section. The Secretary shall immediately notify such Governors and local officials of such designation. The Secretary may, after consultation with the Governors and responsible local officials of the affected States, provide by regulation for the establishment of planning bodies to assist in the development of coordinated transportation planning, including highway planning, to meet the needs of such regions or corridors, composed of representatives of the affected States and metropolitan areas, and may provide assistance including financial assistance to such bodies. There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, not to exceed $500,000 to carry out this subsection."

STUDY OF RELATIONSHIP OF HIGHWAY CONSTRUCTION TO PUBLIC TRANSPORTATION SERVICES

SEC. 144. The Secretary is authorized and directed to undertake a study and analysis of the use of existing highway facilities for highway public transportation service, the need for additional highway facilities or the adjustment of existing facilities to accommodate such service, and the appropriate funding of such additional highway facilities and to report to the Congress his findings and recommendations not later than January 1, 1972.

SAINT CLAIR RIVER BRIDGE

SEC. 145. The amount of Federal Aid Highway funds paid to the State of Michigan for the construction of the bridge and approaches thereto over the Saint Clair River at Port Huron, Michigan, shall, prior to the collection of any tolls thereon be repaid to the Treasurer of the United States. The amount to be repaid shall be deposited to the credit of the appropriation for "Federal Aid Highways (Trust Fund)". Such repayment shall be credited to the unprogrammed balance of Federal Aid Highway funds of the same class last apportioned to the State of Michigan. The amount so credited shall be in addition to all other funds then apportioned to said State and shall be available for expenditure in accordance with the provisions of title 23, United States Code, as amended.

(2) Upon the repayment by the State of Michigan of the Federal-Aid Highway funds received for such bridge project, the bridge and its approaches shall be free of all restrictions with respect to the imposition and collection of tolls or other charges thereon or for the use thereof, contained in (A) title 23, United States Code, or in any regulation or agreement thereunder, and (B) subsection (d) of section 17 of the Act entitled "An Act to authorize the construction of certain bridges and to extend the times for commencing and/or completing the construction of other bridges over the navigable waters of the United States, and for other purposes", approved August 30, 1935, as amended (49 Stat. 1051), or in any regulation or agreement thereunder. Tolls or charges imposed and collected on such bridge or for the use thereof shall not exceed the amount necessary for the proper maintenance, repair, and operation of the bridge and its approaches under economical management.

BALTIMORE-WASHINGTON PARKWAY

SEC. 146. (a) There is authorized to be appropriated to the Secretary of Transportation, out of the Highway Trust Fund, not to exceed $65,000,000 for reconstructing to six lanes the section of the Baltimore-Washington Parkway in the State of Maryland under the jurisdiction of the Secretary of the Interior to the geometric and construction standards for the National System of Interstate and Defense Highways.

(b) No funds authorized by this section shall be expended until the Secretary of Transportation, the Secretary of the Interior, and the State highway department of the State of Maryland shall enter into an agreement that—

(1) upon completion of reconstruction the Secretary of the Interior will convey without monetary consideration such section of such parkway to the State of Maryland, and

(2) the State of Maryland shall put such section of the Parkway on the Federal-aid primary system prior to expenditure of funds authorized by this section, and for such purpose the mileage limitation on such system in such State imposed by section 103(b) of title 23, United States Code, is hereby waived, and such State shall thereafter retain such section on such system.

SEC. 147. The amendments made by sections 117, 120, and 137 of this Act shall not take effect if before the effective date of this Act the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 has been enacted into law.

TITLE II

SHORT TITLE

SEC. 201. This title may be cited as the "Highway Safety Act of 1970".

HIGHWAY SAFETY

SEC. 202. (a) Section 201 of the Highway Safety Act of 1966 (80 Stat. 735) is amended to read as follows:

"SEC. 201. (a) There is hereby established within the Department of Transportation a National Highway Traffic Safety Administration (hereafter in this section referred to as the 'Administration'). The Administration shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the annual rate of basic pay of level III of the Executive Schedule in section 5314 of title 5, United States Code. There shall be a Deputy Administrator of the National Highway Traffic Safety Administration who shall be appointed by the Secretary of Transportation, with the approval of the President, and who shall be compensated at the annual rate of basic pay of level V of the Executive Schedule in section 5316 of title 5, United States Code. The Administrator shall perform such duties as are delegated to him by the Secretary. On all matters pertaining to the design, construction, maintenance, and operation of highways, the Administrator shall consult with the Federal Highway Administrator.

"(b)(1) The Secretary shall carry out through the Federal Highway Administration those provisions of the Highway Safety Act of 1966 (including chapter 4 of title 23, United States Code) for highway safety programs, research, and development relating to highway design, construction and maintenance, traffic control devices, identification and surveillance of accident locations, and highway-related aspects of pedestrian safety.

"(2) The Secretary shall carry out, through the Administration, all other provisions of such Act (including chapter 4 of title 23, United States Code) for highway safety programs, research and development not specifically referred to in paragraph (1) of this subsection.

"(c) The Secretary is authorized to carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (80 Stat. 718) through the Administration and Administrator authorized by this section.

"(d) All provisions of law enacted before the date of enactment of the Highway Safety Act of 1970 which are inconsistent with this section as amended by such Act of 1970 are hereby repealed to the extent of such inconsistency."

(b) The President may authorize any person who immediately before the date of enactment of this Act held the office of Director of the National Highway Safety Bureau to act as Administrator of the National Highway Traffic Safety Administration created by the amendment made by subsection (a) of this section until the first Administrator is appointed in accordance with such amendment. The President may authorize any person serving as Acting Administrator in accordance with this subsection to receive compensation at the rate authorized for the office of Administrator. Such compensation, if authorized, shall be in lieu of, and not in addition to, any other compensation from the United States to which such person may be entitled.

(c) Subsection (c) of section 402 of title 23, United States Code, is amended by striking out beginning in the second sentence thereof "as Congress, by law enacted hereafter," and all that follows down through and including the period at the end of the third sentence thereof and inserting in lieu thereof the following: "75 per centum in the ratio which the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 per centum in the ratio which the public road mileage in each State bears to the total public road mileage in all States. For the purposes of this subsection, a 'public road' means any road under the jurisdiction of and maintained by a public authority and open to public travel. The annual apportionment to each State shall not be less than one-third of 1 per centum of the total apportionment."

(d) The first sentence of subsection (d) of section 402 of title 23, United States Code, is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and except that the aggregate of all expenditures made during any fiscal year by a State and its political subdivisions (exclusive of Federal funds) for carrying out the State highway safety program shall be available for the purpose of crediting such State during such fiscal year for the non-Federal share of the cost of any project under this section without regard to whether such expenditures were actually made in connection with such project."

(e) Section 402 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) Except in the case of those State safety program elements with respect to which uniform standards have been promulgated by the Secretary before December 31, 1970, the Secretary shall not promulgate any other uniform safety standard under this section unless at least 90 days prior to the effective date of such standard he shall have submitted such standard to Congress."

(f) The following sums are hereby authorized to be appropriated:

(1) For carrying out section 402 of title 23, United States Code (relating to highway safety programs) by the National Highway Traffic Safety Administration, $75,000,000 for the fiscal year ending June 30, 1972, and $100,000,000 for the fiscal year ending June 30, 1973, except that two-thirds of all funds authorized and expended under authority of this paragraph for such section 402 in any fiscal year shall be appropriated out of the Highway Trust Fund.

(2) For carrying out section 403 of title 23, United States Code (relating to highway safety research and development), by the National Highway Traffic Safety Administration, $70,000,000 for the fiscal year ending June 30, 1972, and $115 million for the fiscal year ending June 30, 1973, except that two-thirds of all funds authorized and expended under authority of this paragraph for such section 403 in any fiscal year shall be appropriated out of the Highway Trust Fund.

(3) For carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the Federal Highway Administration for each of the fiscal years ending June 30, 1972, and June 30, 1973, $30,000,000 per fiscal year, except that two-thirds of all funds authorized and expended under authority of this paragraph for such section 402 in any fiscal year shall be appropriated out of the Highway Trust Fund.

(4) For carrying out sections 307(a) and 403 of title 23, United States Code (relating to highway safety research and development), by the Federal Highway Administration, for each of the fiscal years ending June 30, 1972, and June 30, 1973, not to exceed $10,000,000 per fiscal year, except that two-thirds of all funds authorized and expended under authority of this paragraph for such sections 307(a) and 403 in any fiscal year shall be appropriated out of the Highway Trust Fund.

(5) Paragraph (10) of section 5 of the Federal-Aid Highway Act of 1968 (relating to authorizations for carrying out section 402 of title 23, United States Code), is hereby repealed.

HIGHWAY SAFETY PROGRAMS

SEC. 203. (a) Section 402(b)(1)(A) of title 23, United States Code, is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "through a State agency which shall have adequate powers, and be suitably equipped and organized to carry out, to the satisfaction of the Secretary, such program."

(b) The amendment made by subsection (a) of this section shall take effect December 31, 1971.

BRIDGE RECONSTRUCTION AND REPLACEMENT

SEC. 204. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 144. Special bridge replacement program

"(a) Congress hereby finds and declares it to be in the vital interest of the Nation that a special bridge replacement program be established to enable the several States to replace bridges over waterways or other topographical barriers when the States and the Secretary finds that the bridge is significantly important and is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence.

"(b) The Secretary in consultation with the States shall (1) inventory all bridges located on any of the Federal-aid systems over waterways and other topographical barriers of the United States; (2) classify them according to their serviceability, safety, and essentiality for public use; and (3) based on that classification, assign each a priority for replacement.

"(c) Whenever any State or States make application to the Secretary for assistance in replacing a bridge which the priority system, established under subsection (b) of this section, shows to be eligible, the Secretary may approve Federal participation in the reconstruction of a comparable facility. In approving projects under this section, the Secretary shall give consideration to those projects which will remove from service bridges which are most in danger of failure and give consideration to the economy of the area involved. Approval of projects and allocation of funds under this section shall be without regard to allocation or apportionment formulas otherwise established under this title.

"(d) The Federal share payable on account of any bridge replacement under this section shall not exceed 75 per centum of the cost thereof.

"(e) For the purpose of carrying out the provisions of this section, there are hereby authorized to be appropriated out of the Highway Trust Fund, $100,000,000 for the fiscal year ending June 30, 1972; and $150,000,000 for the fiscal year ending June 30, 1973, to be available until expended. Such funds shall be available for obligation at the beginning of the fiscal year for which authorized in the same manner and to the same extent as if such funds were apportioned under this chapter.

"(f) Notwithstanding any other provisions of law the General Bridge Act of 1946 (33 U.S.C. 525–533) shall apply to bridges authorized to be reconstructed and bridges constructed to replace unsafe bridges under this section.

"(g) The Secretary shall report annually on projects approved under this section with any recommendations he may have for further improvement in the special bridge replacement program authorized in accordance with this section."

(b) The analysis of chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"144. Special bridge replacement program."

RAIL CROSSINGS

SEC. 205. (a) Chapter 3 of title 23, United States Code, is further amended by adding after section 321 the following new section:

"§ 322. Demonstration project—rail crossings

"(a) The Secretary shall carry out a demonstration project for the elimination of all public ground-level rail-highway crossings along the route of the high-speed ground transportation demonstration projects between Washington, District of Columbia, and Boston, Massachusetts, conducted under

authority of the Act entitled 'An Act to authorize the Secretary of Commerce to undertake research and development in high-speed ground transportation, and for other purposes', approved September 30, 1965 (49 U.S.C. 1631 et seq.).

"(b) The Secretary shall carry out a demonstration project for the elimination or protection of certain public ground-level rail-highway crossings in, or in the vicinity of, Greenwood, South Carolina.

"(c)(1) If the highway involved is on any Federal-aid system, the Federal share of the cost of such work shall be 90 per centum and the railroad's share of such cost shall be 10 per centum

"(2) If the highway involved is not on any Federal-aid system, the Federal share of the cost of such work shall be 80 per centum and the railroad's share of such cost shall be 10 per centum and the remaining 10 per centum of such cost shall be paid by the State in which such crossing is located.

"(d) Before paying any part of the cost of the demonstration project authorized by this section, the Secretary shall enter into such agreements with the States and railroads involved to insure that all non-Federal costs will be provided as required by this section.

"(e) The Secretary, in cooperation with State highway departments, shall conduct a full and complete investigation and study of the problem of providing increased highway safety at public and private ground-level rail-highway crossings on a nationwide basis through the elimination of such crossings or otherwise, including specifically high-speed rail operations in all parts of the country, and report to Congress his recommendations resulting from such investigation and study not later than July 1, 1972, including an estimate of the cost of such a program. Funds authorized to carry out section 307 of this title are authorized to be used to carry out the investigation and study required by this subsection.

"(f) There is authorized to be appropriated not to exceed $9,000,000 from the Highway Trust Fund to carry out paragraph (1) of subsection (c) of this section. There is authorized to be appropriated out of the general fund not to exceed $22,000,000 to carry out paragraph (2) of subsection (c) of this section."

(b) The analysis of chapter 3 of title 23, United States Code, is amended by adding at the end thereof:

"322. Demonstration project—rail crossings."

TITLE III—EXTENSION OF HIGHWAY TRUST FUND AND CERTAIN RELATED PROVISIONS

SEC. 301. HIGHWAY TRUST FUND.

Subsections (c), (e), and (f) of section 209 of the Highway Revenue Act of 1956 (relating to the Highway Trust Fund; 23 U.S.C. 120 note) are amended—

(1) by striking out "1972" each place it appears and inserting in lieu thereof "1977"; and

(2) by striking out "1973" each place it appears and inserting in lieu thereof "1978".

SEC. 302. TRANSFER FROM LAND AND WATER CONSERVATAON FUND.

Subsection (b) of section 201 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–11) is amended—

(1) by striking out "1972" and inserting in lieu thereof "1977"; and

(2) by striking out "1973" each place it appears and inserting in lieu thereof "1978".

SEC. 303. POSTPONEMENT OF CERTAIN EXCISE TAX REDUCTIONS.

(a) The following provisions of the Internal Revenue Code of 1954 are amended by striking out "1972" each place it appears and inserting in lieu thereof "1977":

(1) Section 4041(c)(3) (relating to rate of tax on fuel for noncommercial aviation).

(2) Section 4041(e) (relating to rate reduction).

(3) Section 4061(a)(1) (relating to imposition of tax on trucks, buses, etc.).

(4) Section 4061(b)(1) (relating to imposition of tax on parts and accessories).

(5) Section 4071(d) (relating to imposition of tax on tires and tubes).

(6) Section 4081(b) (relating to imposition of tax on gasoline).

(7) Section 4481(a) (relating to imposition of tax on use of highway motor vehicles).

(8) Section 4481(e) (relating to period tax in effect).

(9) Section 4482(c)(4) (defining taxable period).

(10) Section 6156(e)(2) (relating to installment payments of tax on use of highway motor vehicles).

(11) Section 6421(h) (relating to tax on gasoline used for certain nonhighway purposes or by local transit systems).

(b) Section 6412(a)(2) of such Code (relating to floor stock refunds) is amended—

(1) by striking out "1972" each place it appears and inserting in lieu thereof "1977";

(2) by striking out "January 1, 1973" each place it appears and inserting in lieu thereof "January 1, 1978"; and

(3) by striking out "February 10, 1973" each place it appears and inserting in lieu thereof "March 31, 1978".

And the Senate agree to the same.

GEORGE H. FALLON,
JOHN C. KLUCZYNSKI,
JIM WRIGHT,
ED EDMONDSON,
WILLIAM C. CRAMER,
WILLIAM H. HARSHA,
JAMES C. CLEVELAND,
Managers on the Part of the House.

JENNINGS RANDOLPH,
B. EVERETT JORDAN,
JOSEPH M. MONTOYA,
WILLIAM B. SPONG, Jr.,
JOHN SHERMAN COOPER,
J. CALEB BOGGS,
HOWARD H. BAKER, Jr.,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 19504) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute. The House recedes from its disagreement to the amendment of the Senate, with an amendment which is a substitute for both the House bill and the Senate amendment. The differences between the House bill and the substitute agreed to in conference are noted below except for minor technical and clarifying changes made necessary by reason of the conference agreement.

TITLE I

Revision of authorization of appropriations for Interstate System

Senate Amendment

This section would provide authorizations for the Interstate highway program through fiscal 1976. The fiscal year 1974 authorization presently set at $2.225 billion would be increased to $4 billion, and $4 billion would also be authorized for each of the fiscal years ending June 30, 1975 and June 30, 1976.

House Bill

Section 102 authorizes the appropriation of $17.275 billion over the five-year period from 1974 through 1978 as follows: The authorizations for fiscal year 1974 are increased from $2.225 billion to $4 billion, and authorizations of $4 billion for each of the fiscal years 1975, 1976, and 1977, and $3.5 billion for fiscal year 1978 are added.

Conference Substitute

This is the same as the Senate provision. The authorizations here do not provide for completion of the Interstate System but the conferees and the administration are fully committed to its completion.

Authorization of use of cost estimate for apportionment of interstate funds

Senate Amendment

Section 3 would authorize the use of the revised estimate of the cost of completing the Interstate System submitted to Congress April 21, 1970, for the purpose of making apportionments to the States for fiscal years ending June 30, 1972, 1973, and 1974, and would further authorize and direct the Secretary to revise the apportionment table to reflect actual capability of States to use funds made available for Interstate System highway construction.

House Bill

This section approves the use of the apportionment factors contained in revised table 5 in the 1970 Interstate System Cost Estimate (House Document 317, 91st Congress) for the apportionment of Interstate funds authorized to be appropriated for fiscal years 1972 and 1973.

Conference Substitute

This is the same as the House provision.

Extension of time for completion of system

Senate Amendment

Subsection (a) would make technical amendments in section 101(b) of title 23, extending the time for the completion of the Interstate System until June 30, 1966. Subsection (b) would direct the Secretary to submit to the Congress a revised Interstate System cost estimate in January 1973.

House Bill

This makes technical amendments necessary by authorizing the appropriation of Interstate funds for four additional fiscal years and directs the Secretary to make three additional revised cost estimates: one to be submitted to the Congress in January of 1972 to be used for making apportionments in fiscal years 1974 and 1975; one to be submitted in January of 1974 to be used for making apportionments in fiscal years 1976 and 1977; and the final revised estimate to be submitted in January of 1976 to be used for making apportionments in fiscal year 1978.

Conference Substitute

The conference substitute would extend the time for the completion of the Interstate System until June 30, 1976. It would further direct the Secretary to submit to Congress a revised Interstate System cost estimate in January of 1972 for fiscal years 1974 and 1975 and in January of 1974 for fiscal year 1976.

Highway authorizations

Senate Amendment

Paragraph (1) for the Federal-aid primary and secondary systems and their extensions authorizes out of the Trust Fund $1.050 billion for fiscal year 1972 and the same amount for fiscal year 1973 to be available for expenditure—55 percent on the primary system, 35 percent on the secondary system, and 10 percent on extensions thereof and to carry out section 135.

Paragraph (2) authorizes $375 million for fiscal year 1972 and $450 million for fiscal year 1973 for the Federal-aid urban system out of the Trust Fund.

Paragraph (3) authorizes for forest highways out of the Trust Fund $33 million for each of the fiscal years 1972 and 1973.

Paragraph (4) authorizes for public lands highways $16 million per fiscal year out of the Trust Fund for the fiscal years 1972 and 1973.

Paragraph (5) authorizes for forest development roads and trails $170 million per fiscal year for fiscal years 1972 and 1973.

Paragraph (6) authorizes for public lands development roads and trails $8 million for fiscal year 1972 and $10 million for fiscal year 1973.

Paragraph (7) authorizes $30 million for park roads and trails for fiscal year 1973.

Paragraph (8) authorizes $20 million per fiscal year for parkways for fiscal years 1972 and 1973.

Paragraph (9) authorizes $30 million for Indian reservation roads and bridges for fiscal year 1973.

Paragraph (10) authorizes for section 402 of title 23, United States Code, out of the Highway Trust Fund, $75 million for fiscal year 1972 and $100 million for fiscal year 1973.

Paragraph (11) authorizes for section 403 of title 23, United States Code, out of the Trust Fund, $70 million for fiscal 1972 and $115 million for fiscal 1973.

Paragraph (12) authorizes for section 131 of title 23, United States Code, out of the Trust Fund, $27 million for fiscal 1971, $20,500,000 for fiscal 1972 and $50 million for fiscal 1973.

Paragraph (13) authorizes, out of the Trust Fund, for section 13 of title 23, United States Code, $3 million for fiscal year 1971, $3 million for fiscal year 1972, and $5 million for fiscal year 1972.

Paragraph (14) authorizes, out of the Trust Fund, for section 319(b) of title 23, United States Code, $1,500,000 for fiscal year 1972 and $10 million for fiscal year 1973.

Paragraph (15) provides for administrative expenses for sections 131, 136, and 319(b) of title 23, United States Code, out of the Trust Fund, $1.5 million for each of the fiscal years 1971 and 1972 and $3 million for fiscal year 1973.

Paragraph (16) repeals section 5(10) of the Federal-Aid Highway Act of 1968 relating to authorizations for carrying out section 402 of title 23, United States Code.

House Bill

This section authorizes the appropriation of the following sums for each of the fiscal years 1972 and 1973: for the Federal-aid primary and secondary systems and their extensions within urban areas, $1,100,000,000; for the Federal-aid primary and secondary systems exclusive of their extensions in urban areas, $125,000,000; TOPICS program, $200,000,000; forest highways, $33,000,000 and for public lands highways, $16,000,000. The authorizations for forest highways and public lands highways will continue to come out of the General Fund of the Treasury.

This section also authorizes the appropriation of $200,000,000 for each of the fiscal years 1972 and 1973 for the new Federal-aid urban system which is established pursuant to section 106 of the bill.

It also provides authorizations of $55,000,000 for each of the fiscal years 1972 and 1973, in addition to all other authorizations for the Interstate System, to be apportioned to each of the States which otherwise would receive less than ½ of 1 percent of the Interstate apportionment for fiscal year 1972 or 1973.

Use of any funds authorized by this section for highway beautification (sections 131, 136, and 319(b) or chapter 4 of title 23, United States Code) is prohibited.

The sums authorized for the fiscal years 1972 and 1973 for certain categories of roads, administered by the Department of Transportation jointly with either the Department of Interior or the Department of Agriculture, are as follows:

	1972	1973
Forest development roads and trails	$170,000,000	$170,000,000
Public lands development roads and trails	5,000,000	5,000,000
Park roads and trails	30,000,000	30,000,000
Indian reservation roads and bridges	30,000,000	30,000,000
Parkways	11,000,000	11,000,000

In addition under "Parkways", $25,000,000 is authorized for construction of the Palisades Parkway in the District of Columbia, and $65,000,000 for the reconstruction to six lanes of the Federal section of the Baltimore-Washington Parkway.

Conference Substitute

The conference substitute is the same as the provisions of the House bill with the following exceptions:

The authorizations for forest highways and public lands highways are to be from the Highway Trust Fund. There is in a later provision of the conference substitute a revision of definitions of the terms "forest highways" and "public lands highways" to restrict them to those highways which are on a Federal-aid system.

The authorization for the Federal-aid urban system, out of the Highway Trust Fund, is $100,000,000 per year for the fiscal years 1972 and 1973, and the TOPICS program authorized in section 135 of title 23, United States Code, is also funded at that level.

The authorization for public land development roads and trails for fiscal year 1973 is increased from $5 million to $10 million as is provided in the Senate amendment.

The authorization for park roads and trails is $30,000,000 for fiscal year 1973 as provided in the Senate amendment.

The authorization for parkways is set at $20,000,000 for fiscal years 1972 and 1973. The authorization for the Palisades Parkway is eliminated, and the authorization for the Baltimore-Washington Parkway is made a separate provision at a later point in the conference substitute.

The authorization for section 319(b) of title 23 (relating to landscaping and scenic enhancement), out of the general fund, is set at $1,500,000 for fiscal year 1972 and $10,000,000 for fiscal year 1973.

The authorization for administrative expenses for carrying out sections 131, 136, and 319(b) of title 23 is set at $1,500,000 per year for fiscal years 1971 and 1972 and $3,000,000 for fiscal year 1973.

The authorization for projects for high hazard locations which was contained in section 205 of the House bill is eliminated.

The authorization of $55 million for fiscal years 1972 and 1973 to insure that each State will receive an amount equal to one-half of 1 per centum of the total apportionment for each such fiscal year is made a separate subsection (b) and the requirement in section 5(b) of the Senate amendment that the Secretary shall report early in 1972 to Congress on his recommendations for apportionment of funds and matching requirements for work on Federal-aid highways in States which have completed or are nearing completion of construction on Interstate System mileage located in their State, and for all States after completion of the Interstate System is included in this section.

Federal-aid urban system

Senate Amendment

This section would establish a new Federal-aid highway system, the Federal-aid urban system, in urban areas of 5,000 population or more. The urban system would be designed to facilitate the flow of traffic in urban areas and serve the goals and objectives of the community as determined by the responsible public officials. It would further implement the urban transportation planning process required under section 134 of Title 23. Routes on the Federal-aid urban system would be selected by the responsible public officials subject to the approval of the State and of the Secretary.

The funds authorized to be appropriated for the Federal-aid urban system would be apportioned to the States in the ratio which their population in urban areas of 50,000 or more bears to the national population in such urban areas. In addition to highway construction, these funds would be available to carry out the kinds of activities for which the TOPICS program was designed, and for construction and development of fringe and corridor parking facilities. The Federal share payable for projects on this system would be the same as for the ABC System—50 per centum. All of the provisions of Chapters 1, 3 and 5 of Title 23 applicable to the Federal-aid primary system not deemed to be inconsistent with the definition and purposes of this section would be applicable to the urban system.

House Bill

This section directs the establishment of a new Federal-aid urban system in each urbanized area, and provides that routes on this system shall be selected from those routes included in the mileage figures for the urban principal arterial system as set forth in the "1970 National Highway Needs Report Supplement" other than routes on the Interstate System. No route on the Federal-aid urban system shall also be a route on any other Federal-aid system. Routes on this system and projects for the improvement of routes on this system shall be selected, and proposed specifications for such projects shall be determined, by State highway departments and appropriate local road officials in cooperation with each other.

In addition to the $200 million authorized to be appropriated in each of the fiscal years 1972 and 1973 by section 105 of the House bill, not to exceed 50% of the amounts apportioned to each State for extensions of the Federal-aid primary and secondary systems within urban areas and 50% of the Topics Funds may be expended for projects on the Federal-aid urban system.

The apportionment of funds authorized to be appropriated for the Federal-aid urban system is to be made on the basis of the population in urbanized areas. The Federal share of the cost of projects on the Federal-aid urban system is the same as for the ABC program, *i.e.*, 50%, plus the sliding scale in public lands States.

The provisions of chapters 1, 3, and 5 of title 23, United States Code that are applicable to Federal-aid primary highways shall apply to the Federal-aid urban system except as determined by the Secretary to be inconsistent.

Conference Substitute

The conference substitute is essentially the same as the provisions of the House bill with the following changes: The urban system is to be located so as to serve major centers of activity, highest traffic volume corridors, and longest trips within the urbanized area and is to be selected so as to best serve the goals and objectives of the community as determined by responsible local officials of the urbanized area based on the section 134 planning process. Routes on the urban system shall be selected by the appropriate local officials and the State highway departments in cooperation with each other, subject to the approval of the Secretary. In addition, in approving programs for projects on the urban system, the Secretary is to require that these projects be selected by the appropriate local officials and State highway departments in cooperation with each other.

Prohibition of impoundments and diversion of funds

Senate Amendment

No comparable provision.

House Bill

This section reiterates the sense of Congress as expressed in section 15 of the Federal-Aid Highway Act of 1968 relative to impoundment of apportioned Federal-aid highway funds.

This section also prohibits the expenditure of funds authorized to be appropriated from the Highway Trust Fund any Federal department, agency, or instrumentality other than the Federal Highway Administration, for other than highway purposes.

Conference Substitute

This is the same as the House bill with the exception that the prohibition on expenditure of trust funds by any department other than the Federal Highway Administration unless these funds are identified and included as a line item and are to meet obligations in an appropriation Act and are to meet obligations of the United States incurred under title 23, United States Code, attributable to the construction of Federal-aid highways for highway planning, research, and development, is expanded to permit these expenditures if otherwise specifically authorized to be appropriated from the Trust Fund by Federal-aid highway legislation.

Increased Federal share

Senate Amendment

No comparable provision.

House Bill

This section increases the Federal share payable on account of any non-Interstate project from 50% to 70%. This increase would take effect with respect to authorizations for fiscal year 1974 and subsequent fiscal years.

Conference Substitute

This is the same as the House bill.

Emergency relief

Senate Amendment

This section would amend section 125 of title 23, to provide that Federal funds are available to repair or reconstruct bridges permanently closed to traffic because of the danger of collapse due to structural deficiencies or physical deterioration. Bridges covered by the provision would be those closed after December 31, 1967 and before the date of enactment of this Act. The termination of authority as of the date of enactment of the Act is included because the funds authorized for the bridge replacement program established by section 24 of the Senate amendment would then be available.

Subsection (b) of this section would amend the term "comparable facility" to mean a facility which meets the current geometric and construction standards required for the type and volume of traffic which such facility will carry over its design life. This definition would also apply to the term "comparable facility" as used in subsection (a) of section 143, the bridge replacement program. The amendment would apply retroactively to the term as used in the 1968 Act.

House Bill

This section amends 23 U.S.C. 125 to authorize the Secretary to expend funds to repair or reconstruct bridges which have been permanently closed to all vehicular traffic by the States after December 31, 1967, because of imminent danger of collapse due to structural deficiencies or physical deterioration. Present law prohibits the Secretary from expending funds on such bridges unless they have been damaged by a natural disaster or have collapsed.

Conference Substitute

The conference substitute is the same as the House bill except that to be eligible a bridge must have been closed after December 31, 1967, and before December 31, 1970. In addition, the provisions of subsection (b) of section 13 of the Senate amendment are included relating to the definition of the term "a comparable facility".

Training programs

Senate Amendment

This section would authorize the Secretary, through the Secretary of Labor, to develop, conduct and administer highway construction-related training and skills improvement programs for construction workers.

House Bill

This section authorizes the expenditure of Federal-aid highway funds for the continuation of training programs during seasonal shutdowns of highway construction work. Such funds may participate in the costs of apprenticeship, skill improvement, or other upgrading programs which are conducted during periods when climatic conditions prevent highway construction work and are supplementary to on-the-job training conducted during the construction season.

The Federal share of the cost of such a training program shall be the same as that for the respective highway program, as provided in section 120, United States Code.

Conference Substitute

The conference substitute is essentially the same as the provisions of the Senate amendment with the exception that the requirement that this program be operated through the Secretary of Labor is deleted, and the amount authorized for each of the fiscal years 1972 and 1973 is limited to $5 million.

Urban highway public transportation

Senate Amendment

No comparable provision.

House Bill

This section authorizes the use of funds that are apportioned to each State for extensions of the Federal-aid primary and secondary systems within urban areas, for the Interstate System, and for the new Federal-aid urban system to finance the Federal share of the cost of projects for the construction in urbanized areas of exclusive or preferential bus lanes, highway traffic control devices, bus passenger loading areas and facilities, and fringe and transportation corridor parking facilities. Such a project must avoid Federal-aid highway construction and provide capacity for movement of persons at least equal to that which otherwise would be provided by the avoided highway construction, and the Federal share of the cost of such project must not exceed the Federal share of the cost of the avoided highway construction; or no other feasible or prudent highway project can provide the additional capacity for the movement of persons provided by the project.

The Federal share of the cost of urban highway public transportation projects shall be that provided in section 120 of title 23, United States Code.

No project will be approved unless there are satisfactory assurances that the publicly owned mass transportation system will have the capability to fully utilize the project. Routes and schedules of public mass transportation systems receiving assistance under this section shall be based on a continuing comprehensive transportation process carried on in accordance with section 134 of title 23, United States Code.

Conference Substitute

The conference substitute is the same as the provisions of the House bill with the exception that the criteria for the approval of projects contained in the proposed new subsection (d) is amended to exclude projects for fringe or transportation corridor parking facilities.

Territorial highway program

Senate Amendment

This section would provide for the establishment of a highway program for the Virgin Islands, Guam, and American Samoa. The Federal contribution to the cost of approved projects on this system would be 70 per centum, and $2 million for each territory would be authorized out of the Highway Trust Fund for each of the fiscal years 1971, 1972 and 1973 for this purpose.

House Bill

This section authorizes the appropriation of $2 million for each of the fiscal years 1971, 1972, and 1973 to pay up to 50% of the cost of construction of a system of arterial highways in the Virgin Islands. Three percent of the sums authorized to be appropriated for each fiscal year shall be available for expenditure by the Virgin Islands only for research, investigations, studies, and development, and an additional 2% of the sums authorized to be appropriated may be used for such purposes. The Secretary of Transportation is also authorized to provide technical assistance to the Virgin Islands in the establishment of a highway department.

All of the provisions of law relating to Federal-aid highways (other than those relating to apportionment formulas and limiting the expenditures of funds to the Federal-aid system) shall apply.

Conference Substitute

This is the same as the provisions in the Senate amendment except that the authorizations are not to come from the Highway Trust Fund, and in the case of American Samoa are limited to $500,000 per fiscal year.

Darien Gap Highway

Senate Amendment

This section would authorize $100 million from the general fund, for the construction of the Darien Gap Highway, which would connect the Inter-American Highway with the Pan-American Highway System of South America. Obligation and expenditure of funds would be on the same basis as the funding authorized for the Inter-American Highway.

House Bill

Same as the Senate amendment.

Conference Substitute

Same as both the Senate amendment and the House bill.

Administration

Senate Amendment

No comparable provision.

House Bill

This section amends section 303 of title 23, United States Code, to conform with the recent reorganization of the Federal Highway Administration. It establishes the positions of Deputy Federal Highway Administrator and Assistant Federal Highway Administrator and the conditions of their appointment, and sets the salary level for those offices and that of the Federal Highway Administrator.

The Deputy Federal Administrator shall be appointed by the President with the advice and consent of the Senate. The President may authorize the person holding the office of Director of Public Roads immediately before enactment of this Act to act as Deputy Federal Highway Administrator until the first Deputy Administrator is named, and to receive compensation at the rate authorized for such office.

The Assistant Federal Highway Administrator shall be appointed by the Secretary of Transportation, with the approval of the President under the classified civil service.

Conference Substitute

This is the same as the House bill with the exception that the Deputy Federal Highway Administrator will be appointed by the Secretary of Transportation with the approval of the President.

Training and research fellowships

Senate Amendment

No comparable provision.

House Bill

This section directs the Secretary to establish and operate a "National Highway Institute" in the Federal Highway Administration. The Institute will develop and administer, in cooperation with State highway departments, training programs of instruction for FHWA and State and local highway department employees engaged or to be engaged in Federal-aid highway work. The Secretary's authority in law to develop and conduct educational and training programs related to highways shall be administered through the Institute. The Secretary is authorized to acquire such buildings, facilities, and equipment as the Institute may need. Sums provided for administrative purposes under 23 U.S.C. 104(a) shall be available for establishing and operating the Institute.

A sum not to exceed ½ of 1 percent of all the ABC and new urban system funds apportioned to a State for a fiscal year under 23 U.S.C. 104(b) is authorized to be available for payment by the State highway department of up to 70 percent of the cost of the tuition and the direct educational expenses connected with the education and training of State and local highway department employees. These expenditures would be subject to approval by the Secretary.

The Secretary is permitted to provide the education and training, authorized by this section, through grants and contracts with public and private agencies, institutions, and individuals.

This section also authorizes the Secretary, either independently or in cooperation with other Federal departments, agencies or instrumentalities, to make grants for research fellowships for any of the purposes for which research is authorized by this section.

Conference Substitute

This is the same as the provisions of the House bill with the exception that authority to acquire by lease, purchase, construction, reconstruction, or otherwise buildings, facilities, and equipment for the Institute is deleted.

Bridges on Federal dams

Senate Amendment

No comparable provision.

House Bill

This section authorizes the appropriation of $3,761,000 to be available for expenditure in connection with the construction of a bridge across Markland Dam on the Ohio River near Markland, Indiana, and Warsaw, Kentucky. No funds so authorized shall be appropriated until the appropriate Federal agency, the Secretary of Transportation, and the States of Kentucky and Indiana have complied with all the requirements of section 320 of title 23, United States Code, applicable to the construction of bridges on Federal dams.

Conference Substitute

This is the same as the provisions of the House bill.

Construction of replacement housing

Senate Amendment

This section would authorize the Secretary to approve as part of the cost of construction, the cost of acquiring, constructing, rehabilitating, or relocating housing as replacement housing for individuals and families who will be displaced by a project if such project on any Federal-aid system cannot proceed to actual construction because replacement housing required by law cannot otherwise be made available. This is a last resort authority to be used when replacement housing is not available.

House Bill

This section authorizes the Secretary to approve as a part of the cost of highway construction, the construction of new housing and the acquisition, rehabilitation, and relocation of existing housing to serve as replacement housing for individuals and families displaced by the highway construction, when no replacement housing is available and cannot otherwise be made available (either by public housing agencies or private enterprise), and when the highway construction cannot be undertaken unless replacement housing is made available.

Whenever practicable, State highway departments shall utilize the services of State or local governmental housing agencies in such construction, acquisition, rehabilitation, and relocation of replacement housing.

Conference Substitute

Same as the provisions of the House bill.

Bridge alteration progress payments

Senate Amendment

No comparable provision.

House Bill

This section amends section 517 of title 23, United States Code, (section 7 of the "Truman-Hobbs Act") in order to eliminate the delay in reimbursing the bridge owner by permitting the Secretary of Transportation to make payments for design work performed prior to the actual commencement of the alteration but after the Order to Alter has been issued.

Conference Substitute

This is the same as the provision of the House bill.

Alaska Highway

Senate Amendment

This section would authorize the President to enter into negotiations with Canada to reach an agreement authorizing paving and reconstructing a portion of the Alaska Highway.

House Bill

Same as the provisions of the Senate amendment.

Conference Substitute

Same as both the Senate and House provisions.

Effective date of relocation provisions

Senate Amendment

This section would extend the time required for compliance by the States with certain provisions of Chapter 5, of Title 23 (Highway Relocation Assistance), until January 1, 1971, for any State which could not submit the required constitutional amendment for ratification prior to July 1, 1970.

House Bill

This section extends the deadline for State compliance with the relocation provisions of chapter 5 of title 23, United States Code, from July 1, 1970, to July 1, 1972, for any State which must amend its constitution to comply with chapter 5 and cannot submit the required amendment for ratification prior to July 1, 1970.

Louisiana is the only State affected by this provision. That State must amend its constitution in order to comply with chapter 5.

Conference Substitute

Same as the provisions of the House bill.

Future Federal-aid highway program

Senate Amendment

No comparable provision.

House Bill

This section directs the Secretary of Transportation to include in the highway needs report to be submitted to Congress in January, 1972, his recommendations for the functional realignment of the Federal-aid systems and for a continuing Federal-aid highway program for the period 1976 to 1990, and the designation of the new Federal-aid urban system and the cost of its construction.

The Secretary's recommendations shall be based on studies conducted in cooperation with State highway departments and local governments. In urban areas of more than fifty thousand population, the continuing comprehensive transportation process contemplated by section 134 of title 23, United States Code, shall be utilized.

Conference Substitute

Same as House provision.

Highway beautification

Senate Amendment

This section would amend section 131 of title 23 to provide a 5 percent penalty for the first year of noncompliance and an additional 1 percent for each year of continued noncompliance up to 10 percent; the penalty would be applicable on or after January 1, 1971, or the next regular session of the State Legislature, whichever is later; the controlled area would be extended to the limit of visibility except with respect to signs which are lawfully erected in permitted locations; sign removals covered by mandatory just compensation would be based on a schedule determined by agreement between the Secretary and a State consistent with the availability of Federal funds. All signs are to be removed within, or by the end of 5 years after they become nonconforming; the directional and official category of signs would be broadened to include signs of specific interest to the traveling public such as gas, food and lodging; and just compensation provisions would be based on the effective date of a State compliance law and would cover signs beyond 660 feet from the Interstate and primary highway right-of-way. The Secretary of Transportation would be authorized to carry out demonstration projects with one or more States to determine the best means of implementing this section.

Another section would amend section 136 of title 23 with regard to the penalty and the dates upon which it would become applicable consistent with section 131; screening would be required within 5 years for all lawfully existing junkyards; the controlled area would be extended to the limits of visibility; junkyard removals would be consistent with sign removals under section 131; Federal participation in State costs would be extended to cover removal, relocation, and disposal in addition to landscaping and screening; and just compensation would be extended consistent with the applicable provisions in section 131.

Another section would amend section 319 (b) of title 23 to include the costs of developing publicly owned and controlled information center buildings.

The Secretary would be authorized and directed to conduct a comprehensive study of on-premise signs and submit a report of such study, together with recommendations, no later than January 1972.

Authorizations for the Highway Beautification Programs, which for the first time would be funded from the Highway Trust Fund, are as follows:

[In millions of dollars]

Category	1971	1972	1973
Control of outdoor advertising (sec. 131)	27.0	20.5	50
Control of junkyards (sec. 136)	3.0	3.0	5
Landscaping and scenic enhancement (sec. 319(b))	0	1.5	10
Administration of secs. 131, 136, and 319(b)	1.5	1.5	3

House Bill

This section authorizes the appropriation of $27 million for fiscal year 1971 and $20.5

million for fiscal year 1972 for control of outdoor advertising; $2 million for each of the fiscal years 1971 and 1972 for junkyard control; and $1.5 million for each of the fiscal years 1971 and 1972 for necessary administrative expenses in carrying out the highway beautification programs.

Another section establishes a Commission on Highway Beautification composed of 4 members from the House Committee on Public Works, 4 from the Senate Committee on Public Works, 4 appointed by the President and one elected by majority of the other twelve to serve as Chairman.

The Commission shall study and review the existing law, policies and practices related to control of outdoor advertising and junkyards; compile data on the Nation's highway beautification needs; make appropriate recommendations, and submit a final report within one year after enactment of this section. Six months after the final report is submitted the Commission will cease to exist.

All Federal departments, agencies or instrumentalities shall provide the Commission with any information it requests. Each Federal Department and agency concerned with the control of outdoor advertising and junkyards shall appoint a liaison officer to work closely with the Commission. The Commission is instructed to seek the advice of various groups interested in these problems.

Up to $800,000 is authorized to be appropriated for use by the Commission in carrying out the provisions of this section, and appropriations shall be available until expended. The Commission is authorized to appoint such staff personnel as may be necessary, employ experts and consultants, and contract with public and private organizations for studies and surveys. It may also transfer funds to Federal agencies to carry out such of its duties as it determines can best be carried out in this manner.

Conference Substitute

The conference substitute is the same as the House provisions with the following exceptions:

Both section 131 (outdoor advertising) and section 136 (junkyards) are funded out of the general fund for the additional fiscal year ending June 30, 1973, section 131 at a level not to exceed $50.000,000 and section 136 at the levels contained in the Senate amendment.

The Highway Beautification Commission is reduced in number to eleven members, four from each House of Congress, and three appointed by the President, who shall choose their own chairman from among their membership. In addition, the Commission's basic function is expanded to make specific mention of problems relating to the control of on-premise outdoor advertising signs, promotional signs, directional signs, and signs providing information essential to the motoring public, and a requirement to study methods of financing (including possible use of the Highway Trust Fund), all with a view to achieving a remarkable and effective highway beautification program and best serve the public interest. The Commission is required to report not later than one year after it is funded. The authorization for the Commission is reduced to $200,000.

The conferees agreed that the creation of this Commission is not to be construed as derogating in any way from active implementation of the existing program without reduction and as authorized during this study.

The specific demonstration project authorized in the Senate amendment has been deleted since existing law, in the opinion of the conferees, already authorizes this type of demonstration project.

Elimination of segments of Interstate System not to be constructed

Senate Amendment

This provision would insure the early completion of the presently designated Interstate System by requiring the States to submit to the Secretary by Jan. 12, 1973, a firm schedule for the completion of segments on the Interstate System and to have brought these segments to the construction stage by July 1, 1975. Any segment not included in the schedule by 1973 and ready for construction by 1975 will remain as part of the Interstate System but would not be eligible for funding at the 90–10 ratio.

House Bill

This section requires the Secretary, on December 31, 1973, to remove from designation as part of the Interstate System any segment for which the State has not established a construction schedule, within the period of availability of funds authorized to be appropriated, and with respect to which the State has not provided the Secretary with assurances satisfactory to him that such schedule will be met. This section is intended to require that final decisions be made within the next 3 years as to whether or not to build such segments.

Nothing in this section shall prohibit the substitution, prior to December 31, 1973, of alternative segments which will serve the same urban areas as the segments which would be removed from the system.

Conference Substitute

The conference substitute is the same as the House provisions with the following changes: (1) The date for removal from designation is advanced from December 31, 1973, to July 1, 1973, and (2) any segment of the Interstate System with respect to which a State has not submitted plans, estimates, and specifications for approval by the Secretary before July 1, 1975, is to be removed from designation and will not thereafter be eligible for redesignation on the System.

Urban area traffic operations improvement programs

Senate Amendment

The 1968 Act added a new section 135 to title 23 establishing a continuing program designed to reduce traffic congestion and facilitate the flow of traffic within urban area. Under this section as amended, the Secretary may approve projects on an extension of the Federal-aid primary or secondary systems in urban areas for improvements which facilitate and control traffic flow if the project is based on a continuing comprehensive planning process in accordance with 23 U.S.C. 134.

House Bill

This section clarifies section 135(b) of title 23, United States Code, in two respects: (1) it makes clear that the TOPICS program is applicable in urban areas of 5,000 to 50,000 population, as well as in those urban areas of greater population; and (2) it requires that such projects be based on a continuing comprehensive transportation planning process carried on in accordance with section 134 of this title only in urban areas of more than fifty thousand population.

Conference Substitute

The conference substitute is the same as the House provision.

Authority for demonstration projects

Senate Amendment

No comparable provision.

House Bill

This section would provide more flexibility in the eligibility requirements for "one-half of one percent research funds" by authorizing inclusion as Demonstration Projects, the installation of newly developed concepts and systems in the actual highway system. Hence, new products and concepts could be studied as part of the ongoing highway program to develop reliable data on their cost effectiveness before they might become part of the highway design standards.

Conference Substitute

The conference substitute is the same as the House bill.

Economic growth center development highways

Senate Amendment

No comparable provision.

House Bill

This section authorizes the Secretary to make grants for demonstration projects for the construction, reconstruction, improvement, planning, surveying, and investigation of highways that would lead to the development of "economic growth centers" and surrounding areas.

A Governor may recommend, within his State for the Secretary's approval, the location and priorities for "economic growth centers" and development highways to serve them. In approving a project, the Secretary is required to determine that it will promote the purposes of this section, and that it meets such criteria as he deems necessary, including capability of development and has a population of 100,000 or less according to the latest Federal census.

The Secretary is authorized to pay up to 100 percent of the cost of engineering and economic surveys or other investigations necessary for the planning and design of the "economic development growth center" highways.

Any of these highways which are not already part of the Federal-aid system will be added to the appropriate system.

The Federal share of the cost of any project for construction, reconstruction, or improvement of a development highway is 70 percent. This section authorizes out of the Highway Trust Fund, the sum of $100,000,000 for each of the fiscal years 1972 and 1973. No State shall receive in any fiscal year more than 15% of the total funds authorized in that fiscal year to carry out this section.

Conference Substitute

The conference substitute is essentially the same as the House provision with the following changes: First, these development highways are required to be on the Federal-aid primary system. Second, the purpose of these development highways is expanded to emphasize the encouragement of business and industry in rural areas, the mobility of labor in sparsely populated areas, and improve rural citizens' access to health care, recreation, employment, education, and similar activities. Third, the Federal share of the cost of a Federal-aid primary highway project is to be increased by not to exceed an additional 20 percent but in no case shall the Federal share exceed 95 percent of the cost of the project. Fourth, the Secretary is required to consult with the Secretary of Commerce with respect to the criteria for economic growth centers. Fifth, in the case of projects within the Appalachian region and economic development regions under title V of the Economic Development Act of 1965 appropriate consultation is required with the Federal Cochairman, and in the case of economic development regions, the Secretary of Commerce as well. The criteria for the selection of growth centers in these regions is also to take into account the purposes of the Appalachian Regional Development Act and the Public Works and Economic Development Act and, in addition, close coordination is required with the Federal Cochairman, and the Secretary of Commerce, as appropriate.

Sixth, the monetary authorization is reduced to $50,000,000 per year for fiscal years 1972 and 1973.

The additional criteria and requirements for projects in Appalachia and the economic development regions are not to derogate from equal consideration for these projects in these regions.

Federal share of engineering costs

Senate Amendment

No comparable provision.

House Bill

This section would allow the Secretary to reimburse a State for the Federal share of the costs of preliminary and construction engineering at an agreed percentage of actual construction costs for a project, rather than on the basis of an audit of actual engineering costs for the project.

Conference Substitute

Same as the provisions of the House bill.

District of Columbia

Senate Amendment

This section would repeal subsections (a), (b), and (c) of section 23 of the Federal-Aid Highway Act of 1968. The effect of the enactment of this section would be to place the implementation of the interstate highway program within the District of Columbia on the same basis as in any other State. Repeal would constitute neither approval nor rejection of any particular Interstate System segment in the District.

For those projects mandated by the 1968 provision on which construction has actually begun, such repeal would have no effect on lawful actions taken. Executive of such projects could be pursued once pending litigation has been concluded and the terms of the judicial order, if any, are met.

House Bill

This section directs the government of the District of Columbia to begin work not later than 30 days after the date of enactment of this Act on the following projects as authorized in section 23(a) of the Federal-Aid Highway Act of 1968: (1) East Leg of the Inner Loop, beginning at Bladensburg Road, I–295 (section C4.1 to C6); and North Central and Northeast Freeways, I–95 (section C7 to C13) and I–70S (section C1 to C2).

The authorization for the South Leg of the Inner Loop is repealed and the route of the South Leg project is removed from designation as part of the Interstate System.

The government of the District of Columbia and the Secretary of Transportation shall study the project for the North Leg of the Inner Loop from point A3.3 on I–66 to point C7 on I–95 and report to Congress within 12 months after the date of enactment of this Act their recommendations with respect to that project including alternative routes or plans.

Conference Substitute

The government of the District of Columbia and the Secretary of Transportation are required to restudy the projects for the East Leg of the Inner Loop, and North Central and Northeast freeways required to be constructed by the provisions of the House bill and report to Congress within 12 months their recommendations, including alternative routes or plans.

The authorization for the South Leg of the Inner Loop is not repealed and that project remains designated as part of the Interstate System.

The project for the North Leg of the Inner Loop required to be studied by the provision of the House bill is retained.

Toll roads

Senate Amendment

No comparable provision.

House Bill

This section expresses the sense of Congress that no motorist using a toll road on the Interstate System for a continuous intrastate trip should be required to stop more than twice for the collection of tolls, and that where toll roads on the Intrastate System connect at State boundaries, such States should provide common toll facilities at such points so that motorists will have to make only one stop at such points for the collection of tolls.

Conference Substitute

The conference substitute does not contain this provision.

Indian reservation roads and bridges

Senate Amendment

No comparable provision.

House Bill

This section broadens the definition of "Indian reservation roads and bridges" in 23 U.S.C. 101(a) to include roads and bridges on State-controlled Indian reservations, trust lands, and restricted Indian lands, as well as roads and bridges on such lands under Federal control.

Conference Substitute

Same as the House bill.

Richmond-Petersburg Turnpike

Senate Amendment

No comparable provision.

House Bill

This section authorizes the Secretary to amend an agreement entered into in 1964 with the Commonwealth of Virginia pursuant to the provisions of section 129(d) of title 23, United States Code, relative to Federal participation in the cost of the approaches to the Richmond-Petersburg Turnpike. That agreement provided that the toll road would become free upon collection of tolls sufficient to pay maintenance and operation and to liquidate the debt incurred by construction of the toll road.

The amended agreement provided for by this section would allow the Toll Road Commission to issue additional bonds to cover the cost of adding additional lanes to the toll road. The agreement will also provide that the date for freeing the turnpike will not be extended beyond the maturity date for the bonds issued pursuant to the original agreement.

Conference Substitute

Same as the House provision.

Airport access

Senate Amendment

This section would require the Secretary to give priority to projects which will provide adequate, direct, and convenient access to public airports and seaports. In addition the Secretary is directed to give priority to those secondary road projects which will encourage the social and economic development of rural communities.

House Bill

This section would require the State highway departments in preparing programs to submit in accordance with section 105(a) of title 23, United States Code, to give consideration to projects providing direct and convenient public access to public airports and in approving such programs the Secretary shall give consideration to these projects.

Conference Substitute

The conference substitute is essentially the same as the provisions of the House bill, expanded to include public ports for water transportation as well as airports.

Federal participation in the improvement of toll roads

Senate Amendment

This amendment to section 129 of title 23, would change existing Federal law to permit participation in safety improvements of toll roads which are part of the Interstate System, but only on the condition that the State and the toll authority agree to remove tolls when the bonded indebtedness outstanding as of the date of the agreement is liquidated.

House Bill

No comparable provision.

Conference Substitute

The conference substitute would authorize Federal participation in the construction of a toll road which provides for only two lanes of traffic and which is on the Interstate System in order to bring it to the geometric and construction standards for the Interstate System (including the requirement in section 109(b) of title 23, United States Code, for at least four lanes) and to facilitate removal of the tolls therefrom. Federal participation would be on the same basis as in the case of free Interstate System highways, would be limited to those two lane toll roads which were designated as part of the Interstate System before June 30, 1968, and would be contingent upon an agreement with the State highway department and the toll route authority that no indebtedness to be liquidated by a collection of tolls is to be incurred after the date of enactment of the subsection, that all tolls received less cost of operation and maintenance will be applied to repayment of bonds outstanding on the date of enactment constituting a valid lien against the toll road, and that upon liquidation of the bonds the road will become a road free to the public.

The conferees wish to make it clear that, if a two lane toll road which is otherwise eligible for assistance under this section contains additional climbing lanes along its route, these climbing lanes are not to be counted for the purpose of determining the eligibility of the toll road for assistance.

Fringe and corridor parking facilities

Senate Amendment

This section would enact as a continuing program the demonstration fringe parking program provided by the 1968 Federal-Aid Highway Act. Funds for fringe and corridor parking facilities authorized under this section would be available from authorizations for the Federal-aid urban system. Fringe parking areas are not intended for use by on-site developers.

House Bill

No comparable provision.

Conference Substitute

Same as the Senate provision.

Public hearings

Senate Amendment

The two-hearing procedure, established by regulation after enactment of the Federal-Aid Highway Act of 1968, would be enacted into law. An additional hearing would be required on urban plans required under section 134 of title 23 to afford citizens the opportunity to present their views as to the transportation systems which would best serve their needs. Responsibility for conducting the hearings would rest with State and local officials designated by the Governor or the duly constituted State authority. The certification and transcript of the hearing now required by law would have to be accompanied by a report indicating the consideration given to the economic, social, environmental and other impacts of the plan, highway location, and the design and the various alternatives raised at the hearings or otherwise considered by the certifying officer.

House Bill

No comparable provision.

Conference Substitute

The conference substitute would amend the existing provisions of section 128 of title 23, United States Code, by adding a new sentence requiring the certification of public hearings be accompanied by a report indicating the consideration given to the economic, social, environmental, and other effects of the plan for highway location or

design and various alternatives which were raised during the hearing or which were otherwise considered.

Economic, social, environmental, and other impact

Senate Amendment

This section would amend various provisions of title 23 to insure proper consideration of economic, social, environmental, and other impacts in the development of highway design and construction plans.

Subsection (a) would expand the definitions of "construction" and "highway" contained in section 101(a), title 23, to require fuller consideration of these matters in the various stages of highway design and construction. The change in the definition of construction as it relates to "economic, social, environmental and other factors" would become effective in 1974 when the guidelines required by section 109(h) would be implemented, and funds apportioned to the States highway construction would be available to implement such guidelines.

The change in the definition of highway is designed to secure the benefits of the relocation assistance program required by Chapter 5 of Title 23 to those persons located outside of the right-of-way acquisition lines who suffer the kinds of injury that Chapter 5 is designed to mitigate.

Subsection (b) would require all-out efforts to minimize soil erosion which occurs during and after construction of a highway project. These efforts are to be carried out in accordance with the guidelines required by subsection (g) of section 109 of title 23 as it was originally enacted in the Federal-aid Highway Act of 1966.

Subsection (c) would require the Secretary to develop and issue guidelines for avoiding, minimizing and overcoming adverse economic, social, environmental and other impacts of Federal-aid highway projects.

After July 1, 1974, plans and specifications for any project would be required to include adequate measures to solve the impact problems identified in an analysis of the project. Among the problems which would be accounted for are:

(1) Air, noise, and water pollution;

(2) Destruction, or disruption of manmade and natural resources, aesthetic values, community cohesion, and the availability of public facilities and services;

(3) Adverse employment effects, and tax and property value losses;

(4) Injurious displacement of people, business, and farms; and

(5) Disruption of desirable community and regional growth.

In the period following the issuance of the guidelines and before their effective date the Congress will have an opportunity to review the actions of the Secretary.

Subsection (c) would also require the Secretary to issue noise level standards for highways and to require that the appropriate standards be applied to proposed highway projects. In addition the Secretary would be required to insure that any highway construction project is designed so as to be consistent with approved air-quality implementation plans in the air-quality region in which the project is located.

Subsection (d) would authorize research programs to develop methods of how to deal with adverse economic, social and environmental effects.

House Bill

No comparable provision.

Conference Substitute

The conference substitute is the same as the provisions of the Senate amendment with the following changes:

(1) The provisions of subsection (a) of the Senate section have been deleted.

(2) The revision of section 109(g) of title 23, United States Code, would require the Secretary to issue within 30 days after the enactment of this Act guidelines for minimizing possible soil erosion from highway construction. These are to apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of the guidelines. The proposed new section 109(h) of title 23 would require the Secretary, not later than July 1, 1972, after appropriate consultation to submit to Congress and not later than 90 days thereafter promulgate guidelines designed to assure the possible adverse economic, social, and environmental effects relating to any proposed project on any Federal-aid system have been fully considered and the final decisions made in the best overall public interest, taking into consideration the need for fast, safe, and efficient transportation, public services, and costs of eliminating or minimizing such adverse effects and the following:

(A) Air, noise, and water pollution.

(B) Destruction or disruption of manmade and natural resources, esthetic values, community cohesion, and availability of public services and facilities.

(C) Adverse employment effects and tax and property value losses.

(D) Injurious displacement of people, businesses, and farms.

(E) Disruption of desirable community and regional growth.

These guidelines are to apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of the guidelines.

Interest payments for replacement housing

Senate Amendment

Relocation assistance payments for replacement housing would be expanded to include compensation for any increased rates of interest required for the financing of a replacement dwelling.

House Bill

No comparable provision.

Conference Substitute

Same as the Senate amendment.

Alaskan assistance

Senate Amendment

Subsection (a) of this section would amend the special Alaska Highway authorization in the Federal-Aid Highway Act of 1966 to extend it to FY 1973, to increase the authorization for FY 1972 and FY 1973 to $20 million and to make these funds available from the Highway Trust Fund. Subsection (b) of this section eliminates certain right-of-way reservations on Alaska property.

House Bill

No comparable provision.

Conference Substitute

This is the same as the provisions of the Senate amendment except that authority for use of these funds for maintenance of highways has been stricken and use of the funds is limited to Federal-aid highway projects.

Ferry boats

Senate Amendment

This amendment to section 129 of title 23, United States Code, would authorize Federal participation in the construction of Marine highway facilities, whether toll or free. The Secretary should permit such participation only when it is determined that there is no suitable or feasible land highway alternative available.

House Bill

No comparable provision.

Conference Substitute

The conference substitute amends section 129 of title 23, United States Code, to add a new subsection which would authorize the Secretary to permit Federal participation in the construction of ferry boats whether toll or free, if the following conditions are met:

(1) It is not feasible to build a normal highway structure in lieu of using a ferry.

(2) The ferry will be operated on a route approved under section 103 (b) or (c) of title 23, United States Code, as part of one of the Federal-aid systems within the State and has not been designated as a route on the Interstate System.

(3) The ferry is to be publicly owned and operated.

(4) The operating authority and fare structure is to be under the control of the State (including an interstate agency) and all revenues are to be applied to actual and necessary costs of operation, maintenance, and repair.

(5) The ferry is to be operated only within the State or between adjoining States and no part of its operation is to be in any foreign waters or any international waters.

(6) The ferry is not to be sold, leased, or otherwise disposed of without the approval of the Secretary, and the Federal share of any proceeds therefrom are to be credited to the unprogramed balance of Federal-aid highway funds of the same class last apportioned to the State and are to be available for expenditure in accordance with the provisions of title 23.

Future additions to Interstate System

Senate Amendment

This amendment would enable States to request the Secretary to designate any primary system highway which is a logical addition or connection to the Interstate System as part of the system, if it otherwise meets the definition of an Interstate segment, and the State promises to build the highway to Interstate standards within 12 years from the date of the agreement. The provision specifically states that no special Federal financing will be available for such construction and the States will use whatever Federal funds or State funds are available for highway purposes.

In order to prevent confusion and to avoid misleading the traveling public, the Secretary must require that any marking of such highways or map references to such highways prior to their reconstruction to Interstate standards be by special sign.

House Bill

No comparable provision.

Conference Substitute

The conference substitute is the same as the Senate amendment except that the designation would only be that the highway would be a future part of the Interstate System, not as an immediate part, and a prohibition has been added against any reference to the highway, including signing and marking thereof, as a part of the Interstate System prior to the time that it is actually constructed to the standards and designated as part of the System.

Definitions

Conference Substitute

This section is a conforming amendment to section 101(a) of title 23, United States Code, made necessary by the decision of the conferees to provide authorization for forest highways and public lands highways out of the Trust Fund. These changes in definition would insure that these highways be on the Federal-aid systems.

Cost reduction

Senate Amendment

The Secretary would be authorized to secure a value-engineering or other cost-reduction analysis of the plans, specifications and estimates for proposed Federal-aid

highway projects when he determines such action advisable.

House Bill

No comparable provision.

Conference Substitute

This is the same as the provisions of the Senate Amendment. The conferees however agreed that value-engineering or other cost reduction analyses are not to be used to delay a decision on a project.

Urban transportation planning

Senate Amendment

This section would amend section 134 of title 23, to require that before any highway project can be constructed in an urban area of 50,000 population or more, the responsible public officials in the area must have been consulted and their views considered with respect to the corridor, the location, and the design of the project.

In addition, section 134 of title 23, United States Code, is amended to add a new subsection (b) to require the Secretary to define those contiguous interstate areas in which the movement of persons and goods between principal metropolitan areas, cities, and industrial centers has reached or is expected to reach a critical volume in relation to capacity of existing and planned transportation systems to efficiently accommodate present demands and future growth.

After consultation, the Secretary is required to designate by regulation as a critical transportation region or corridor each area most urgently requiring accelerated development of transportation systems and, after notification of the Governors and local officials of that designation, to provide by regulation for the establishment of planning bodies to assist in the development of coordinated transportation planning and to provide assistance including financial assistance to such bodies.

House Bill

No comparable provision.

Conference Substitute

The conference substitute is the same as the Senate amendment with respect to its amendment of subsection (a) of section 134 of title 23. With respect to subsection (b), it is similar to the Senate provision but instead of requiring the Secretary to take these actions, it authorizes him to do so and limits the monetary authorization to not to exceed $500,000 out of the general fund.

Study of relationship of highway construction to public transportation services

Senate Amendment

This section would direct the Secretary to study the relationship between the highway program and public transportation services which use highways. The report together with any recommendations is to be submitted to the Congress by February 1, 1972.

House Bill

No comparable provision.

Conference Substitute

Same as the Senate amendment except the reporting date is made January 1, 1972.

Saint Clair River Bridge

Senate Amendment

This section permits certain Federal-aid highway funds paid to the State of Michigan for construction of the bridge and approaches over the Saint Clair River at Port Huron, Michigan, to be repaid to the United States. They are then to be deposited to the credit of the appropriation for "Federal-Aid Highway (Trust Fund)". This repayment is to be credited to the unprogramed balance of Federal-aid highway funds of the same class last apportioned to Michigan. This amount so credited shall be in addition to all other funds then apportioned to the State and available for expenditure in accordance with title 23, United States Code. Upon this repayment being made, the bridge and its approaches are freed of all restrictions with respect to the imposition and collection of tolls or charges thereon in title 23 or in section 17(d) of the Act of August 30, 1935, or any regulation or agreement thereunder. Tolls or charges imposed and collected on such bridge or for the use thereof are not to exceed the amount necessary for proper maintenance, repair, and operation under economical management.

House Bill

No comparable provision.

Conference Substitute

This is the same as the Senate amendment.

Baltimore-Washington Parkway

Senate Amendment

No comparable provision.

House Bill

Authorized $65,000,000 to reconstruct to six lanes the section of the Baltimore-Washington Parkway in Maryland to the Interstate System standards.

Conference Substitute

The same as the House provision except that funding is from the Highway Trust Fund and before expending any funds there must be an agreement with Maryland, DOT, and Interior that on completion of the reconstruction Interior will convey the reconstructed section to the State of Maryland and the State of Maryland must agree, before any funds are expended, to put this section on the Federal-aid primary system and thereafter to retain it on that system.

TITLE II

Highway safety

Senate Amendment

The Highway Safety Act of 1966 would be amended to provide that apportionment of safety funds to the States would be based 75 per centum on the population and 25 per centum on the public-road mileage in each State, but that no State would receive less than one-third of one per centum of the total apportionment.

House Bill

The provisions of this section recognize the administrative reorganization of the Federal Highway Administration which occurred on March 22, 1970, and provides the statutory authority necessary to establish a new National Highway Traffic Safety Administration, with an Administrator, at the same organizational level as the other Administrations within the Department of Transportation. The President may authorize any person who immediately before the date of enactment of this Act held the office of Director of the National Highway Safety Bureau to act as Administrator of the National Highway Traffic Safety Administration until the first Administrator is named.

Responsibilities for carrying out the provisions of the Highway Safety Act of 1966 are divided between the Federal Highway Administration and the National Highway Traffic Safety Administration, the same as has already been accomplished administratively by the Secretary.

The Highway Safety Act of 1966 provides that the funds authorized to be appropriated for fiscal years 1967, 1968, and 1969 for State and local highway safety programs be apportioned among the States 75 per centum on the basis of population and 25 per centum as the Secretary in his administrative discretion deems appropriate, and that thereafter funds for such safety programs shall be apportioned as Congress shall subsequently provide by law. This section authorizes the apportionment of funds to the States 75 per centum on the basis of population and 25 per centum on the basis of public road mileage.

After December 31, 1970, the Secretary shall not promulgate any standards for State and local highway safety programs that do not relate to safety program elements for which standards have been previously promulgated, unless specifically authorized to do so by statute hereafter enacted.

The appropriation of funds for carrying out the Highway Safety Act of 1966 are authorized separately for those functions to be administered through the Federal Highway Administration and through the Federal Highway Traffic Safety Administration as follows:

For highway safety programs administered by the National Highway Traffic Safety Administration, $75 million for fiscal year 1972 and $100 million for fiscal year 1973; and for highway safety programs administered by the Federal Highway Administration, $30 million for each of such fiscal years, of which $15 million is authorized to be appropriated from the Highway Trust Fund.

For highway safety research and development administered by the National Highway Traffic Safety Administration, $30 million for fiscal year 1972 and $45 million for fiscal year 1973; and for that administered by the Federal Highway Administration, $10 million for each of the fiscal years.

Authorization for appropriations for fiscal years 1970 and 1971 is repealed, for no appropriations have been made, and none are planned to be made, under this authority.

Conference Substitute

The conference substitute is the same as the provisions of the House bill with the following changes:

The Deputy Administrator will be appointed by the Secretary of Transportation with the approval of the President. The provision on apportionment of funds for State and local highway safety programs is amended to ensure that each State shall receive not less than one-third of 1 percent of the total apportionment.

The provision prohibiting promulgation of new standards after December 31, 1970, is amended to permit new standards but to require that at least 90 days prior to the effective date of a new standard it must be submitted to Congress.

The authorizations are amended as follows: For highway safety programs administered by the National Highway Traffic Safety Administration, $75,000,000 for fiscal year 1972 and $100,000,000 for the fiscal year ending June 30, 1973. For highway safety research and development administered by the National Highway Traffic Safety Administration, $70,000,000 for the fiscal year ending June 30, 1972, and $115,000,000 for the fiscal year ending June 30, 1973.

For highway safety programs administered by the Federal Highway Administration, $30,000,000 per year for fiscal years 1972 and 1973, and for highway safety research and development and section 307(a) of title 23, United States Code, administered by the Federal Highway Administration, $10,000,000 per fiscal year for fiscal 1972 and 1973.

In the case of each such authorization there is a requirement that two-thirds of all the funds authorized and expended under the paragraph in any fiscal year will be appropriated out of the Highway Trust Fund.

Demonstration projects

Senate Amendment

No comparable provision.

House Bill

This section authorizes the Secretary, in cooperation with the Governors of the States, to undertake demonstration projects for alcohol safety action programs including multidisciplinary crash investigation teams and demonstration projects relating to enforcement of motor vehicle and traffic laws. Not more than one demonstration project of each type shall be undertaken in any one

State, and all such projects shall be completed by June 30, 1974.

The Secretary shall submit progress reports, with recommendations, to the Congress not later than June 30th of 1971, 1972, and 1973, and he shall submit a final report, with recommendations, to the Congress, not later than July 31, 1974.

There is authorized to be appropriated for the four-fiscal-year period ending June 30, 1974, out of the Highway Trust Fund, the following sums: (1) $171.6 million for alcohol safety action programs; (2) $35.2 million for multidisciplinary crash investigation teams; and (3) $75 million for motor vehicle and traffic laws enforcement projects.

Conference Substitute

The conference substitute does not contain this provision because of the action of the conferees with respect to the general authorizations for the highway safety programs.

Highway safety programs

No comparable provision.

Senate Amendment

House Bill

This section centralizes responsibility for State highway safety programs by requiring that, after December 31, 1971, the Governor of a State shall be responsible for the administration of such programs through a State highway safety agency suitably organized and possessed of adequate powers to carry out such programs to the satisfaction of the Secretary.

Conference Substitute

Same as the House provision with the requirement, however, that instead of a "State highway safety agency" the program be administered through a "State agency".

Bridge reconstruction and replacement

Senate Amendment

This section would establish a replacement program for bridges on any Federal-aid system which are no longer capable of safely handling traffic. A national priority inventory would determine which bridges should be replaced first. The priority would be based on safety and the economic importance of the structure to the area served. The Federal share payable for these projects would be up to 75 per centum, and $150 million would be authorized out of the Highway Trust Fund for each of the fiscal years 1971, 1972 and 1973 for this program.

House Bill

Each State is authorized to use not more than 10% and is required to use at least 5% (unless the Secretary determines that 5% exceeds the needs of the State) of all sums apportioned for the ABC program for fiscal year 1972 and each subsequent fiscal year to pay the Federal share of the cost of reconstruction or replacement of bridges that cross waterways and are on either the Federal-aid primary or secondary system, if the existing bridge is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence. It is estimated that this section will apply to approximately 465 bridges, the reconstruction or replacement of which will cost approximately $2 billion.

The Federal share of the cost of any project for the reconstruction or replacement of a bridge under this section is 90%, or that applicable to the ABC program, whichever is the larger.

The Secretary is required to report annually to the Congress on projects approved under this section together with his recommendations relating to bridge reconstruction and replacement.

Conference Substitute

The conference substitute is essentially the Senate provision expanded to include bridges over waterways generally rather than just those over major rivers and is expressly applicable to bridges which are unsafe because of structural deficiencies, physical deterioration, or functional obsolescence and requires the classification of the inventory to be based on serviceability, safety, and essentiality for public use. In addition, the provisions of the General Bridge Act of 1946 are made applicable to bridges authorized to be constructed and reconstructed to replace unsafe bridges under this section. The monetary authorizations are limited to fiscal years 1972 and 1973 at $100,000,000 and $150,000,000, respectively.

Rail crossings

Senate Amendment

No comparable provision.

House Bill

This section authorizes the Secretary to carry out a demonstration project for the elimination of all public ground level rail-highway crossings along the route of the high-speed rail demonstration project between Washington, D.C. and Boston, Massachusetts; and a demonstration project for the elimination or protection of certain public ground level rail-highway crossings in, or in the vicinity of, Greenwood, South Carolina.

The Federal share for such work on a Federal-aid highway shall be 90% and the railroad's share shall be 10%. On a non-Federal-aid highway, the Federal share shall be 80%, the railroad's share be 10%, and the State's share be 10%.

The section authorizes $9 million to be appropriated from the Highway Trust Fund to pay the Federal share of work done on Federal-aid highways and $22 million from the general fund of the Treasury to pay the Federal share of work done on non-Federal-aid highways.

In addition, the Secretary shall, in cooperation with State highway departments, conduct a study of the problem of providing increased highway safety at ground-level rail-highway crossings throughout the country, and report his findings and recommendations to the Congress not later than July 1, 1972, including an estimate of the cost of such a program. Funds authorized for carrying out highway research and planning under 23 U.S.C. 307 may be used to carry out this study.

Conference Substitute

Same as the House bill.

Elimination of railway-highway grade hazards

Senate Amendment

No comparable provision.

House Bill

Section 207 of the House bill amends existing law to require that not less than 5 percent of all sums apportioned to each State for the ABC program (unless the Secretary determines that a lesser amount will meet the needs of the State) shall be used for the use of railway-highway grade hazards.

Conference Substitute

This does not contain this provision of the House bill.

TITLE III

Senate Amendment

No comparable provision.

House Bill

Title III of the House amendment extends the Highway Trust Fund for five years. It postpones for five years those tax rate reductions scheduled to take effect at the expiration of the Trust Fund under present law in 1972. It also extends for five years the provisions dealing with payments out of the Trust Fund, including payments to the land and water conservation fund.

Conference Substitute

This is the same as the provisions of the House bill.

GEORGE H. FALLON,
JOHN C. KLUCZYNSKI,
JIM WRIGHT,
ED EDMONDSON,
WILLIAM C. CRAMER,
WILLIAM H. HARSHA,
JAMES C. CLEVELAND,
Managers on the Part of the House.

RIVERS AND HARBORS AND FLOOD CONTROL ACTS OF 1970—CONFERENCE REPORT

Mr. BLATNIK submitted the following conference report and statement on the bill (H.R. 19877) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes:

CONFERENCE REPORT (H. REPT. 91–1782)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 19877) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—RIVERS AND HARBORS

SEC. 101. The following works of improvement of rivers and harbors and other waterways for navigation, flood control, and other purposes are hereby adopted and authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, in accordance with the plans and subject to the conditions recommended by the Chief of Engineers in the respective reports hereinafter designated. The provisions of section 1 of the River and Harbor Act approved March 2, 1945 (Public Law Numbered 14, Seventy-ninth Congress), shall govern with respect to projects authorized in this title; and the procedures therein set forth with respect to plans, proposals, or reports for works of improvement for navigation or flood control and for irrigation and purposes incidental thereto, shall apply as if herein set forth in full.

NAVIGATION

Pleasant Bay, Massachusetts: House Document Numbered 91–340, at an estimated cost of $10,221,000;

Baltimore Harbor and channels, Maryland and Virginia: Chief of Engineers report dated September 21, 1970, except that not to exceed $40,000,000 is authorized for initiation and partial accomplishment of such project, and except that construction shall not be initiated until approved by the Secretary of the Army and the President;

Atlantic Intracoastal Waterway Bridges, Virginia and North Carolina: Chief of Engineers report dated November 24, 1970, at an estimated cost of $11,220,000, except that construction shall not be initiated until approved by the Secretary of the Army and the President;

Manteo (Shallowbag) Bay, North Carolina: House Document Numbered 91–303, at an estimated cost of $10,769,000;

Pamlico River and Morehead City Harbor, North Carolina: Report of the Chief of Engineers dated November 23, 1970, at an esti-

mated cost of $2,642,000, except that construction shall not be initiated until approved by the Secretary of the Army and the President;

Port Sutton, Tampa Harbor, Florida: House Document Numbered 91–150 maintenance;

Tampa Harbor, Florida: House Document Numbered 91–401, except that not to exceed $40,000,000 is authorized for initiation and partial accomplishment of such project; after the date of enactment of this Act the Secretary of the Army, acting through the Chief of Engineers, shall maintain the Port Sutton Terminal Channel and the East Bay Channel and Turning Basin;

Freeport Harbor, Texas: Chief of Engineers report dated November 23, 1970, at an estimated cost of $13,710,000, except that construction shall not be initiated until approved by the Secretary of the Army and the President;

Coos Bay, Oregon: House Document Numbered 91–151, at an estimated cost of $9,100,000;

Nawiliwili Harbor, Kauai, Hawaii: Chief of Engineers report dated November 24, 1970, at an estimated cost of $1,952,000, except that construction shall not be initiated until approved by the Secretary of the Army and the President.

BEACH EROSION

Lido Key, Florida: House Document Numbered 91–320, at an estimated cost of $240,000; the Secretary of the Army, acting through the Chief of Engineers, is authorized to reimburse or credit local interests for work performed by them subsequent to July 1, 1968, and in accordance with the recommended plan of improvement.

SEC. 102. The Secretary of the Army is hereby authorized and directed to cause an immediate study to be made under the direction of the Chief of Engineers of a navigation channel, having a depth of seventeen feet at mean low water, and a width of one hundred feet, extending a distance of approximately two and one-half miles from deep water in Saint Georges Creek, Maryland, to the Harry Lundeberg School of Seamanship at Piney Point, Maryland, and terminating in a turning basin at that location. Such project because of its immediate and long-range value to the United States Merchant Marine and to national defense, is hereby authorized, at an estimated cost of $475,000, as determined to be feasible and justified by the Chief of Engineers and Secretary of the Army with the approval of the President, unless within the first period of ninety calendar days of continuous session of the Congress after the date on which the report is submitted to it, such report is disapproved by the Congress. The requirements for cooperation shall include provisions that local interests shall furnish all lands, easements, and rights-of-way for construction and future maintenance of the project; hold and save the United States free from damages, and bear the cost of all spoil disposal areas.

SEC. 103. The costs of operation and maintenance of the general navigation features of small boat harbor projects authorized between January 1, 1970, and December 31, 1970, under the authority of this Act, section 201 of the Flood Control Act of 1965, or section 107 of the River and Harbor Act of 1960, shall be borne by the United States.

SEC. 104. The proviso in section 6 of the Act of July 3, 1930, as amended (48 Stat. 948; 33 U.S.C. 569a), is amended to read as follows: "*Provided*, That individuals so engaged may be paid at rates not to exceed the daily equivalent of the rate for GS–18 for each day of their services."

SEC. 105. The civilian members of the Board on Coastal Engineering Research authorized by the Act of November 7, 1963 (33 U.S.C. 426–2) may be paid at rates not to exceed the daily equivalent of the rate for GS–18 for each day of attendance at Board meetings, not to exceed thirty days per year, in addition to the traveling and other necessary expenses connected with their duties on the Board in accordance with the provisions of 5 U.S.C. 5703 (b), (d), and 5707.

SEC. 106. The Secretary of the Army is hereby authorized and directed to cause surveys to be made at the following locations and subject to all applicable provisions of section 110 of the River and Harbor Act of 1950:

Shooters Island, New York, possible removal and utilization for fill and widening of Arthur Kill.

Elk River, Maryland.

Stillpond Creek, Kent County, Maryland.

Patapsco River, Brooklyn, Maryland.

Kanawha and James Rivers, with a view to determining the advisability of providing a waterway connecting the Kanawha River, West Virginia, and James River, Virginia, by canals and appurtenant facilities.

Ventura Marina to Ventura Keys, Ventura County, California.

Harbors and rivers in American Samoa and the territory of Guam, in the interests of navigation, flood control, and related water resources purposes.

Kaneohe Bay, Oahu, Hawaii, with a view of recommending improvements in the interests of pollution abatement, navigation, recreation, and overall bay development.

Wailua, Kauai, Hawaii (beach erosion).

West Hawaii, Kona area, Hawaii, Hawaii (beach erosion).

Maunalua Bay, Oahu, Hawaii (beach erosion).

Hanauma Bay, Oahu, Hawaii (beach erosion).

Kaaawa area, Oahu, Hawaii (beach erosion).

Hauula area, Oahu, Hawaii (beach erosion).

Mokuleia area, Oahu, Hawaii (beach erosion).

Keehi Lagoon area, Oahu, Hawaii (beach erosion).

Sandy Beach Park, Oahu, Hawaii (beach erosion).

Ewa Beach, Oahu, Hawaii (beach erosion).

Maile-Waianae coast area, Oahu, Hawaii (beach erosion).

SEC. 107. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to conduct a survey of the Great Lakes and Saint Lawrence Seaway to determine the feasibility of means of extending the navigation season in accordance with the recommendations of the Chief of Engineers in his report entitled "Great Lakes and Saint Lawrence Seaway—Navigation Season Extension."

(b) The Secretary of the Army, acting through the Chief of Engineers, in cooperation with the Departments of Transportation, Interior, and Commerce, including specifically the Coast Guard, the Saint Lawrence Seaway Development Corporation, and the Maritime Administration; the Environmental Protection Agency; other interested Federal agencies, and non-Federal public and private interests, is authorized and directed to undertake a program to demonstrate the practicability of extending the navigation season on the Great Lakes and Saint Lawrence Seaway. Such program shall include, but not be limited to, ship voyages extending beyond the normal navigation season; observation and surveillance of ice conditions and ice forces; environmental and ecological investigations; collection of technical data related to improved vessel design; ice control facilities, and aids to navigation; physical model studies; and coordination of the collection and dissemination of information to shippers on weather and ice conditions. The Secretary of the Army, acting through the Chief of Engineers, shall submit a report describing the results of the program to the Congress not later than July 30, 1974. There is authorized to be appropriated to the Secretary of the Army not to exceed $6,500,000 to carry out this subsection.

(c) The Secretary of Commerce, acting through the Maritime Administration, in consultation with other interested Federal agencies, representatives of the merchant marine, insurance companies, industry, and other interested organizations, shall conduct a study of ways and means to provide reasonable insurance rates for shippers and vessels engaged in waterborne commerce on the Great Lakes and the Saint Lawrence Seaway beyond the present navigation season, and shall submit a report, together with any legislative recommendations, to Congress by June 30, 1971.

SEC. 108. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to investigate, study, and undertake measures in the interests of water quality, environmental quality, recreation, fish and wildlife, and flood control, for the Cuyahoga River Basin, Ohio. Such measures shall include, but not be limited to, clearing, snagging, and removal of debris from the river's bed and banks; dredging and structural works to improve streamflow and water quality; and bank stabilization by vegetation and other means. In carrying out such studies and investigations the Secretary of the Army, acting through the Chief of Engineers, shall cooperate with interested Federal and State agencies.

(b) Prior to initiation of measures authorized by this section, such non-Federal public interests as the Secretary of the Army, acting through the Chief of Engineers, may require shall agree to such conditions of cooperation as the Secretary of the Army, acting through the Chief of Engineers, determines appropriate, except that such conditions shall be similar to those required for similar project purposes in other Federal water resources projects.

SEC. 109. (f) Section 110 of the River and Harbor Act of 1958 (72 Stat. 297) is amended to read as follows:

"(f) There is hereby authorized to be appropriated the sum of $2,000,000 to carry out the provisions of this section and, upon completion of transfer to the State of Illinois of all right, title, and interest of the United States in and to the canal, an additional sum of $6,528,000 to be expended for the repair, modification, and maintenance of bridges, title transfer, modification or rehabilitation of hydraulic structures, fencing, clearing auxiliary ditches, and for the repair and modification of other canal property appurtenances, notwithstanding subsection (b) of this section."

SEC. 110. The project for the Trinity River and tributaries, Texas, authorized in section 301 of the River and Harbor Act of 1965 (79 Stat. 1073) is hereby modified to provide that not to exceed $75,000 of the costs incurred in 1968 and 1969 by the Trinity River Authority of Texas for aerial photography and mosaic preparation furnished to and accepted by the Secretary of the Army, acting through the Chief of Engineers, shall be credited as a part of the local contribution required of such authority for such project.

SEC. 111. In all cases where real property shall be taken by the United States for the public use in connection with any improvement of rivers, harbors, canals, or waterways of the United States, and in all condemnation proceedings by the United States to acquire lands or easements for such improvements, the compensation to be paid for real property taken by the United States above the normal high water mark of navigable waters of the United States shall be the fair market value of such real property based upon all uses to which such real property may reasonably be put, including its highest and best use, any of which uses may be dependent upon access to or utilization of such

navigable waters. In cases of partial takings of real property, no depreciation in the value of any remaining real property shall be recognized and no compensation shall be paid for any damages to such remaining real property which result from loss of or reduction of access from such remaining real property to such navigable waters because of the taking of real property or the purposes for which such real property is taken. The compensation defined herein shall apply to all acquisitions of real property after the date of enactment of this Act, and to the determination of just compensation in any condemnation suit pending on the date of enactment hereof.

SEC. 112. (a) Subsection (a) of section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) is amended by striking out "$10,000,000" and inserting in lieu thereof "$25,000,000". Subsection (b) of such section 107 is amended by striking out "$500,000" and inserting in lieu thereof "$1,000,000".

(b) Section 3 of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946, as amended (33 U.S.C. 426g), is amended (1) by striking out "$10,000,000" and inserting in lieu thereof "$25,000,000", and (2) by striking out "$500,000" and inserting in lieu thereof "$1,000,000".

(c) The amendments made by this section shall not apply to any project under contract for construction on the date of enactment of this Act.

SEC. 113. The New York Harbor Collection and Removal of Drift project is hereby modified substantially in accordance with the plans on file in the Office, Chief of Engineers, subject to the approval of such plans and recommendations for requirements of local cooperation by the Secretary of the Army and the President. Any disposal of materials in carrying out this project shall be in accordance with Federal and State laws and regulations with respect to the control of air and water pollution.

SEC. 114. The project for Santa Barbara Harbor, California, authorized by the River and Harbor Act approved March 2, 1945, is hereby modified to provide that the dredging and maintenance of such project shall be the responsibility of the United States.

SEC. 115. The multiple-purpose plan for improvement of the Arkansas River and tributaries, authorized by the River and Harbor Act of July 24, 1946, as amended and modified, is hereby further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct a bridge and necessary approach facilities across Spaniard Creek, Muskogee County, Oklahoma, as a replacement for the former bridge which was removed in connection with the construction of Lock and Dam Numbered 16. Appropriate non-Federal interests as determined by the Secretary of the Army, acting through the Chief of Engineers, shall own, operate, and maintain the bridge and approach facilities after completion of construction.

SEC. 116. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake measures to clear the channel of the North Branch of the Chicago River, Illinois, of fallen trees, roots, and other debris and objects which contribute to floodings, unsightliness, and pollution of the river.

(b) Prior to initiation of measures authorized by this section, such non-Federal interests as the Secretary of the Army, acting through the Chief of Engineers, may require shall agree to such conditions of cooperation as the Secretary of the Army, acting through the Chief of Engineers, determine appropriate, except that such conditions shall be similar to those required for similar project purposes in other Federal water resources projects.

(c) There is authorized to be appropriated to the Secretary of the Army not to exceed $200,000 for the Federal share of the project.

SEC. 117. The project for Port Orford, Oregon, authorized by the River and Harbor Act of 1965 in accordance with the recommendations of the Chief of Engineers in Senate Document Numbered 62, Eighty-eighth Congress, is hereby modified to provide for maintenance of a suitable channel to the existing port facilities, not exceeding the sixteen-foot natural depth available at the time of project authorization, subject to the conditions that local interests agree to (1) provide without cost to the United States all necessary lands, easements, and rights-of-way; and (2) hold and save the United States free from damages due to the work. No such dredging shall be performed within fifty feet of the docks.

SEC. 118. The project for the Ouachita and Black Rivers, Arkansas and Louisiana, authorized by the River and Harbor Acts of 1960, is hereby modified to provide for the acquisition of lands for establishment of national wildlife refuges, under the provisions of Public Law 85-624 and section 6(c) of Public Law 89-72, at an estimated additional Federal cost of $13,500,000, substantially in accordance with the report of the Chief of Engineers dated November 25, 1970, subject to approval by the Secretary of the Army and the President.

SEC. 119. The Chief of Engineers, for the purpose of determining Federal and non-Federal cost sharing, relating to proposed construction of small-boat navigation projects, shall consider charter fishing craft as commercial vessels.

SEC. 120. Paragraph (1) of subsection (p) of section 11 of the Federal Water Pollution Control Act, as amended, is amended by inserting after the word "size," in the first sentence thereof, a new clause as follows: "but not including any barge that is not self-propelled and that does not carry oil as cargo or fuel,"

SEC. 121. The Secretary of the Army, acting through the Chief of Engineers, in cooperation with the Secretary of Housing and Urban Development shall investigate the L-K Street slide area in Anchorage, Alaska, with a view of determining the practicability and the feasibility of corrective measures that would permit federal mortgage insurance under the National Housing Act for homes and multifamily structures in the area and shall report thereon to the Congress.

SEC. 122. Not later than July 1, 1972, the Secretary of the Army, acting through the Chief of Engineers, after consultation with appropriate Federal and State officials, shall submit to Congress, and not later than ninety days after submission, promulgate guidelines designed to assure that possible adverse economic, social, and environmental effects relating to any proposed project have been fully considered in developing such project, and that the final decisions on the project are made in the best over all public interest, taking into consideration the need for flood control, navigation and associated purposes, and the cost of eliminating or minimizing such adverse affects and the following:

(1) Air, noise, and water pollution;

(2) destruction or disruption of man-made and natural resources, esthetic values, community cohesion and the availability of public facilities and services;

(3) adverse employment effects and tax and property value losses;

(4) injurious displacement of people, businesses, and farms; and

(5) disruption of desirable community and regional growth.

Such guidelines shall apply to all projects authorized in this Act and proposed projects after the issuance of such guidelines.

SEC. 123. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct, operate, and maintain, subject to the provisions of subsection (c), contained spoil disposal facilities of sufficient capacity for a period not to exceed ten years, to meet the requirements of this section. Before establishing each such facility, the Secretary of the Army shall obtain the concurrence of appropriate local governments and shall consider the views and recommendations of the Administrator of the Environmental Protection Agency and shall comply with requirements of section 21 of the Federal Water Pollution Control Act, and of the National Environmental Policy Act of 1969. Section 9 of the River and Harbor Act of 1899 shall not apply to any facility authorized by this section.

(b) The Secretary of the Army, acting through the Chief of Engineers, shall establish the contained spoil disposal facilities authorized in subsection (a) at the earliest practicable date, taking into consideration the views and recommendations of the Administrator of the Environmental Protection Agency as to those areas which, in the Administrator's judgment, are most urgently in need of such facilities and pursuant to the requirements of the National Environmental Policy Act of 1969 and the Federal Water Pollution Control Act.

(c) Prior to construction of any such facility, the appropriate State or States, interstate agency, municipality, or other appropriate political subdivision of the State shall agree in writing to (1) furnish all lands, easements, and rights-of-way necessary for the construction, operation, and maintenance of the facility; (2) contribute to the United States 25 per centum of the construction costs, such amount to be payable either in cash prior to construction, in installments during construction, or in installments, with interest at a rate to be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due or callable for redemption for fifteen years from date of issue; (3) hold and save the United States free from damages due to construction, operation, and maintenance of the facility; and (4) except as provided in subsection (f), maintain the facility after completion of its use for disposal purposes in a manner satisfactory to the Secretary of the Army.

(d) The requirement for appropriate non-Federal interest or interests to furnish an agreement to contribute 25 per centum of the construction costs as set forth in subsection (c) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State or States involved, interstate agency, municipality, and other appropriate political subdivision of the State and industrial concerns are participating in and in compliance with an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

(e) Notwithstanding any other provision of law, all costs of disposal of dredged spoil from the project for the Great Lakes connecting channels, Michigan, shall be borne by the United States.

(f) The participating non-Federal interest or interests shall retain title to all lands, easements, and rights-of-way furnished by it pursuant to subsection (c). A spoil disposal facility owned by a non-Federal interest or interests may be conveyed to another party only after completion of the facility's use for disposal purposes and after the transferee agrees in writing to use or maintain the facility in a manner which the Secretary of the Army determines to be satisfactory.

(g) Any spoil disposal facilities constructed under the provisions of this section shall be made available to Federal licensees or permittees upon payment of an appropriate charge for such use. Twenty-five per centum of such charge shall be remitted to the participating non-Federal interest or interests except for those excused from contributing to the construction costs under subsections (d) and (e).

(h) This section, other than subsection (i), shall be applicable only to the Great Lakes and their connecting channels.

(i) The Chief of Engineers, under the direction of the Secretary of the Army, is hereby authorized to extend to all navigable waters, connecting channels, tributary streams, other waters of the United States and waters contiguous to the United States, a comprehensive program of research, study, and experimentation relating to dredged spoil. This program shall be carried out in cooperation with other Federal and State agencies, and shall include, but not be limited to, investigations on the characteristics of dredged spoil, and alternative methods of its disposal. To the extent that such study shall include the effects of such dredge spoil on water quality, the facilities and personnel of the Environmental Protection Agency shall be utilized.

SEC. 124. Title I of this Act may be cited as the "River and Harbor Act of 1970".

TITLE II—FLOOD CONTROL

SEC. 201. Sections 201 and 202 and the last three sentences in section 203 of the Flood Control Act of 1968 shall apply to all projects authorized in this title. The following works of improvement for the benefit of navigation and the control of destructive floodwaters and other purposes are hereby adopted and authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, in accordance with the plans and subject to the conditions recommended to be the Chief of Engineers in the respective reports hereinafter designated.

ARKANSAS RIVER BASIN

The project for flood protection and other purposes on the Deep Fork River in the vicinity of Arcadia, Oklahoma is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 91–299, at an estimated cost of $24,900,000.

ARKANSAS-RED RIVER BASIN

The project for water quality control in the Arkansas-Red River Basin, Texas, Oklahoma, and Kansas, designated as Part I, authorized by the Flood Control Act of 1966, is hereby modified to include Part II of such project, substantially in accordance with the recommendations of the Chief of Engineers in his report dated May 6, 1970, except that the amount authorized for Part I shall be utilized for initiation and partial accomplishment of Parts I and II. Construction shall not be initiated until approved by the Secretary of the Army and the President.

LOWER MISSISSIPPI RIVER BASIN

The project for flood control and improvement of the lower Mississippi River, adopted by the Act of May 15, 1928 (45 Stat. 534), as amended and modified, is hereby further modified and expanded to include the project for flood protection within the areas of eastern Rapides and south-central Avoyelle Parishes, Louisiana, that are drained by the Bayou des Glaises diversion channel, and Lake Long, and their tributaries, substantially in accordance with the recommendations of the Chief of Engineers in Senate Document Numbered 91–113, at an estimated cost of $15,333,000.

MISSOURI RIVER BASIN

The project for flood protection and other purposes in the Blue River Basin, vicinity of Kansas City, Missouri and Kansas, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 91–332, except that not to exceed $40,000,000 is authorized for initiation and partial accomplishment of the project. Construction of the Tomahawk Creek Reservoir shall not be initiated until the Secretary of the Army has been assured by the Chief of Engineers that the most feasible combination of improvements having the most favorable impact upon the environment and future development of the Tomahawk Creek Watershed has been assured.

The project for Oahe Dam and Reservoir, Missouri River, North Dakota, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in Senate Document Numbered 91–23, at an estimated cost of $732,000.

RED RIVER OF THE NORTH

The project for flood protection and other purposes on Wild Rice River, Minnesota, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 366, Ninetieth Congress, at an estimated cost of $8,359,000.

The project for flood protection and other purposes on the Sheyenne River, North Dakota, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 91–330, at an estimated cost of $20,000,000.

SOURIS RIVER BASIN

The project for Burlington Dam and Reservoir on the Souris River, North Dakota, for flood protection and other purposes, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 91–321, at an estimated cost of $29,240,000.

SANTA BARBARA COUNTY COASTAL STREAMS

The project for flood protection on Atascadero Creek and its tributaries of Goleta, California, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 91–392, at an estimated cost of $13,830,000.

SABINE RIVER BASIN

The project for flood protection and other purposes in the Sabine River Basin, Texas and Louisiana, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 91–429, except that not to exceed $40,000,000 is authorized for initiation and partial accomplishment of the project.

UPPER MISSISSIPPI RIVER BASIN

The project for flood protection on the Mississippi River at Davenport, Iowa, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in his report dated December 4, 1970, at an estimated cost of $12,263,000. Construction shall not be initiated until approved by the Secretary of the Army and by the President.

OHIO RIVER BASIN

The project for flood protection on Mill Creek, Ohio, is hereby authorized, substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 91–413, at an estimated cost of $32,642,000.

GREAT LAKES BASIN

The project for flood protection along Red Run Drain and Lower Clinton River, Michigan, is hereby authorized, substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 91–431, except that not to exceed $40,000,000 is authorized for initiation and partial accomplishment of the project.

The project for the Sandridge Dam and Reservoir, Ellicott Creek, New York, for flood protection and other purposes is hereby authorized, substantially in accordance with the recommendations of the Chief of Engineers in his report dated November 25, 1970, at an estimated cost of $19,070,000. Construction shall not be initiated until approved by the Secretary of the Army and the President. Prior to the commencement of this project, including, but not limited to, acquisition of real property, the Secretary of the Army, acting through the Chief of Engineers, shall investigate all possible alternative methods, including, but not limited to possible relocation of elements of the project, installation of channels, provision of levees and floodwalls, decreasing of size of project facilities, rerouting of streams, raising or lowering pools, and deepening channels and movement on the stream, or any combination of the foregoing that can accomplish the purposes of this project and shall report his findings and determinations to the Congress.

COMMONWEALTH OF PUERTO RICO

The project for flood protection and other purposes for Portugues Dam and Reservoir, Puerto Rico, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 91–422, at an estimated cost of $11,110,000.

The project for flood protection and other purposes for Cerrillos Dam and Reservoir, Puerto Rico, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 91–422, at an estimated cost of $16,351,000.

The project for flood protection and other purposes for channel improvement at Ponce, Puerto Rico, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 91–422, at an estimated cost of $14,295,000.

SACRAMENTO RIVER BASIN

The project for flood protection and other purposes on Cottonwood Creek, California, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in his report dated December 14, 1970, except that not to exceed $40,000,000 is authorized for initiation and partial accomplishment of the project. Construction shall not be initiated until approved by the Secretary of the Army and the President.

SAN JOAQUIN RIVER BASIN

The project for Merced County Streams, California, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in his report dated November 25, 1970, at an estimated cost of $37,260,000. Construction shall not be initiated until approved by the Secretary of the Army and the President.

KANEOHE-KAILUA AREA, OAHU, HAWAII

The project for flood protection in the Kanoehe-Kailua area on the east coast of the island of Oahu, Hawaii, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in his report dated November 23, 1970, at an estimated cost of $7,249,000. Construction shall not be initiated until approved by the Secretary of the Army and the President.

SEC. 202. (a) The plan for flood protection in the Big Sandy River Basin, Kentucky, West Virginia, and Virginia, included in the comprehensive plan for flood control in the Ohio River Basin, authorized by the Flood Control Act, approved June 22, 1936 (49 Stat. 1570), as amended and modified, is hereby further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to relocate Levisa Fork of the Big Sandy River at Pikeville, Kentucky, and to construct related drainage facilities, in connection with the city of Pikeville's model city program. Such channel relocation shall be accomplished by excavation of an open cut

to connect the points of the horseshoe bend in Levisa Fork at Pikeville, and the open cut shall be designed and constructed to such dimensions and grades as will permit relocation of the river with the Chesapeake and Ohio Railway on the left descending bank and the United States Highway Numbered 23 on the right descending bank of such open cut. Spoil material from the open cut shall be utilized for filled areas included in the model city plan.

(b) The work authorized by this section shall not be commenced until an agreement satisfactory to the Secretary of the Army, acting through the Chief of Engineers, has been entered into with the Department of Housing and Urban Development, the State Highway Department of Kentucky, the Federal Highway Administration, the Appalachian Regional Commission, the Chesapeake and Ohio Railway Company, the city of Pikeville, and other participating agencies relative to the financial responsibility of each participant in the model city project; and appropriate non-Federal interests have furnished the cooperation required by section 3 of the Flood Control Act, approved June 22, 1936 (49 Stat. 1570), as amended. Financial participation of the Department of the Army shall be based upon an equitable distribution of costs among the participants.

SEC. 203. The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate and participate with concerned Federal, State, and local agencies in preparing the general plan for the development of the water resources of the western United States authorized by the Colorado River Basin Project Act (83 Stat. 885).

SEC. 204. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate with the Commonwealth of Puerto Rico, political subdivisions thereof, and appropriate agencies and instrumentalities thereof, in the preparation of plans for the development, utilization, and conservation of water and related land resources of drainage basins and coastal areas in the Commonwealth of Puerto Rico, and to submit to Congress reports and recommendations with respect to appropriate participation by the Department of the Army in carrying out such plans. Such plans that may be recommended to the Congress shall be harmonious components of overall development plans being formulated by the Commonwealth and shall be fully coordinated with all interested Federal agencies.

(b) The Secretary of the Army, acting through the Chief of Engineers, shall consider plans to meet the needs of the Commonwealth for protection against floods, wise use of flood plain lands, improvement of navigation facilities, regional water supply and waste management systems, outdoor recreational facilities, the enhancement and control of water quality, enhancement and conservation of fish and wildlife, beach erosion control, and other measures for environmental enhancement.

SEC. 205. Notwithstanding the first proviso in section 201 of the Acts entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes" approved June 30, 1948 (62 Stat. 1171), and May 17, 1950 (64 Stat. 63), the authorization in section 203 of the Act of June 30, 1948, and section 204 of the Act of May 17, 1950, of the project for local protection at East Grand Forks, Minnesota, shall expire on April 17, 1975, unless local interests shall before such date furnish assurances satisfactory to the Secretary of the Army that the required local cooperation in such project will be furnished.

SEC. 206. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to elevate, relocate, or make such other changes as may be necessary to insure that the road located in the Wolf Creek Park area, running in an east-west direction and crossing Wolf Creek, Harris Branch, and Strain Branch in the Navarro Mills Reservoir, Texas, will at all times be above elevation four hundred and forty-three feet above mean sea level.

SEC. 207. Paragraph (2) under the heading "Lower Mississippi River Basin" in section 203 of the Flood Control Act of 1966 (Public Law 89-789) is amended by striking out "Baton Rouge, Louisiana," and inserting in lieu thereof "Cairo, Illinois,".

SEC. 208. Subsection (b) of the first section of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property.", approved August 13, 1946 (33 U.S.C. 426e(b)), is amended by inserting "(1)" after "except that", by striking out "and, further that" and inserting "(2)" in lieu thereof, and by inserting before the period at the end thereof a comma and the following: "and (3) Federal participation in the cost of a project providing hurricane protection may be, in the discretion of the Secretary of the Army, acting through the Chief of Engineers, not more than 70 per centum of the total cost exclusive of land costs."

SEC. 209. It is the intent of Congress that the objectives of enhancing regional economic development, the quality of the total environment, including its protection and improvement, the well-being of the people of the United States, and the national economic development are the objectives to be included in federally financed water resource projects, and in the evaluation of benefits and cost attributable thereto, giving due consideration to the most feasible alternative means of accomplishing these objectives.

SEC. 210. The project for the western Kentucky tributaries (Obion Creek), Kentucky, authorized as part of the comprehensive plan for the lower Mississippi Basin in the Flood Control Act of 1965, is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers, shall, after the date of enactment of this Act, relocate at Federal expense all transmission lines (both gas and electric) in western Kentucky required to be relocated by this project or, at his discretion, reimburse or credit local interests for such relocations made by them.

SEC. 211. (a) Section 3013 of title 10, United States Code, is amended by striking out "four Assistant Secretaries" and inserting in lieu thereof the following: "five Assistant Secretaries", and by adding at the end thereof the following: "One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Civil Works. He shall have as his principal duty the overall supervision of the functions of the Department of the Army relating to programs for conservation and development of the national water resources including flood control, navigation, shore protection, and related purposes."

(b) Paragraph (15) of section 5315 of title 5, United States Code, is amended by striking out "(4)" and inserting in lieu thereof "(5)".

SEC. 212. The Secretary of the Army, acting through the Chief of Engineers, is authorized, in the interests of flood control and related purposes, to remove logjams in the lower Guadalupe River, Texas. Prior to the undertaking of the work authorized by this section, appropriate non-Federal interests shall agree to furnish without cost to the United States lands, easements, and rights-of-way necessary for the work, to hold and save the United States free from damages due to the work and to perform all such work thereafter.

SEC. 213. The Secretary of the Army, acting through the Chief of Engineers, is authorized to resolve the seepage and drainage problem in the vicinity of the town of Niobrara, Nebraska, that may be related to operation of Gavins Point Dam and Lewis and Clark Lake project, Nebraska and South Dakota, subject to a determination by the Chief of Engineers with the approval of the Secretary of the Army, of the most feasible solution thereto. There is authorized to be appropriated to the Secretary not to exceed $7,800,000, to carry out this section.

SEC. 214. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to perform dredging operations in the Coal River Basin, West Virginia, for the purpose of improving the channel capacities in the interest of flood control. Such operations shall be performed on an interim basis pending completion of the Kanawha River Basin comprehensive study being undertaken by Federal and State agencies and implementation of the pertinent study recommendations by the Secretary of the Army. Appropriate non-Federal public interests as determined by the Secretary of the Army, acting through the Chief of Engineers, shall, prior to initiation of dredging operations, agree to furnish the necessary lands, disposal areas, easements, and rights-of-way, and hold and save the United States free from damages due to the dredging operations.

SEC. 215. The project for flood protection on the Klamath River at and in the vicinity of Klamath, California, authorized by the Flood Control Act of 1966 (80 Stat. 1205), is hereby modified to require the Secretary of the Army, acting through the Chief of Engineers, to provide, as an essential part of the project, bank protection works extending approximately two miles downstream from the project to protect the north bank of the river from erosion due to Klamath River flows. Non-Federal interests shall furnish lands and interests therein necessary for the works, hold and save the United States free from damages due to the works, and operate and maintain the works after completion.

SEC. 216. The Secretary of the Army, acting through the Chief of Engineers, is authorized to review the operation of projects the construction of which has been completed and which were constructed by the Corps of Engineers in the interest of navigation, flood control, water supply, and related purposes, when found advisable due the significantly changed physical or economic conditions, and to report thereon to Congress with recommendations on the advisability of modifying the structures or their operation, and for improving the quality of environment in the overall public interest.

SEC. 217. The Secretary of the Army is hereby authorized and directed to cause surveys for flood control and allied purposes, including channels and major drainage improvements, and floods aggravated by or due to wind or tidal effects, to be made under the direction of the Chief of Engineers, in drainage areas of the United States and its territorial possessions, which include the localities specifically named in this section. After the regular or formal reports made on any survey authorized by this section are submitted to Congress, no supplemental or additional report or estimate shall be made unless authorized by law except that the Secretary of the Army may cause a review of any examination or survey to be made and a report thereon submitted to Congress, if such review is required by the national defense or by changed physical or economic conditions.

Great Swamp, New River Basin, South Carolina.

Streams flowing through West Brazoria County Drainage District Numbered 11 in Brazoria County, Texas.

Vermilion River, Ohio.

Huron River, Ohio.

Black River, Lorain County, Ohio.

Black Creek, Clay County, Florida.

Grand Lake, St. Marys, Ohio.

Coody Creek, Muskogee, Oklahoma.

Kapaa Stream, Kauai, Hawaii.

Waikomo Stream, Kauai, Hawaii.

Hanalei River, Kauai, Hawaii.

Waikane Stream, Oahu, Hawaii.

Moanalua Stream, Oahu, Hawaii.
Waihee Stream, Oahu, Hawaii.
Waikele Stream, Oahu, Hawaii.
Kamananui Stream, Oahu, Hawaii.
Kahana Stream, Oahu, Hawaii.
Waolani Stream, Oahu, Hawaii.
Kaaawa Stream, Oahu, Hawaii.
Makaha Stream, Oahu, Hawaii.
Olowalu Stream, Maui, Hawaii.
Palai, Four Mile Creek, Hawaii, Hawaii.
Kona, Hawaii, Hawaii.

SEC. 218. The Claremont Dam and Reservoir, New Hampshire, authorized by the Flood Control Act approved June 28, 1938 as a part of the comprehensive plan for flood control and other purposes for the Connecticut River Basin, is not authorized after the date of enactment of this Act.

SEC. 219. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to provide bank revetment works along the Ohio River at Newburgh, Indiana, to protect public and private property and facilities threatened by erosion.

SEC. 220. In addition to previous authorization, there is hereby authorized to be appropriated the sum of $1,400,000 for the prosecution of the Comprehensive Plan for the Upper Mississippi River Basin, approved in the Act of June 28, 1938, as amended and supplemented by subsequent acts of Congress.

SEC. 221. (a) After the date of enactment of this Act, the construction of any water resources project by the Secretary of the Army, acting through the Chief of Engineers, or by a non-Federal interest where such interest will be reimbursed for such construction under the provisions of section 215 of the Flood Control Act of 1968 or under any other provision of law, shall not be commenced until each non-Federal interest has entered into a written agreement with the Secretary of the Army to furnish its required cooperation for the project.

(b) A non-Federal interest shall be a legally constituted public body with full authority and capability to perform the terms of its agreement and to pay damages, if necessary, in the event of failure to perform.

(c) Every agreement entered into pursuant to this section shall be enforceable in the appropriate district court of the United States.

(d) After commencement of construction of a project, the Chief of Engineers may undertake performance of those items of cooperation necessary to the functioning of the project for its purposes, if he has first notified the non Federal interest of its failure to perform the terms of its agreement and has given such interest a reasonable time after such notification to so perform.

(e) The Secretary of the Army, acting through the Chief of Engineers, shall maintain a continuing inventory of agreements and the status of their performance, and shall report thereon annually to the Congress.

(f) This section shall not apply to any project the construction of which was commenced before January 1, 1972.

SEC. 222. The Secretary of the Interior in financing the relocation of the existing Placer County Road from Auburn to Foresthill, California, as part of the construction of the Auburn Dam and Reservoir on the Auburn-Folsom South Unit of the Central Valley Project, California, may provide for the cost of construction of a two-lane river level bridge across the North Fork of the American River with a substructure and deck truss capable of supporting a four-lane bridge.

SEC. 223. Section 204 of the Flood Control Act of 1950 is amended by adding at the end of the authorizations set forth under the center heading "COLUMBIA RIVER BASIN" the following new paragraph:

"The Secretary of the Army, acting through the Chief of Engineers, is authorized to pay to those railroad employees suffering long-term economic injury through reduction of income as the result of the relocation of rail transportation facilities due to the construction of Libby Dam, Montana, such sums as he determines equitable to compensate such employees for such injury. There is authorized to be appropriated to carry out this paragraph, not to exceed $900,000."

SEC. 224. That the plan for flood protection in the Big Sandy River Basin, Kentucky, West Virginia, and Virginia included in the comprehensive plan for flood control in the Ohio River Basin, authorized by the Flood Control Act, approved June 22, 1936 (49 Stat. 1570), as amended and modified is hereby further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to provide the towns of Williamson and Matewan, West Virginia, with comprehensive flood protection by a combination of local flood protection works and residential flood proofing and to initiate advanced engineering design and construction thereof as described by the Chief of Engineers in Report on Tug Fork, July 1970, at a total cost not to exceed $10,000,000, except that no funds shall be appropriated to carry out this section until such modification is approved by the Appalachian Regional Commission and the President.

SEC. 225. Subsection (b) of section 206 of the Flood Control Act of 1960, as amended (33 U.S.C. 709a), if further amended by striking out "$7,000,000" and inserting in lieu thereof "$11,000,000."

SEC. 226. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to review and study the operation of the Fort Randall multiple-purpose project, South Dakota, with a view to determining the advisability of modifying the project facilities or the regulation of the impounded waters, or both, and report thereon to the Congress.

SEC. 227. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to review and study the operation of the Summersville Lake multiple-purpose project, Gauley River, West Virginia, with a view to determining the advisability of modifying the project facilities or the regulation of the impounded waters, or both, and report thereon to the Congress.

SEC. 228. The comprehensive plan for flood control and other purposes in the Missouri River Basin, as authorized by the Act of June 28, 1938 (52 Stat. 1215), and as modified and expanded by subsequent Acts, is further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct a bridge across the Missouri River at an appropriate location midway between Bismarck, North Dakota, and Mobridge, South Dakota, in accordance with such plans as determined to be satisfactory by the Secretary of the Army so as to provide adequate crossing facilities over such river for highway traffic in the area. Prior to construction the Secretary of the Army, acting through the Chief of Engineers, shall enter into an agreement with appropriate non-Federal interests as determined by him, which shall provide that after construction such non-Federal interests shall own, operate toll free, and maintain such bridge and approach facilities.

SEC. 229. The comprehensive plan for flood control and other purposes in the Missouri River Basin, as authorized by the Act of June 28, 1938 (52 Stat. 1215), and as modified and expanded by subsequent Acts, is further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct a bridge over the Little Missouri River at the Garrison Reservoir in the vicinity of Eagle Bay in Dunn County, North Dakota, in accordance with such plans as are determined to be satisfactory by the Secretary of the Army in order to provide adequate crossing facilities over such river for highway traffic in the area. Prior to construction the Secretary of the Army, acting through the Chief of Engineers, shall enter into an agreement with appropriate non-Federal interests as determined by him, which shall provide that after construction such non-Federal interests shall own, operate toll free, and maintain such bridges and approach facilities.

SEC. 230. The project for the Perry Dam and Reservoir, Delaware River, Kansas, authorized as a unit of the comprehensive plan for flood control and other purposes, Missouri River Basin, by the Flood Control Act approved September 3, 1954, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to pave, with a bituminous surface, approximately five miles of Road "B", a segment of the relocation of FAS 328 from United States Route 24 to Kansas Route 92, Jefferson, Kansas.

SEC. 231. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate with the Commonwealth of Kentucky, political subdivisions thereof, appropriate agencies and instrumentalities thereof, the Forest Service, Department of Agriculture, and the Bureau of Outdoor Recreation, Department of the Interior, with a view to determining the feasibility and desirability of establishing a national recreation area generally encompassing in whole or in part the Kentucky River navigation project and reservoir projects in the upper Kentucky and Licking River Basins and adjacent and intervening areas, and to submit to the Congress reports and recommendations with respect to appropriate participation by the Department of the Army in carrying out such recommendations.

(b) Such studies shall review the reports of the Chief of Engineers contained in House Document 423, Eighty-seventh Congress, and the investigation authorized by the Flood Control Act of 1936, Public Law 783, Seventy-fourth Congress, and other appropriate reports and shall consider plans to meet the needs of the Commonwealth for improvement of navigation facilities, outdoor recreational facilities, enhancement and conservation of fish and wildlife, and other measures for environment enhancement.

(c) Such plans which may be recommended to the Congress shall be harmonious components of overall development plans being formulated by the Commonwealth and shall be fully coordinated with all interested Federal agencies.

SEC. 232. The project for Libby Dam, Kootenai River, Montana, authorized by the Flood Control Act approved May 17, 1950 (64 Stat. 170), is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers is authorized and directed, as part of the relocation of municipal facilities of Rexford, Montana, to design and construct a central sewage collection and sewage treatment facility.

SEC. 233. The Chief of Engineers, under the direction of the Secretary of the Army, is hereby authorized and directed to review and study the effects of strip mining operations upon navigable rivers and their tributaries, including water resource projects under his jurisdiction, and report on such studies to the Committees on Public Works of the Senate and the House of Representatives, within one year from the date of enactment of this Act, with recommendations as to measures necessary to mitigate any adverse conditions due to strip mining practices.

SEC. 234. Section 207 of the Flood Control Act of 1962 (Public Law 87-874), is amended by changing the period after the word "necessary", to a comma, and inserting the following: "including but not limited to prohibitions of dumping and unauthorized disposal in any manner of refuse, garbage, rubbish, trash, debris, or litter of any kind at such water resource development projects, either into the waters of such projects or onto any land federally owned and administered by the Chief of Engineers. Any viola-

tion of such rules and regulations shall be punished by a fine of not more than $500 or imprisonment for not more than six months, or both. Any persons charged with the violation of such rules and regulations may be tried and sentenced in accordance with the provisions of section 3401 of title 18 of the United States Code. All persons designated by the Chief of Engineers for that purpose shall have the authority to issue a citation for violation of the regulations adopted by the Secretary of the Army, requiring the appearance of any person charged with violation to appear before the United States magistrate, within whose jurisdiction the water resource development project is located, for trial; and upon sworn information of any competent person any United States magistrate in the proper jurisdiction shall issue process for the arrest of any person charged with the violation of said regulations; but nothing herein contained shall be construed as preventing the arrest by any officer of the United States, without process, of any person taken in the act of violating said regulations."

SEC. 235. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed, as part of the comprehensive study of the water and related resources of the Susquehanna River Basin, to investigate and study, in cooperation with the Administrator of the Environmental Protection Agency and other interested departments, agencies, and instrumentalities of the Federal Government and of the governments of States and their political subdivisions, the availability, quality, and use of waters within the basin with a view toward assisting in the preparation of a comprehensive plan for the development, conservation, and use of such waters. The Environmental Protection Agency shall have the responsibility in carrying out this section for those aspects of the development, conservation, and use of such waters which are essentially within its jurisdiction.

(b) In connection with such investigations and studies the Secretary of the Army, acting through the Chief of Engineers and in cooperation with the Environmental Protection Agency and all other interested Federal agencies, shall make such studies and develop such plans as deemed necessary for the construction, operation, and maintenance of facilities in selected regions of the basin, including augmentation of streamflows by releases of stored waters.

(c) Such facilities may include, but shall not be limited to, water conveyance systems; regional waste treatment, interceptor, and holding facilities; water treatment facilities; and facilities and methods for recharging ground water reservoirs.

(d) The Secretary of the Army, acting through the Chief of Engineers, shall submit to the Congress any and all parts of plans prepared pursuant to this section, which are approved by the Susquehanna River Basin Commission as in accordance with its comprehensive plan for the immediate and long-range development and use of the water resources of the basin, including all recommendations of the Environmental Protection Agency with respect to matters under its jurisdiction, and shall include recommendations for authorization and appropriate financial participation and cooperation by the States, political subdivisions thereof, and other local interests.

(e) In determining the need for storage for regulation of streamflow and water release, the Secretary of the Army, acting through the Chief of Engineers, shall not be limited by the provisions of section 3(b) (1) and (4) of the Federal Water Pollution Control Act, but may include recommendations, if appropriate, which are consistent with section 8 of the Federal Water Pollution Control Act and other like project purposes of water resources projects.

SEC. 236. Title II of this Act may be cited as the "Flood Control Act of 1970".

And the Senate agree to the same.

JOHN A. BLATNIK,
ROBERT E. JONES,
HAROLD T. JOHNSON,
WM. JENNINGS BRYAN DORN,
WILLIAM C. CRAMER,
DON H. CLAUSEN,
Managers on the Part of the House.

JENNINGS RANDOLPH,
STEPHEN M. YOUNG,
EDMUND S. MUSKIE,
B. EVERETT JORDAN,
ROBERT DOLE,
EDWARD J. GURNEY,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 19877) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute. The House recedes from its disagreement to the amendment of the Senate, with an amendment which is a substitute for both the House bill and the Senate amendment. The differences between the House bill and the substitute agreed to in conference are noted below except for minor technical and clarifying changes made necessary by reason of the conference agreement.

NAVIGATION

Baltimore Harbor

The House bill contained the project for Baltimore Harbor and Channels, Maryland and Virginia, with a limitation of not to exceed $40,000,000.

The Senate amendment did not contain the project.

The conference substitute is the same as the House bill except that a further limitation has been added that construction of the project is not to be initiated until approved by the Secretary of the Army and the President.

Atlantic Intracoastal Waterway

The House bill contained the project for Atlantic Intracoastal Waterway Bridges, Virginia and North Carolina.

The Senate amendment did not contain the project.

The conference substitute is the same as the House bill except that a limitation has been added that construction of the project is not to be initiated until approved by the Secretary of the Army and the President.

Pamlico River and Morehead City

The Senate amendment contained the project for Pamlico River and Morehead City Harbor, North Carolina, with a limitation that construction was not to be initiated until approved by the President.

The House bill did not contain this project.

The conference substitute is the same as the Senate amendment except that the limitation has been modified so as to also require the approval of the Secretary of the Army.

Freeport Harbor

The House bill authorized the project for Freeport Harbor, Texas.

The Senate amendment did not include this project.

The conference substitute is the same as the House bill except that a further limitation has been added that construction of the project is not to be initiated until approved by the Secretary of the Army and the President.

Nawiliwili Harbor

The Senate amendment contained the project for Nawiliwili Harbor, Kauai, Hawaii, with a limitation that construction was not to be initiated until approved by the President.

The House bill did not contain this project.

The conference substitute is the same as the Senate amendment except that the limitation has been modified so as to also require the approval of the Secretary of the Army.

Missouri River

The House bill authorized the project for Missouri River, North Dakota, South Dakota, and Nebraska at an estimated cost of $35,981,000.

The Senate amendment did not contain this project.

The conference substitute does not include the project. Although this project has been deleted, it has been done so without prejudice to its later consideration. The Secretary of the Army is presently reviewing a revised economic analysis of the project prepared by the Chief of Engineers. In view of the significance of this analysis and its affect on the scope of the project work, the conferees considered it advisable to delay approval of the project at this time.

Saint Georges Creek

The House bill authorized the Secretary of the Army to study the feasibility of a project to deepen and maintain a navigation channel in St. Georges Creek, Maryland, to the Harry Lundeberg School of Seamanship at Piney Point, Maryland.

The Senate amendment authorized the study and also provided that a project was authorized as determined to be feasible and justified by the Chief of Engineers and the Secretary of the Army with the approval of the President unless disapproved by the Congress within 60 days after the date of submission to the Congress.

The conference substitute is the same as the Senate amendment with the exception that the 60 day period for Congressional review was extended to 90 days.

SURVEYS

The House bill authorizes surveys to be made at the following locations:

Harbors and rivers in American Samoa and the territory of Guam, in the interests of navigation, flood control, and related water resources purposes.

Kanawha and James Rivers, with a view to determining the advisability of providing a waterway connecting the Kanawha River, West Virginia, and James River, Virginia, by canals and appurtenant facilities.

Ventura Marina to Ventura Keys, Ventura County, California.

Elk River, Maryland.

Stillpond Creek, Kent County, Maryland.

Patapsco River, Brooklyn, Maryland.

Shooters Island, New York, possible removal and utilization for fill and widening of Arthur Kill.

The Senate amendment authorized surveys to be made at the first two locations listed in the House bill and at 12 additional locations in Hawaii.

The conference substitute includes all the surveys in the House bill and the 12 additional surveys in the Senate amendment.

AQUISITION OF REAL PROPERTY

The House bill included a provision to the effect that when the United States acquires real property above the normal high water mark of the navigable waters of the United States for public use in connection with any improvement of rivers, harbors, canals, or waterway of the United States, the just compensation paid for real property taken shall be the fair market value of such property based upon all uses to which it may reasonably be put, including uses which may be dependent upon access to or utiliza-

tion of such navigable waters. Where only a partial taking occurs, the section provides that no depreciation in the value of the remaining property shall be recognized, and no compensation shall be paid for any damages to such remaining property which result from loss or reduction of access from such property to the navigable waterway because of the partial taking.

The Senate amendment did not contain a similar provision.

The conference substitute retains the House provision. The Conferees wish to stress for purposes of clarification that any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property.

PORT ORFORD

The Senate amendment modified the previously authorized navigation project at Port Orford, Oregon, to provide for maintenance of a suitable channel to the existing land-side facilities.

The House bill did not contain a similar provision.

The Conference substitute is the same as the Senate bill.

OUACHITA AND BLACK RIVERS

The House bill modified the project for the Ouachita and Black Rivers in Arkansas and Louisiana to provide lands for national wildlife refuges.

The Senate amendment included the same authorization with a limitation that the plan was not to be initiated until approved by the Secretary of the Army and the President, and unless within the first period of sixty calendar days of continuous session of the Congress after the date on which the report is submitted to it such report is disapproved by the Congress.

The Conference substitute is the same as the Senate but deletes the requirement for additional Congressional action.

COMMERCIAL VESSELS

The Senate amendment includes a provision that charter fishing craft shall be considered as commercial vessels for the purpose of determining cost sharing related to small-boat projects.

The House bill does not contain the provision.

The conference substitute is the same as the Senate amendment.

EVIDENCE OF FINANCIAL RESPONSIBILITY

The Senate amendment Section 11 of the Federal Water Pollution Control Act—relating to the discharge of oil—to exempt owners and operators of nonoil carrying, nonself propelled barge units from requirements of filing with the Federal Government evidence of financial responsibility to meet any liability imposed by the act.

The House bill does not contain this provision.

The conference substitute is the same as the Senate amendment.

ANCHORAGE, ALASKA

The Senate amendment included a provision that guarantees FHA mortgage insurance for residential structures in the L–K Street slide area in Anchorage, Alaska.

The House bill did not contain the provision.

The Conference substitute revises the provision so as to authorize the Secretary of the Army acting through the Chief of Engineers, in cooperation with the Secretary of Housing and Urban Development to investigate the L–K Slide area with a view of determining the practicability and the feasibility of corrective measures that would permit federal mortgage insurance under the National Housing Act for homes and multi-family structures in the area and to report thereon to the Congress.

ENVIRONMENTAL GUIDELINES

The Senate amendment had a provision that required the establishment of a compliance with guidelines to assure consideration of possible adverse economic, social, and environmental impacts of civil works projects and activities.

The House bill did not contain the provision.

The conference substitute modifies the Senate provision so as to require that not later than July 1, 1972, the Secretary of the Army, acting through the Chief of Engineers, shall submit to Congress, and not later than 90 days thereafter, promulgate guidelines to assure that adverse economic, social and environmental effects relating to any proposed project have been fully considered in developing such projects and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for flood control, navigation and associated purposes, and the cost of eliminating or minimizing such adverse effects and the following: (1) air, noise, and water pollution; (2) destruction or disruption of man-made and natural resources, esthetic values, community cohesion and the availability of public facilities and services; (3) adverse employment effects and tax property value losses; (4) injurious displacement of people, businesses and farms; and (5) disruption of desirable community and regional growth. Such guidelines shall apply to all proposed projects after the issuance of such guidelines including the projects authorized in this Act.

GREAT LAKES DREDGING

The House bill contained a provision which provides that in any case where the Administrator of the Environmental Protection Agency determines that dredged spoil from an area within an authorized Federal navigation project is significantly polluted, and the Secretary of the Army thereafter determines that dredged spoil disposal facilities are available, then open water disposal of such dredged spoil shall be discontinued. No determinations as to significant pollution and availability of disposal areas are to be made except after consultation with the Governors of the affected States.

The section authorizes the Secretary of the Army, acting through the Chief of Engineers, to construct contained spoil disposal facilities, subject to conditions of non-Federal cooperation, as soon as practicable. The priority of construction of the various facilities would be determined after considering the views and recommendations of the Administrator of the Environmental Protection Agency. Before establishing any spoil disposal facility, the Secretary of the Army would be required to obtain the concurrence of appropriate local governments and consider the views and recommendations of the Administrator and other appropriate heads of Federal agencies with respect to the location and the effect of the proposed facilities on the quality of the water and land resources involved, and on the environment.

The requirement that local interests contribute to the United States 25 per centum of the construction costs, may be waived where the Administrator of the Environmental Protection Agency finds that the local interests are participating in an approved plan for the construction, modification, expansion, or rehabilitation of waste treatment facilities and are making progress satisfactory to the Administrator.

Subsection (f) provides that all costs of the disposal of dredged spoil from the connecting channels of the Great Lakes shall be borne by the Federal Government.

The Senate amendment contains no similar provision.

The conference substitute is essentially the same as the provisions of the House bill with the following exceptions:

(1) The first subsection relating to dual determinations by the Administrator of EPA and the Secretary of the Army is deleted.

(2) The provisions of Section 21 of the Federal Water Pollution Control Act and the National Environmental Policy Act of 1969 are specifically required to be complied with.

(3) The provision relating to waiver of the 25 per centum cost of construction is modified to require that prior to waiver that the Administrator of EPA must make a finding that applicable water quality standards are not being violated.

(4) To the extent that the study authorized in subsection (i) includes the effect of dredged spoil on water quality the facilities and personnel of EPA shall be utilized.

FLOOD CONTROL

Arkansas-Red River Basin

The House bill contained a modification of the project for water quality control in the Arkansas-Red River Basin, Texas, Oklahoma, and Kansas, designated as Part I, authorized by the Flood Control Act of 1966, so as to include Part II of such project, with the limitation that the amount authorized for Part I shall be utilized for initiation and partial accomplishment of Parts I and II.

The Senate amendment authorized Part II, authorized $5 million to be appropriated for partial accomplishment of the plan, and provided that construction would not be initiated until approved by the President.

The conference substitute is the same as the House bill, except that a further limitation has been added that construction of the project is not to be initiated until approved by the Secretary of the Army and the President.

Davenport, Iowa

The House bill contained the project for flood protection on the Mississippi River at Davenport, Iowa.

The Senate amendment included this project with a limitation that construction should not be initiated until approved by the President.

The conference substitute is the same as the Senate amendment with the further requirement for approval by the Secretary of the Army.

Sandridge Dam

The House bill contained the project for the Sandridge Dam and Reservoir, Ellicott Creek, New York, for flood protection and other purposes, with certain specified limitations prior to commencement of the initiation of the project.

The Senate amendment did not contain the project.

The conference substitute is the same as the House bill, except that a further limitation has been added that construction of the project is not to be initiated until approved by the Secretary of the Army and the President.

Sacramento River Basin

The House bill contained the project for flood protection on Cottonwood Creek, California, with a limitation of $40,000,000.

The Senate amendment did not contain the project.

The conference substitute is the same as the House bill, except that a further limitation has been added that construction of the project is not to be initiated until approved by the Secretary of the Army and the President.

San Joaquin River Basin

The House bill contained the project for Merced County Streams, California.

The Senate amendment did not contain the project.

The conference substitute is the same as the House bill, except that a limitation has been added that construction of the project is not to be initiated until approved by the Secretary of the Army and the President.

Kaneohe-Kailua area, Oahu, Hawaii

The Senate amendment included authorization for a project for flood protection in the Kaneohe-Kailua area on the east coast of the island of Oahu, Hawaii, with a limitation that construction should not be initiated until approved by the President.

The House bill did not contain this authorization.

The conference substitute is the same as the Senate amendment with the further requirement for approval by the Secretary of the Army.

BENEFIT-COST EVALUATION

The House bill includes a provision stating the intent of Congress that the objectives of enhancing regional economic development, the quality of the total environment, including its protection and improvement, the well-being of the people of the United States, and the national economic development are the objectives to be included in water resource projects prosecuted by the Secretary of the Army, acting through the Chief of Engineers, and in the evaluation of benefits and costs attributable thereto.

The Senate amendment includes the same objectives but broadens its coverage to all federally financed water resource projects.

The conference substitute is the same as the Senate amendment with the addition of requiring due consideration to the most feasible alternative means of accomplishing these objectives.

SURVEYS

The House bill included authorization for studies to be undertaken by the Chief of Engineers at the following locations:

Great Swamp, New River Basin, South Carolina.

Streams flowing through West Brazoria County Drainage District Numbered 11 in Brazoria County, Texas.

Vermilion River, Ohio.

Huron River, Ohio.

Black River, Lorain County, Ohio.

Black Creek, Clay County, Florida.

Grand Lake, St. Marys, Ohio.

Coody Creek, Muskogee, Oklahoma.

The Senate amendment included such authorization for Black Creek, Clay County, Florida, and 15 areas in Hawaii.

The conference substitute contains the 8 studies authorized in the House bill and adds the additional studies authorized in the Senate amendment.

FLOOD PLAIN INFORMATION

The Senate amendment increases the annual authorization which can be used for flood plain information activities from $7 million to $15 million.

The House bill has no similar provision.

The conference substitute is the same as the Senate amendment except that the annual authorization is established at $11 million.

FORT RANDALL

The Senate amendment authorizes a study to determine the advisability of modifying the project facilities or the regulation of impounded waters, or both, of the Fort Randall project in South Dakota.

The House bill has no similar provision.

The conference substitute is the same as the Senate amendment.

SUMMERSVILLE LAKE

The Senate amendment authorizes a study to determine the advisability of modifying the project facilities or the regulation of impounded waters, or both, of the Summersville Lake project in West Virginia.

The House bill has no similar provision.

The conference substitute is the same as the Senate amendment.

BRIDGE ACROSS MISSOURI RIVER

The Senate amendment modifies the Missouri River Basin project to provide for a free highway bridge over the Missouri River between Bismarck, North Dakota, and Mobridge, South Dakota.

The House bill had no similar provision.

The conference substitute is essentially the same as the Senate amendment with the addition of the requirement that prior to construction the Secretary of the Army shall enter into an agreement with the appropriate non-Federal interests which shall provide that after construction such non-Federal interests shall own, operate toll free, and maintain the bridge and the approach facilities.

GARRISON RESERVOIR

The Senate amendment modifies the Missouri River Basin project to provide for a free highway bridge over the Little Missouri River at the Garrison Reservoir in the vicinity of Eagle Bay in Dunn County, North Dakota.

The House bill had no similar provision.

The conference substitute is essentially the same as the Senate amendment with the addition of the requirement that prior to construction the Secretary of the Army shall enter into an agreement with the appropriate non-Federal interests which shall provide that after construction such non-Federal interests shall own, operate toll free, and maintain the bridge and the approach facilities.

PERRY DAM AND RESERVOIR

The Senate amendment includes a provision modifying the Perry Dam and Reservoir, Delaware River, Kansas, to provide for certain road paving.

The House bill contained no similar provision.

The conference substitute is the same as the Senate amendment.

UPPER KENTUCKY AND LICKING RIVER BASIN

The Senate amendment authorizes a determination of the feasibility and desirability of establishing a national recreation area in the Upper Kentucky and Licking River Basins.

The House bill had no similar provision.

The conference substitute is the same as the Senate amendment.

REXFORD, MONT.

The Senate amendment modifies the Libby Dam project to include sewage collection and treatment works at Rexford, Montana, as a part of the relocation of municipal facilities.

The House bill had no similar provision.

The conference substitute is the same as the Senate amendment.

STRIP MINING

The Senate amendment authorizes a study of the effects of strip mining operations on navigable rivers and water resource projects.

The House bill had no comparable provision.

The conference substitute is the same as the Senate amendment.

ENFORCEMENT OF REGULATIONS

The Senate amendment provides authority to contend with the problem of unauthorized disposal of refuse at water resource development projects under the jurisdiction of the Corps of Engineers.

This provision makes it an offense to deposit litter of any kind either into the waters or on the land of any water resource development project administered by the Corps of Engineers. The Chief of Engineers is given authority to designate employees to issue citations for violations of antilitter regulations, requiring the appearance of any person charged with a violation to appear before a U.S. Magistrate for trial. Violations are punishable by a fine of not more than $500 or imprisonment of not more than 6 months or both.

The House bill had no similar provision.

The conference substitute is the same as the Senate amendment.

At many of the Corps of Engineers public use areas at its water resources projects, the visitation has greatly increased and so has the litter problem. This problem exists in certain picnic areas, camp grounds on lake waters, and often at non-designated recreational areas of the projects. It exists even where ample containers are available for disposal of trash.

This needless littering degrades the recreational areas at which considerable Federal funds have been expended to bring healthy and clean recreational opportunities to the people of this Nation. It is for this reason that this provision has been included in the Flood Control Act of 1970.

The Conferees recognize that there are many administrative and fiscal problems involved in making this provision apply to all the Corps of Engineers water resources development projects at one time. Therefore, the Conferees would have no objection to the Corps of Engineers initially implementing this provision selectively in those areas where it would be most urgently required.

SUSQUEHANNA RIVER BASIN

The House bill authorizes and directs the Secretary of the Army, acting through the Chief of Engineers, as part of the comprehensive study of the water and related resources of the Susquehanna river basin, to investigate and study, in cooperation with the Administrator of the Environmental Protection Agency and other interested Federal and State agencies, the availability, quality, and use of waters within the basin with a view toward developing a comprehensive plan for the development, conservation, and use of such waters. The studies and investigations authorized include the development of plans, for recommendation to the Congress, concerning the construction, operation, and maintenance of water conveyance systems; regional waste treatment, interceptor, and holding facilities; water treatment facilities; and facilities and methods for recharging ground water reservoirs.

The Senate amendment did not contain the provision.

The conference substitute is essentially the same as the House bill, with certain amendments added so as to recognize the appropriate relationship of the new Susquehanna River Basin Commission.

S. 1079 of the present Congress which has recently been sent to the President for his approval establishes the Susquehanna River Basin Commission as a coordinating Federal-interstate agency for immediate and long range planning, development and use of the water resources of the Susquehanna River Basin. Nevertheless, the conferees are mindful that the Army Corps of Engineers has done a recent study of the Susquehanna river basin and that the Corps' continuance of this work will be of great value. Accordingly, this provision is intended to authorize the Corps to proceed in the making of its contributions within the framework provided by S. 1079 and the compact contained therein.

JOHN A. BLATNIK,
ROBERT E. JONES,
HAROLD T. JOHNSON,
WM. JENNINGS BRYAN DORN,
WILLIAM C. CRAMER,
DON H. CLAUSEN,
Managers on the Part of the House.

CLEAN AIR AMENDMENTS OF 1970—CONFERENCE REPORT

Mr. STAGGERS submitted the following conference report and statement on the bill (H.R. 17255) to amend the Clean Air Act to provide for a more effective program to improve the quality of the Nation's air:

CONFERENCE REPORT (H. REPT. No. 91–1783)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 17255) to amend the Clean Air Act to provide for a more effective program to improve the quality of the Nation's air, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Clean Air Amendments of 1970".

RESEARCH

SEC. 2. (a) Section 103 of the Clean Air Act (42 U.S.C. 1857, et seq.) is amended by adding at the end thereof the following new subsection:

"(f) (1) In carrying out research pursuant to this Act, the Administrator shall give special emphasis to research on the short- and long-term effects of air pollutants on public health and welfare. In the furtherance of such research, he shall conduct an accelerated research program—

"(A) to improve knowledge of the contribution of air pollutants to the occurrence of adverse effects on health, including, but not limited to, behavioral, psychological, toxicological, and biochemical effects; and

"(B) to improve knowledge of the short- and long-term effects of air pollutants on welfare.

"(2) In carrying out the provisions of this subsection the Administrator may—

"(A) conduct epidemiological studies of the effects of air pollutants on mortality and morbidity;

"(B) conduct clinical and laboratory studies on the immunologic, biochemical, physiological, and the toxicological effects including carcinogenic, teratogenic, and mutagenic effects of air pollutants;

"(C) utilize, on a reimbursable basis, the facilities of existing Federal scientific laboratories and research centers;

"(D) utilize the authority contained in paragraphs (1) through (4) of subsection (b); and

"(E) consult with other appropriate Federal agencies to assure that research or studies conducted pursuant to this subsection will be coordinated with research and studies of such other Federal agencies.

"(3) In entering into contracts under this subsection, the Administrator is authorized to contract for a term not to exceed 10 years in duration. For the purposes of this paragraph, there are authorized to be appropriated $15,000,000. Such amounts as are appropriated shall remain available until expended and shall be in addition to any other appropriations under this Act."

(b) Section 104(a) (1) of the Clean Air Act is amended to read as follows:

"(1) conduct and accelerate research programs directed toward development of improved, low-cost techniques for—

"(A) control of combustion byproducts of fuels,

"(B) removal of potential air pollutants from fuels prior to combustion,

"(C) control of emissions from the evaporation of fuels,

"(D) improving the efficiency of fuels combustion so as to decrease atmospheric emissions, and

"(E) producing synthetic or new fuels which, when used, result in decreased atmospheric emissions."

(c) Section 104(a) (2) of the Clean Air Act is amended by striking "and (B)" and inserting in lieu thereof the following: "(B) part of the cost of programs to develop low emission alternatives to the present internal combustion engine; (C) the cost to purchase vehicles and vehicle engines or portions thereof for research, development, and testing purposes; and (D)".

STATE AND REGIONAL GRANT PROGRAMS

SEC. 3. (a) Section 105(a) (1) of the Clean Air Act is amended to read as follows:

"GRANTS FOR SUPPORT OF AIR POLLUTION PLANNING AND CONTROL PROGRAMS

"SEC. 105. (a) (1) (A) The Administrator may make grants to air pollution control agencies in an amount up to two-thirds of the cost of planning, developing, establishing, or improving, and up to one-half of the cost of maintaining, programs for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards.

"(B) Subject to subparagraph (C), the Administrator may make grants to air pollution control agencies within the meaning of paragraph (1), (2), or (4) of section 302(b) in an amount up to three-fourths of the cost of planning, developing, establishing or improving, and up to three-fifths of the cost of maintaining, any program for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards in an area that includes two or more municipalities, whether in the same or different States.

"(C) With respect to any air quality control region or portion thereof for which there is an applicable implementation plan under section 110, grants under subparagraph (B) may be made only to air pollution control agencies which have substantial responsibilities for carrying out such applicable implementation plan."

(b) (1) Section 105 of the Clean Air Act is further amended by adding at the end thereof the following new subsection:

"(d) The Administrator, with the concurrence of any recipient of a grant under this section, may reduce the payments to such recipient by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of any officer or employee to the recipient under section 301 of this Act, when such detail is for the convenience of, and at the request of, such recipient and for the purpose of carrying out the provisions of this Act. The amount by which such payments have been reduced shall be available for payment of such costs by the Administrator, but shall, for the purpose of determining the amount of any grant to a recipient under subsection (a) of this section, be deemed to have been paid to such agency."

(2) Section 301(b) of the Clean Air Act is amended (A) by striking out "Public Health Service" and inserting in lieu thereof "Environmental Protection Agency" and (B) by striking out the second sentence thereof.

(c) Section 106 of the Clean Air Act is amended to read as follows:

"INTERSTATE AIR QUALITY AGENCIES OR COMMISSIONS

"SEC. 106. For the purpose of developing implementation plans for any interstate air quality control region designated pursuant to section 107, the Administrator is authorized to pay, for two years, up to 100 per centum of the air quality planning program costs of any agency designated by the Governors of the affected States, which agency shall be capable of recommending to the Governors plans for implementation of national primary and secondary ambient air quality standards and shall include representation from the States and appropriate political subdivisions within the air quality control region. After the initial two-year period the Administrator is authorized to make grants to such agency in an amount up to three-fourths of the air quality planning program costs of such agency."

AMBIENT AIR QUALITY AND EMISSION STANDARDS

SEC. 4. (a) The Clean Air Act is amended by striking out section 107; by redesignating section 108, 109, 110, and 111 as 115, 116, 117, and 118, respectively; and by inserting after section 106 the following new sections:

"AIR QUALITY CONTROL REGIONS

"SEC. 107. (a) Each State shall have the primary responsibility for assuring air quality within the entire geographic area comprising such State by submitting an implementation plan for such State which will specify the manner in which national primary and secondary ambient air quality standards will be achieved and maintained within each air quality control region in such State.

"(b) For purposes of developing and carrying out implementation plans under section 110—

"(1) an air quality control region designated under this section before the date of enactment of the Clean Air Amendments of 1970, or a region designated after such date under subsection (c), shall be an air quality control region; and

"(2) the portion of such State is not part of any such designated region shall be an air quality control region, but such portion may be subdivided by the State into two or more air quality control regions with the approval of the Administrator.

"(c) The Administrator shall, within 90 days after the date of enactment of the Clean Air Amendments of 1970, after consultation with appropriate State and local authorities, designate as an air quality control region any interstate area or major intrastate area which he deems necessary or appropriate for the attainment and maintenance of ambient air quality standards. The Administrator shall immediately notify the governors of the affected States of any designation made under this subsection.

"AIR QUALITY CRITERIA AND CONTROL TECHNIQUES

"SEC. 108. (a) (1) For the purpose of establishing national primary and secondary ambient air quality standards, the Administrator shall within 30 days after the date of enactment of the Clean Air Amendments of 1970 publish, and shall from time to time thereafter revise, a list which includes each air pollutant—

"(A) which in his judgment has an adverse effect on public health or welfare;

"(B) the presence of which in the ambient air results from numerous or diverse mobile or stationary sources; and

"(C) for which air quality criteria had not been issued before the date of enactment of the Clean Air Amendments of 1970, but for which he plans to issue air quality criteria under this section.

"(2) The Administrator shall issue air quality criteria for an air pollutant within 12 months after he has included such pollutant in a list under paragraph (1). Air quality criteria for an air pollutant shall accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of such pollutant in the ambient air, in varying quantities. The criteria for an air pollutant, to the extent practicable, shall include information on—

"(A) those variable factors (including atmospheric conditions) which of themselves or in combination with other factors may alter the effects on public health or welfare of such air pollutant;

"(B) the types of air pollutants which, when present in the atmosphere, may interact with such pollutant to produce an adverse effect on public health or welfare; and

"(C) any known or anticipated adverse effects on welfare.

"(b) (1) Simultaneously with the issuance of criteria under subsection (a), the Administrator shall, after consultation with appropriate advisory committees and Federal departments and agencies, issue to the States and appropriate air pollution control agencies information on air pollution control techniques, which information shall include

data relating to the technology and costs of emission control. Such information shall include such data as are available on available technology and alternative methods of prevention and control of air pollution. Such information shall also include data on alternative fuels, processes, and operating methods which will result in elimination or significant reduction of emissions.

"(2) In order to assist in the development of information on pollution control techniques, the Administrator may establish a standing consulting committee for each air pollutant included in a list published pursuant to subsection (a)(1), which shall be comprised of technically qualified individuals representative of State and local governments, industry, and the academic community. Each such committee shall submit as appropriate, to the Administrator information related to that required by paragraph (1).

"(c) The Administrator shall from time to time review, and, as appropriate, modify, and reissue any criteria or information on control techniques issued pursuant to this section.

"(d) The issuance of air quality criteria and information on air pollution control techniques shall be announced in the Federal Register and copies shall be made available to the general public.

"NATIONAL AMBIENT AIR QUALITY STANDARDS

"SEC. 109. (a)(1) The Administrator—

"(A) within 30 days after the date of enactment of the Clean Air Amendments of 1970, shall publish proposed regulations prescribing a national primary ambient air quality standard and a national secondary ambient air quality standard for each air pollutant for which air quality crteria have been issued prior to such date of enactment; and

"(B) after a reasonable time for interested persons to submit written comments thereon (but no later than 90 days after the initial publication of such proposed standards) shall by regulation promulgate such proposed national primary and secondary ambient air quality standards with such modifications as he deems appropriate.

"(2) With respect to any air pollutant for which air quality criteria are issued after the date of enactment of the Clean Air Amendments of 1970, the Administrator shall publish, simultaneously with the issuance of such criteria and information, proposed national primary and secondary ambient air quality standards for any such pollutant. The procedure provided for in paragraph (1)(B) of this subsection shall apply to the promulgation of such standards.

"(b)(1) National primary ambient air quality standards, prescribed under subsection (a) shall be ambient air quality standards the attainment and maintenance of which in the judgment of the Administrator, based on such criteria and allowing an adequate margin of safety, are requisite to protect the public health. Such primary standards may be revised in the same manner as promulgated.

"(2) Any national secondary ambient air quality standard prescribed under subsection (a) shall specify a level of air quality the attainment and maintenance of which in the judgment of the Administrator, based on such criteria, is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. Such secondary standards may be revised in the same manner as promulgated.

"IMPLEMENTATION PLANS

"SEC. 110. (a)(1) Each State shall, after reasonable notice and public hearings, adopt and submit to the Administrator, within nine months after the promulgation of a national primary ambient air quality standard (or any revision thereof) under section 109 for any air pollutant, a plan which provides for implementation, maintenance, and enforcement of such primary standard in each air quality control region (or portion thereof) within such State. In addition, such State shall adopt and submit to the Administrator (either as a part of a plan submitted under the preceding sentence or separately) within nine months after the promulgation of a national ambient air quality secondary standard (or revision thereof), a plan which provides for implementation, maintenance, and enforcement of such secondary standard in each air quality control region (or portion thereof) within such State. Unless a separate public hearing is provided, each State shall consider its plan implementing such secondary standard at the hearing required by the first sentence of this paragraph.

"(2) The Administrator shall, within four months after the date required for submission of a plan under paragraph (1), approve or disapprove such plan or each portion thereof. The Administrator shall approve such plan, or any portion thereof, if he determines that it was adopted after reasonable notice and hearing and that—

"(A)(i) in the case of a plan implementing a national primary ambient air quality standard, it provides for the attainment of such primary standard as expeditiously as practicable but (subject to subsection (e)) in no case later than three years from the date of approval of such plan (or any revision thereof to take account of a revised primary standard); and (ii) in the case of a plan implementing a national secondary ambient air quality standard, it specifies a reasonable time at which such secondary standard will be attained;

"(B) it includes emission limitations, schedules, and timetables for compliance with such limitations, and such other measures as may be necessary to insure attainment and maintenance of such primary or secondary standard, including, but not limited to, land-use and transportation controls;

"(C) it includes provision for establishment and operation of appropriate devices, methods, systems, and procedures necessary to (i) monitor, compile, and analyze data on ambient air quality and, (ii) upon request, make such data available to the Administrator;

"(D) it includes a procedure, meeting the requirements of paragraph (4), for review (prior to construction or modification) of the location of new sources to which a standard of performance will apply;

"(E) it contains adequate provisions for intergovernmental cooperation, including measures necessary to insure that emissions of air pollutants from sources located in any air quality control region will not interfere with the attainment or maintenance of such primary or secondary standard in any portion of such region outside of such State or in any other air quality control region;

"(F) it provides (i) necessary assurances that the State will have adequate personnel, funding, and authority to carry out such implementation plan, (ii) requirements for installation of equipment by owners or operators of stationary sources to monitor emissions from such sources, (iii) for periodic reports on the nature and amounts of such emissions; (iv) that such reports shall be correlated by the State agency with any emission limitations or standards established pursuant to this Act, which reports shall be available at reasonable times for public inspection; and (v) for authority comparable to that in section 303, and adequate contingency plans to implement such authority;

"(G) it provides, to the extent necessary and practicable, for periodic inspection and testing of motor vehicles to enforce compliance with applicable emission standards; and

"(H) it provides for revision, after public hearings, of such plan (i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of achieving such primary or secondary standard; or (ii) whenever the Administrator finds on the basis of information available to him that the plan is substantially inadequate to achieve the national ambient air quality primary or secondary standard which it implements.

"(3) The Administrator shall approve any revision of an implementation plan applicable to an air quality control region if he determines that it meets the requirements of paragraph (2) and has been adopted by the State after reasonable notice and public hearings.

"(4) The procedure referred to in paragraph (2)(D) for review, prior to construction or modification, of the location of new sources shall (A) provide for adequate authority to prevent the construction or modification of any new source to which a standard of performance under section 111 will apply at any location which the State determines will prevent the attainment of maintenance within any air quality control region (or portion thereof) within such State of a national ambient air quality primary or secondary standard, and (B) require that prior to commencing construction or modification of any such source, the owner or operator thereof shall submit to such State such information as may be necessary to permit the State to make a determination under clause (A).

"(b) The Administrator may, wherever he determines necessary, extend the period for submission of any plan or portion thereof which implements a national secondary ambient air quality standard for a period not to exceed 18 months from the date otherwise required for submission of such plan.

"(c) The Administrator shall, after consideration of any State hearing record, promptly prepare and publish proposed regulations setting forth an implementation plan, or portion thereof, for a State if—

"(1) the State fails to submit an implementation plan for any national ambient air quality primary or secondary standard within the time prescribed,

"(2) the plan, or any portion thereof, submitted for such State is determined by the Administrator not to be in accordance with the requirements of this section, or

"(3) the State fails, within 60 days after notification by the Administrator or such longer period as he may prescribe, to revise an implementation plan as required pursuant to a provision of its plan referred to in subsection (a)(2)(H).

If such State held no public hearing associated with respect to such plan (or revision thereof), the Administrator shall provide opportunity for such hearing within such State on any proposed regulation. The Administrator shall, within six months after the date required for submission of such plan (or revision thereof), promulgate any such regulations unless, prior to such promulgation, such State has adopted and submitted a plan (or revision) which the Administrator determines to be in accordance with the requirements of this section.

"(d) For purposes of this Act, an applicable implementation plan is the implementation plan, or most recent revision thereof, which has been approved under subsection (a) or promulgated under subsection (c) and which implements a national primary or secondary ambient air quality standard in a State.

"(e)(1) Upon application of a Governor of a State at the time of submission of any plan implementing a national ambient air quality primary standard, the Administrator may (subject to paragraph (2)) extend the three-year period referred to in subsection (a)(2)(A)(i) for not more than two years for an air quality control region if after review of such plan the Administrator determines that—

"(A) one or more emission sources (or classes of moving sources) are unable to comply with the requirements of such plan which

implement such primary standard because the necessary technology or other alternatives are not available or will not be available soon enough to permit compliance within such three-year period, and

"(B) the State has considered and applied as a part of its plan reasonably available alternative means of attaining such primary standard and has justifiably concluded that attainment of such primary standard within the three years cannot be achieved.

"(2) The Administrator may grant an extension under paragraph (1) only if he determines that the State plan provides for—

"(A) application of the requirements of the plan which implement such primary standard to all emission sources in such region other than the sources (or classes) described in paragraph (1)(A) within the three-year period, and

"(B) such interim measures of control of the sources (or classes) described in paragraph (1)(A) as the Administrator determines to be reasonable under the circumstances.

"(f)(1) Prior to the date on which any stationary source or class of moving sources is required to comply with any requirement of an applicable implementation plan the Governor of the State to which such plan applies may apply to the Administrator to postpone the applicability of such requirement to such source (or class) for not more than one year. If the Administrator determines that—

"(A) good faith efforts have been made to comply with such requirement before such date,

"(B) such source (or class) is unable to comply with such requirement because the necessary technology or other alternative methods of control are not available or have not been available for a sufficient period of time,

"(C) any available alternative operating procedures and interim control measures have reduced or will reduce the impact of such source on public health, and

"(D) the continued operation of such source is essential to national security or to the public health or welfare,

then the Administrator shall grant a postponement of such requirement.

"(2)(A) Any determination under paragraph (1) shall (i) be made on the record after notice to interested persons and opportunity for hearing, (ii) be based upon a fair evaluation of the entire record at such hearing, and (iii) include a statement setting forth in detail the findings and conclusions upon which the determination is based.

"(B) Any determination made pursuant to this paragraph shall be subject to judicial review by the United States court of appeals for the circuit which includes such State upon the filing in such court within 30 days from the date of such decision of a petition by any interested person praying that the decision be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to the Administrator and thereupon the Administrator shall certify and file in such court the record upon which the final decision complained of was issued, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have jurisdiction to affirm, or set aside the determination complained of in whole or in part. The findings of the Administrator with respect to questions of fact (including each determination made under subparagraphs (A), (B), (C), and (D) of paragraph (1)) shall be sustained if based upon a fair evaluation of the entire record at such hearing.

"(C) Proceedings before the court under this paragraph shall take precedence over all the other causes of action on the docket and shall be assigned for hearing and decision at the earliest practicable date and expedited in every way.

"(D) Section 307(a) (relating to subpenas) shall be applicable to any proceeding under this subsection.

"STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

"SEC. 111. (a) For purposes of this section:

"(1) The term 'standard of performance' means a standard for emissions of air pollutants which reflects the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction) the Administrator determines has been adequately demonstrated.

"(2) The term 'new source' means any stationary source, the construction or modification of which is commenced after the publication of regulations (or, if earlier, proposed regulations) prescribing a standard of performance under this section which will be applicable to such source.

"(3) The term 'stationary source' means any building, structure, facility, or installation which emits or may emit any air pollutant.

"(4) The term 'modification' means any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted.

"(5) The term 'owner or operator' means any person who owns, leases, operates, controls, or supervises a stationary source.

"(6) The term 'existing source' means any stationary source other than a new source.

"(b)(1)(A) The Administrator shall, within 90 days after the date of enactment of the Clean Air Amendments of 1970, publish (and from time to time thereafter shall revise) a list of categories of stationary sources. He shall include a category of sources in such list if he determines it may contribute significantly to air pollution which causes or contributes to the endangerment of public health or welfare.

"(B) Within 120 days after the inclusion of a category of stationary sources in a list under subparagraph (A), the Administrator shall propose regulations, establishing Federal standards of performance for new sources within such category. The Administrator shall afford interested persons an opportunity for written comment on such proposed regulations. After considering such comments, he shall promulgate, within 90 days after such publication, such standards with such modifications as he deems appropriate. The Administrator may, from time to time, revise such standards following the procedure required by this subsection for promulgation of such standards. Standards of performance or revisions thereof shall become effective upon promulgation.

"(2) The Administrator may distinguish among classes, types, and sizes within categories of new sources for the purpose of establishing such standards.

"(3) The Administrator shall, from time to time, issue information on pollution control techniques for categories of new sources and air pollutants subject to the provisions of this section.

"(4) The provisions of this section shall apply to any new source owned or operated by the United States.

"(c)(1) Each State may develop and submit to the Administrator a procedure for implementing and enforcing standards of performance for new sources located in such State. If the Administrator finds the State procedure is adequate, he shall delegate to such State any authority he has under this Act to implement and enforce such standards (except with respect to new sources owned or operated by the United States).

"(2) Nothing in this subsection shall prohibit the Administrator from enforcing any applicable standard of performance under this section.

"(d)(1) The Administrator shall prescribe regulations which shall establish a procedure similar to that provided by section 110 under which each State shall submit to the Administrator a plan which (A) establishes emission standards for any existing source for any air pollutant (i) for which air quality criteria have not been issued or which is not included on a list published under section 108(a) or 112(b)(1)(A) but (ii) to which a standard of performance under subsection (b) would apply if such existing source were a new source, and (B) provides for the implementation and enforcement of such emission standards.

"(2) The Administrator shall have the same authority—

"(A) to prescribe a plan for a State in cases where the State fails to submit a satisfactory plan as he would have under section 110(c) in the case of failure to submit an implementation plan, and

"(B) to enforce the provisions of such plan in cases where the State fails to enforce them as he would have under sections 113 and 114 with respect to an implementation plan.

"(e) After the effective date of standards of performance promulgated under this section, it shall be unlawful for any owner or operator of any new source to operate such source in violation of any standard of performance applicable to such source.

"NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

"SEC. 112. (a) For purposes of this section—

"(1) The term 'hazardous air pollutant' means an air pollutant to which no ambient air quality standard is applicable and which in the judgment of the Administrator may cause, or contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

"(2) The term 'new source' means a stationary source the construction or modification of which is commenced after the Administrator proposes regulations under this section establishing an emission standard which will be applicable to such source.

"(3) The terms 'stationary source', 'modification', 'owner or operator' and 'existing source' shall have the same meaning as such terms have under section 111(a).

"(b)(1)(A) The Administrator shall, within 90 days after the date of enactment of the Clean Air Amendments of 1970, publish (and shall from time to time thereafter revise) a list which includes hazardous air pollutant for which he intends to establish an emission standard under this section.

"(B) Within 180 days after the inclusion of any air pollutant in such list, the Administrator shall publish proposed regulations establishing emission standards for such pollutant together with a notice of a public hearing within thirty days. Not later than 180 days after such publication, the Administrator shall prescribe an emission standard for such pollutant, unless he finds, on the basis of information presented at such hearings, that such pollutant clearly is not a hazardous air pollutant. The Administrator shall establish any such standard at the level which in his judgment provides an ample margin of safety to protect the public health from such hazardous air pollutant.

"(C) Any emission standard established pursuant to this section shall become effective upon promulgation

"(2) The Administrator shall, from time to time, issue information on pollution control techniques for air pollutants subject to the provisions of this section.

"(c)(1) After the effective date of any emission standard under this section—

"(A) no person may construct any new source or modify any existing source which, in the Administrator's judgment, will emit an air pollutant to which such standard applies unless the Administrator finds that such source if properly operated will not

cause emissions in violation of such standard, and

"(B) no air pollutant to which such standard applies may be emitted from any stationary source in violation of such standard, except that in the case of an existing source—

"(i) such standard shall not apply until 90 days after its effective date, and

"(ii) the Administrator may grant a waiver permitting such source a period of up to two years after the effective date of a standard to comply with the standard, if he finds that such period is necessary for the installation of controls and that steps will be taken during the period of the waiver to assure that the health of persons will be protected from imminent endangerment.

"(2) The President may exempt any stationary source from compliance with paragraph (1) for a period of not more than two years if he finds that the technology to implement such standards is not available and the operation of such source is required for reasons of national security. An exemption under this paragraph may be extended for one or more additional periods, each period not to exceed two years. The President shall make a report to Congress with respect to each exemption (or extension thereof) made under this paragraph.

"(d)(1) Each State may develop and submit to the Administrator a procedure for implementing and enforcing emission standards for hazardous air pollutants for stationary sources located in such State. If the Administrator finds the State procedure is adequate, he shall delegate to such State any authority he has under this Act to implement and enforce such standards (except with respect to stationary sources owned or operated by the United States).

"(2) Nothing in this subsection shall prohibit the Administrator from enforcing any applicable emission standard under this section.

"FEDERAL ENFORCEMENT

"SEC. 113. (a)(1) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of any requirement of an applicable implementation plan, the Administrator shall notify the person in violation of the plan and the State in which the plan applies of such finding. If such violation extends beyond the 30th day after the date of the Administrator's notification, the Administrator may issue an order requiring such person to comply with the requirements of such plan or he may bring a civil action in accordance with subsection (b).

"(2) Whenever, on the basis of information available to him, the Administrator finds that violations of an applicable implementation plan are so widespread that such violations appear to result from a failure of the State in which the plan applies to enforce the plan effectively, he shall so notify the State. If the Administrator finds such failure extends beyond the 30th day after such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Administrator that it will enforce such plan (hereafter referred to in this section as 'period of Federally assumed enforcement'), the Administrator may enforce any requirement of such plan with respect to any person—

"(A) by issuing an order to comply with such requirement, or

"(B) by bringing a civil action under subsection (b).

"(3) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of section 111(e) (relating to new source performance standards) or 112(c) (relating to standards for hazardous emissions), or is in violation of any requirement of section 114 (relating to inspections, etc.), he may issue an order requiring such person to comply with such section or requirement, or he may bring a civil action in accordance with subsection (b).

"(4) An order issued under this subsection (other than an order relating to a violation of section 112) shall not take effect until the person to whom it is issued has had an opportunity to confer with the Administrator concerning the alleged violation. A copy of any order issued under this subsection shall be sent to the State air pollution control agency of any State in which the violation occurs. Any order issued under this subsection shall state with reasonable specificity the nature of the violation, specify a time for compliance which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In any case in which an order under this subsection (or notice to a violator under paragraph (1)) is issued to a corporation, a copy of such order (or notice) shall be issued to appropriate corporate officers.

"(b) The Administrator may commence a civil action for appropriate relief, including a permanent or temporary injunction, whenever any person—

"(1) violates or fails or refuses to comply with any order issued under subsection (a); or

"(2) violates any requirement of an applicable implementation plan during any period of Federally assumed enforcement more than 30 days after having been notified by the Administrator under subsection (a)(1) of a finding that such person is violating such requirement; or

"(3) violates section 111(e) or 112(c); or

"(4) fails or refuses to comply with any requirement of section 114.

Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given to the appropriate State air pollution control agency.

"(c)(1) Any person who knowingly—

"(A) violates any requirement of an applicable implementation plan during any period of Federally assumed enforcement more than 30 days after having been notified by the Administrator under subsection (a)(1) that such person is violating such requirement, or

"(B) violates or fails or refuses to comply with any order issued by the Administrator under subsection (a), or

"(C) violates section 111(e) or section 112(c).

shall be punished by a fine of not more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after the first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

"(2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

"INSPECTIONS, MONITORING, AND ENTRY

"SEC. 114 (a) For the purpose (i) of developing or assisting in the development of any implementation plan under section 110 or 111(d), any standard of performance under section 111, or any emission standard under section 112, (ii) of determining whether any person is in violation of any such standard or any requirement of such a plan, or (iii) carrying out section 303—

"(1) the Administrator may require the owner or operator of any emission source to (A) establish and maintain such records, (B) make such reports, (C) install, use, and maintain such monitoring equipment or methods, (D) sample such emissions (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (E) provide such other information, as he may reasonably require; and

"(2) the Administrator or his authorized representative, upon presentation of his credentials—

"(A) shall have a right of entry to, upon, or through any premises in which an emission source is located or in which any records required to be maintained under paragraph (1) of this section are located, and

"(B) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under paragraph (1), and sample any emissions which the owner or operator of such source is required to sample under paragraph (1).

"(b)(1) Each State may develop and submit to the Administrator a procedure for carrying out this section in such State. If the Administrator finds the State procedure is adequate, he may delegate to such State any authority he has to carry out this section (except with respect to new sources owned or operated by the United States.)

"(2) Nothing in this subsection shall prohibit the Administrator from carrying out this section in a State.

"(c) Any records, reports or information obtained under subsection (a) shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof, (other than emission data) to which the Administrator has access under this section if made public, would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act."

(b) Section 115 of the Clean Air Act (as so redesignated by subsection (a) of this section) is amended as follows:

(1) Strike out the section heading and inserting in lieu thereof "ABATEMENT BY MEANS OF CONFERENCE PROCEDURE IN CERTAIN CASES."

(2) Insert "and which is covered by subsection (b) or (c)" after "persons" in subsection (a).

(3) Strike out subsections (b), (c), and (k).

(4) Redesignate subsections (d)(1)(A), (B), and (C) as paragraphs (1), (2), and (3) of subsection (b), respectively.

(5) Insert after subsection (b)(3) (as so redesignated) the following:

"(4) A conference may not be called under this subsection with respect to an air pollutant for which (at the time the conference is called) a national primary or secondary ambient air quality standard is in effect under section 109."

(6) Redesignate subsection (d)(1)(D) as subsection (c), and strike out "subparagraph" each place it appears therein and insert in lieu thereof "subsection".

(7) Redesignate subsections (d)(2) and (d)(3) as subsections (d)(1) and (d)(2), respectively.

(8) Strike out "such conference" in subsec-

tion (d)(1) (as so redesignated) and inserting in lieu thereof "any conference under this section".

(9) Strike out "under subparagraph (D) of subsection (d)" in subsection (g)(1) and inserting in lieu thereof "subsection (c)".

(10) Add at the end thereof the following new subsection:

"(k) No order or judgment under this section, or settlement, compromise, or agreement respecting any action under this section (whether or not entered or made before the date of enactment of the Clean Air Amendments of 1970) shall relieve any person of any obligation to comply with any requirement of an applicable implementation plan, or with any standard prescribed under section 111 or 112."

(2) Section 103(e) of the Clean Air Act is amended by striking out "section 108(a)" and inserting in lieu thereof "section 115"; and by striking out "subsections (d), (e), and (f) of section 108" and inserting in lieu thereof "subsections (b), (c), (d), (e), and (f) of section 115".

(c) Section 116 of the Clean Air Act (as so redesignated by subsection (a) of this section) is amended to read as follows:

"RETENTION OF STATE AUTHORITY

"SEC. 116. Except as otherwise provided in sections 209, 211(c)(4), and 233 (preempting certain State regulation of moving sources) nothing in this Act shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce (1) any standard or limitation respecting emissions of air pollutants or (2) any requirement respecting control or abatement of air pollution; except that if an emission standard or limitation is in effect under an applicable implementation plan or under section 111 or 112, such State or political subdivision may not adopt or enforce any emission standard or limitation which is less stringent than the standard or limitation under such plan or section."

(d) The Clean Air Act is amended by adding at the end of section 117 (as so redesignated by subsection (a) of this section) the following new subsection:

"(f) Prior to—

"(1) issuing criteria for an air pollutant under section 108(a)(2),

"(2) publishing any list under section 111(b)(1)(A) or 112(b)(1)(A),

"(3) publishing any standard under section 111(b)(1)(B) or section 112(b)(1)(B), or

"(4) publishing any regulation under section 202(a),

the Administrator shall, to the maximum extent practicable within the time provided, consult with appropriate advisory committees, independent experts, and Federal departments and agencies."

FEDERAL FACILITIES

SEC. 5. Section 118 of the Clean Air Act (as so redesignated by section 4(a) of this Act) is amended to read as follows:

"CONTROL OF POLLUTION FROM FEDERAL FACILITIES

"SEC. 118. Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the discharge of air pollutants, shall comply with Federal, State, interstate, and local requirements respecting control and abatement of air pollution to the same extent that any person is subject to such requirements. The President may exempt any emission source of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so, except that no exemption may be granted from section 111, and an exemption from section 112 may be granted only in accordance with section 112(c). No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption."

MOTOR VEHICLE EMISSION STANDARDS

SEC. 6. (a) Section 202 of the Clean Air Act is amended to read as follows:

"ESTABLISHMENT OF STANDARDS

"SEC. 202. (a) Except as otherwise provided in subsection (b)—

"(1) The Administrator shall by regulation prescribe (and from time to time revise) in accordance with the provisions of this section, standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles or new motor vehicle engines, which in his judgment causes or contributes to, or is likely to cause or to contribute to, air pollution which endangers the public health or welfare. Such standards shall be applicable to such vehicles and engines for their useful life (as determined under subsection (d)), whether such vehicles and engines are designed as complete systems or incorporate devices to prevent or control such pollution.

"(2) Any regulation prescribed under this subsection (and any revision thereof) shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"(b)(1)(A) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light duty vehicles and engines manufactured during or after model year 1975 shall contain standards which require a reduction of at least 90 per centum from emissions of carbon monoxide and hydrocarbons allowable under the standards under this section applicable to light duty vehicles and engines manufactured in model year 1970.

"(B) The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light duty vehicles and engines manufactured during or after model year 1976 shall contain standards which require a reduction of at least 90 per centum from the average of emissions of oxides of nitrogen actually measured from light duty vehicles manufactured during model year 1971 which are not subject to any Federal or State emission standard for oxides of nitrogen. Such average of emissions shall be determined by the Administrator on the basis of measurements made by him.

"(2) Emission standards under paragraph (1), and measurement techniques on which such standards are based (if not promulgated prior to the date of enactment of the Clean Air Amendments of 1970), shall be prescribed by regulation within 180 days after such date.

"(3) For purposes of this part—

"(A)(i) The term 'model year' with reference to any specific calendar year means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year. If the manufacturer has no annual production period, the term 'model year' shall mean the calendar year.

"(ii) For the purpose of assuring that vehicles and engines manufactured before the beginning of a model year were not manufactured for purposes of circumventing the effective date of a standard required to be prescribed by subsection (b), the Administrator may prescribe regulations defining 'model year' otherwise than as provided in clause (i).

"(B) The term 'light duty vehicles and engines' means new light duty motor vehicles and new light duty motor vehicle engines, as determined under regulations of the Administrator.

"(4) On July 1 of 1971, and of each year thereafter, the Administrator shall report to the Congress with respect to the development of systems necessary to implement the emission standards established pursuant to this section. Such reports shall include information regarding the continuing effects of such air pollutants subject to standards under this section on the public health and welfare, the extent and progress of efforts being made to develop the necessary systems, the costs associated with development and application of such systems, and following such hearings as he may deem advisable, any recommendations for additional congressional action necessary to achieve the purposes of this Act. In gathering information for the purposes of this paragraph and in connection with any hearing, the provisions of section 307(a) (relating to subpenas) shall apply.

"(5)(A) At any time after January 1, 1972, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1)(A) with respect to such manufacturer. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1)(A)) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1975.

"(B) At any time after January 1, 1973, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1)(B) with respect to such manufacturer. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1)(B) to emissions of oxides of nitrogen) from such vehicles and engines manufactured during model year 1976.

"(C) Any interim standards prescribed under this paragraph shall reflect the greatest degree of emission control which is achievable by application of technology which the Administrator determines is available, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers.

"(D) Within 60 days after receipt of the application for any such suspension, and after public hearing, the Administrator shall issue a decision granting or refusing such suspension. The Administrator shall grant such suspension only if he determines that (i) such suspension is essential to the public interest or the public health and welfare of the United States, (ii) all good faith efforts have been made to meet the standards established by this subsection, (iii) the applicant has established that effective con-

trol technology, processes, operating methods, or other alternatives are not available or have not been available for a sufficient period of time to achieve compliance prior to the effective date of such standards, and (iv) the study and investigation of the National Academy of Sciences conducted pursuant to subsection (c) and other information available to him has not indicated that technology, processes, or other alternatives are available to meet such standards.

"(E) Nothing in this paragraph shall extend the effective date of any emission standard required to be prescribed under this subsection for more than one year.

"(c)(1) The Administrator shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation of the technological feasibility of meeting the emissions standards required to be prescribed by the Administrator by subsection (b) of this section.

"(2) Of the funds authorized to be appropriated to the Administrator by this Act, such amounts as are required shall be available to carry out the study and investigation authorized by paragraph (1) of this subsection.

"(3) In entering into any arrangement with the National Academy of Sciences for conducting the study and investigation authorized by paragraph (1) of this subsection, the Administrator shall request the National Academy of Sciences to submit semiannual reports on the progress of its study and investigation to the Administrator and the Congress, beginning not later than July 1, 1971, and continuing until such study and investigation is completed.

"(4) The Administrator shall furnish to such Academy at its request any information which the Academy deems necessary for the purpose of conducting the investigation and study authorized by paragraph (1) of this subsection. For the purpose of furnishing such information, the Administrator may use any authority he has under this Act (A) to obtain information from any person, and (B) to require such person to conduct such tests, keep such records, and make such reports respecting research or other activities conducted by such person as may be reasonably necessary to carry out this subsection.

"(d) The Administrator shall prescribe regulations under which the useful life of vehicles and engines shall be determined for purposes of subsection (a)(1) of this section and section 207. Such regulations shall provide that useful life shall—

"(1) in the case of light duty vehicles and light duty vehicle engines, be a period of use of five years or of fifty thousand miles (or the equivalent), whichever first occurs; and

"(2) in the case of any other motor vehicle or motor vehicle engine, be a period of use set forth in paragraph (1) unless the Administrator determines that a period of use of greater duration or mileage is appropriate.

"(e) In the event a new power source or propulsion system for new motor vehicles or new motor vehicle engines is submitted for certification pursuant to section 206(a), the Administrator may postpone certification until he has prescribed standards for any air pollutants emitted by such vehicle or engine which cause or contribute to, or are likely to cause or contribute to, air pollution which endangers the public health or welfare but for which standards have not been prescribed under subsection (a)."

ENFORCEMENT OF MOTOR VEHICLE EMISSION STANDARDS

SEC. 7. (a)(1) Section 203(a)(1) of the Clean Air Act is amended to read as follows:

"(1) in the case of a manufacturer of new motor vehicles or new motor vehicle engines for distribution in commerce, the sale, or the offering for sale, or the introduction, or delivery for introduction, into commerce, or (in the case of any person, except as provided by regulation of the Administrator), the importation into the United States, of any new motor vehicle or new motor vehicle engine, manufactured after the effective date of regulations under this part which are applicable to such vehicle or engine unless such vehicle or engine is covered by a certificate of conformity issued (and in effect) under regulations prescribed under this part (except as provided in subsection (b));"

(2) Section 203(a)(2) of such Act is amended by striking out "section 207" and inserting in lieu thereof "section 208", and by striking out "or" at the end thereof.

(3) Section 203(a)(3) of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", or for any manufacturer or dealer knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser; or".

(4) Section 203(a) of such Act is amended by inserting at the end thereof the following new paragraph:

"(4) for any manufacturer of a new motor vehicle or new motor vehicle engine subject to standards prescribed under section 202—

"(A) to sell or lease any such vehicle or engine unless such manufacturer has complied with the requirements of section 207 (a) and (b) with respect to such vehicle or engine, and unless a label or tag is affixed to such vehicle or engine in accordance with section 207(c)(3), or

"(B) to fail or refuse to comply with the requirements of section 207 (c) or (e)."

(5) Section 203(b)(1) of such Act is amended by striking out ", or class thereof, from subsection (a)," and inserting in lieu thereof "from subsection (a)", and by striking out "to protect the public health or welfare,".

(6) Section 203(b)(2) of such Act is amended by striking out "importation by a manufacturer" and inserting in lieu thereof "importation or imported by any person".

(7) Section 203 of the Clean Air Act is amended—

(A) by amending subsection (b)(3) to read as follows:

"(3) A new motor vehicle or new motor vehicle engine intended solely for export, and so labeled or tagged on the outside of the container and on the vehicle or engine itself, shall be subject to the provisions of subsection (a), except that if the country of export has emission standards which differ from the standards prescribed under subsection (a), then such vehicle or engine shall comply with the standards of such country of export."; and

(B) by adding at the end thereof the following new subsection:

"(C) Upon application therefor, the Administrator may exempt from section 203(a)(3) any vehicles (or class thereof) manufactured before the 1974 model year from section 203(a)(3) for the purpose of permitting modifications to the emission control device or system of such vehicle in order to use fuels other than those specified in certification testing under section 206(a)(1), if the Administrator, on the basis of information submitted by the applicant, finds that such modification will not result in such vehicle or engine not complying with standards under section 202 applicable to such vehicle or engine. Any such exemption shall identify (1) the vehicle or vehicles so exempted, (2) the specific nature of the modification, and (3) the person or class of persons to whom the example shall apply."

(b) Section 204(a) of such Act is amended by striking out "or (3)" and inserting in lieu thereof "(3), or (4)".

(c) Section 205 of such Act is amended to read as follows:

"PENALTIES

"SEC. 205. Any person who violates paragraph (1), (2), (3), or (4) of section 203(a) shall be subject to a civil penalty of not more than $10,000. Any such violation with respect to paragraph (1), (2), or (4) of section 203(a) shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine."

COMPLIANCE WITH MOTOR VEHICLE EMISSION STANDARDS

SEC. 8. (a) The Clean Air Act is amended by striking out sections 206 and 211; by redesignating sections 207, 208, 209, 210, and 212 as 208, 209, 210, 211, and 213, respectively; and by inserting after section 205 the following new sections:

"MOTOR VEHICLE AND MOTOR VEHICLE ENGINE COMPLIANCE TESTING AND CERTIFICATION

"SEC. 206. (a)(1) The Administrator shall test, or require to be tested in such manner as he deems appropriate, any new motor vehicle or new motor vehicle engine submitted by a manufacturer to determine whether such vehicle or engine conforms with the regulations prescribed under section 202 of this Act. If such vehicle or engine conforms to such regulations, the Administrator shall issue a certificate of conformity upon such terms, and for such period (not in excess of one year), as he may prescribe.

"(2) The Administrator shall test any emission control system incorporated in a motor vehicle or motor vehicle engine submitted to him by any person, in order to determine whether such system enables such vehicle or engine to conform to the standards required to be prescribed under section 202(b) of this Act. If the Administrator finds on the basis of such tests that such vehicle or engine conforms to such standards, the Administrator shall issue a verification of compliance with emission standards for such system when incorporated in vehicles of a class of which the tested vehicle is representative. He shall inform manufacturers and the National Academy of Sciences, and make available to the public, the results of such tests. Tests under this paragraph shall be conducted under such terms and conditions (including requirements for preliminary testing by qualified independent laboratories) as the Administrator may prescribe by regulations.

"(b)(1) In order to determine whether new motor vehicles or new motor vehicle engines being manufactured by a manufacturer do in fact conform with the regulations with respect to which the certificate of conformity was issued, the Administrator is authorized to test such vehicles or engines. Such tests may be conducted by the Administrator directly or, in accordance with conditions specified by the Administrator, by the manufacturer.

"(2)(A)(i) If, based on tests conducted under paragraph (1) on a sample of new vehicles or engines covered by a certificate of conformity, the Administrator determines that all or part of the vehicles or engines so covered do not conform with the regulations with respect to which the certificate of conformity was issued, he may suspend or revoke such certificate in whole or in part, and shall so notify the manufacturer. Such suspension or revocation shall apply in the case of any new motor vehicles or new motor vehicle engines manufactured after the date of such notification (or manufactured before such date if still in the hands of the manufacturer), and shall apply until such time as the Administrator finds that vehicles and engines manufactured by the manufacturer do conform to such regulations. If, during any period of suspension or revocation, the Administrator finds that a vehicle or engine actually conforms to such regulations, he shall issue a certificate of conformity applicable to such vehicle or engine.

"(ii) If, based on tests conducted under paragraph (1) on any new vehicle or engine, the Administrator determines that such vehicle or engine does not conform with such regulations, he may suspend or revoke such

certificate insofar as it applies to such vehicle or engine until such time as he finds such vehicle or engine actually so conforms with such regulations, and he shall so notify the manufacturer.

"(B)(i) At the request of any manufacturer the Administrator shall grant such manufacturer a hearing as to whether the tests have been properly conducted or any sampling methods have been properly applied, and make a determination on the record with respect to any suspension or revocation under subparagraph (A); but suspension or revocation under subparagraph (A) shall not be stayed by reason of such hearing.

"(ii) In any case of actual controversy as to the validity of any determination under clause (i), the manufacturer may at any time prior to the 60th day after such determination is made file a petition with the United States court of appeals for the circuit wherein such manufacturer resides or has his principal place of business for a judicial review of such determination. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or other officer designated by him for that purpose. The Administrator thereupon shall file in the court the record of the proceedings on which the Administrator based his determination, as provided in section 2112 of title 28 of the United States Code.

"(iii) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

"(iv) Upon the filing of the petition referred to in clause (ii), the court shall have jurisdiction to review the order in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter.

"(c) For purposes of enforcement of this section, officers or employees duly designated by the Administrator, upon presenting appropriate credentials to the manufacturer or person in charge, are authorized (1) to enter, at reasonable times, any plant or other establishment of such manufacturer, for the purpose of conducting tests of vehicles or engines in the hands of the manufacturer, or (2) to inspect at reasonable times, records, files, papers, processes, controls, and facilities used by such manufacturer in conducting tests under regulations of the Administrator. Each such inspection shall be commenced and completed with reasonable promptness.

"(d) The Administrator shall by regulation establish methods and procedures for making tests under this section.

"(e) The Administrator shall announce in the Federal Register and make available to the public the results of his tests of any motor vehicle or motor vehicle engine submitted by a manufacturer under subsection (a) as promptly as possible after the enactment of the Clean Air Amendments of 1970 and at the beginning of each model year which begins thereafter. Such results shall be described in such nontechnical manner as will reasonably disclose to prospective ultimate purchasers of new motor vehicles and new motor vehicle engines the comparative performance of the vehicles and engines tested in meeting the standards prescribed under section 202 of this Act.

"COMPLIANCE BY VEHICLE AND ENGINES IN ACTUAL USE

"SEC. 207. (a) Effective with respect to vehicles and engines manufactured in model years beginning more than 60 days after the date of the enactment of the Clean Air Act Amendments of 1970, the manufacturer of each new motor vehicle and new motor vehicle engine shall warrant to the ultimate purchaser and each subsequent purchaser that such vehicle or engine is (1) designed, built, and equipped so as to conform at the time of sale with applicable regulations under section 202, and (2) free from defects in materials and workmanship which cause such vehicle or engine to fail to conform with applicable regulations for its useful life (as determined under section 202(d)).

"(b) If the Administrator determines that (i) there are available testing methods and procedures to ascertain whether, when in actual use throughout its useful life (as determined under section 202(d)), each vehicle and engine to which regulations under section 202 apply complies with the emission standards of such regulations, (ii) such methods and procedures are in accordance with good engineering practices, and (iii) such methods and procedures are reasonably capable of being correlated with tests conducted under section 206(a)(1), then—

"(1) he shall establish such methods and procedures by regulation, and

"(2) at such time as he determines that inspection facilities or equipment are available for purposes of carrying out testing methods and procedures established under paragraph (1), he shall prescribe regulations which shall require manufacturers to warrant the emission control device or system of each new motor vehicle or new motor vehicle engine to which a regulation under section 202 applies and which is manufactured in a model year beginning after the Administrator first prescribes warranty regulations under this paragraph (2). The warranty under such regulations shall run to the ultimate purchaser and each subsequent purchaser and shall provide that if—

"(A) the vehicle or engine is maintained and operated in accordance with instructions under subsection (c)(3),

"(B) it fails to conform at any time during its useful life (as determined under section 202(d)) to the regulations prescribed under section 202, and

"(C) such nonconformity results in the ultimate purchaser (or any subsequent purchaser) of such vehicle or engine having to bear any penalty or other sanction (including the denial of the right to use such vehicle or engine) under State or Federal law, then such manufacturer shall remedy such nonconformity under such warranty with the cost thereof to be borne by the manufacturer.

"(c) Effective with respect to vehicles and engines manufactured during model years beginning more than 60 days after the date of enactment of the Clean Air Amendments of 1970—

"(1) If the Administrator determines that a substantial number of any class or category of vehicles or engines, although properly maintained and used, do not conform to the regulations prescribed under section 202, when in actual use throughout their useful life (as determined under section 202(d)), he shall immediately notify the manufacturer thereof of such nonconformity, and he shall require the manufacturer to submit a plan for remedying the nonconformity of the vehicles or engines with respect to which such notification is given. The plan shall provide that the nonconformity of any such vehicles or engines which are properly used and maintained will be remedied at the expense of the manufacturer. If the manufacturer disagrees with such determination of nonconformity and so advises the Administrator, the Administrator shall afford the manufacturer and other interested persons an opportunity to present their views and evidence in support thereof at a public hearing. Unless, as a result of such hearing the Administrator withdraws such determination of nonconformity, he shall, within 60 days after the completion of such hearing, order the manufacturer to provide prompt notification of such nonconformity in accordance with paragraph (2).

"(2) Any notification required by paragraph (1) with respect to any class or category of vehicles or engines shall be given to dealers, ultimate purchasers, and subsequent purchasers (if known) in such manner and containing such information as the Administrator may by regulations require.

"(3) The manufacturer shall furnish with each new motor vehicle or motor vehicle engine such written instructions for the maintenance and use of the vehicle or engine by the ultimate purchaser as may be reasonable and necessary to assure the proper functioning of emission control devices and systems. In addition, the manufacturer shall indicate by means of a label or tag permanently affixed to such vehicle or engine that such vehicle or engine is covered by a certificate of conformity issued for the purpose of assuring achievement of emissions standards prescribed under section 202. Such label or tag shall contain such other information relating to control of motor vehicle emissions as the Administrator shall prescribe by regulation.

"(d) Any cost obligation of any dealer incurred as a result of any requirement imposed by subsection (a), (b), or (c) shall be borne by the manufacturer. The transfer of any such cost obligation from a manufacturer to any dealer through franchise or other agreement is prohibited.

"(e) If a manufacturer includes in any advertisement a statement respecting the cost or value of emission control devices or systems, such manufacturer shall set forth in such statement the cost or value attributed to such devices or systems by the Secretary of Labor (through the Bureau of Labor Statistics). The Secretary of Labor, and his representatives, shall have the same access for this purpose to the books, documents, papers, and records of a manufacturer as the Comptroller General has to those of a recipient of assistance for purposes of section 311.

"(f) Any inspection of a motor vehicle or a motor vehicle engine for purposes of subsection (c)(1), after its sale to the ultimate purchaser, shall be made only if the owner of such vehicle or engine voluntarily permits such inspection to be made, except as may be provided by any State or local inspection program."

(b) The amendments made by this section shall not apply to vehicles or engines imported into the United States before the sixtieth day after the date of enactment of this Act.

"REGULATION OF FUELS

SEC. 9. (a) Section 211 of the Clean Air Act (as so redesignated by section 8) is amended to read as follows:

"REGULATIONS OF FUELS

"SEC. 211. (a) The Administrator may by regulation designate any fuel or fuel additive and, after such date or dates as may be prescribed by him, no manufacturer or processor of any such fuel or additive may sell, offer for sale, or introduce into commerce such fuel or additive unless the Administrator has registered such fuel or additive in accordance with subsection (b) of this section.

"(b)(1) For the purpose of registration of fuels and fuel additives, the Administrator shall require—

"(A) the manufacturer of any fuel to notify him as to the commercial identifying name and manufacturer of any additive contained in such fuel; the range of concentra-

tion of any additive in the fuel; and the purpose-in-use of any such additive; and

"(B) the manufacturer of any additive to notify him as to the chemical composition of such additive.

"(2) For the purpose of registration of fuels and fuel additives, the Administrator may also require the manufacturer of any fuel or fuel additive—

"(A) to conduct tests to determine potential public health effects of such fuel or additive (including, but not limited to, carcinogenic, teratogenic, or mutagenic effects), and

"(B) to furnish the description of any analytical technique that can be used to detect and measure any additive in such fuel, the recommended range of concentration of such additive, and the recommended purpose-in-use of such additive, and such other information as is reasonable and necessary to determine the emissions resulting from the use of the fuel or additive contained in such fuel, the effect of such fuel or additive on the emission control performance of any vehicle or vehicle engine, or the extent to which such emissions affect the public health or welfare.

Tests under subparagraph (A) shall be conducted in conformity with test procedures and protocols established by the Administrator. The result of such tests shall not be considered confidential.

"(3) Upon compliance with the provision of this subsection, including assurances that the Administrator will receive changes in the information required, the Administrator shall register such fuel or fuel additive.

"(c)(1) The Administrator may, from time to time on the basis of information obtained under subsection (b) of this section or other information available to him, by regulation, control or prohibit the manufacture, introduction into commerce, offering for sale, or sale of any fuel or fuel additive for use in a motor vehicle or motor vehicle engine (A) if any emission products of such fuel or fuel additive will endanger the public health or welfare, or (B) if emission products of such fuel or fuel additive will impair to a significant degree the performance of any emission control device or system which is in general use, or which the Administrator finds has been developed to a point where in a reasonable time it would be in general use were such regulation to be promulgated.

"(2)(A) No fuel, class of fuels, or fuel additive may be controlled or prohibited by the Administrator pursuant to clause (A) of paragraph (1) except after consideration of all relevant medical and scientific evidence available to him, including consideration of other technologically or economically feasible means of achieving emission standards under section 202.

"(B) No fuel or fuel additive may be controlled or prohibited by the Administrator pursuant to clause (B) of paragraph (1) except after consideration of available scientific and economic data, including a cost benefit analysis comparing emission control devices or systems which are or will be in general use and require the proposed control or prohibition with emission control devices or systems which are or will be in general use and do not require the proposed control or prohibition. On request of a manufacturer of motor vehicles, motor vehicle engines, fuels, or fuel additives submitted within 10 days of notice of proposed rulemaking, the Administrator shall hold a public hearing and publish findings with respect to any matter he is required to consider under this subparagraph. Such findings shall be published at the time of promulgation of final regulations.

"(C) No fuel or fuel additive may be prohibited by the Administrator under paragraph (1) unless he finds, and publishes such finding, that in his judgment such prohibition will not cause the use of any other fuel or fuel additive which will produce emissions which will endanger the public health or welfare to the same or greater degree than the use of the fuel or fuel additive proposed to be prohibited.

"(3)(A) For the purpose of evidence and data to carry out paragraph (2), the Administrator may require the manufacturer of any motor vehicle or motor vehicle engine to furnish any information which has been developed concerning the emissions from motor vehicles resulting from the use of any fuel or fuel additive, or the effect of such use on the performance of any emission control device or system.

"(B) In obtaining information under subparagraph (A), section 307(a) (relating to subpenas) shall be applicable.

"(4)(A) Except as otherwise provided in subparagraph (B) or (C), no State (or political subdivision thereof) may prescribe or attempt to enforce, for purposes of motor vehicle emission control, any control or prohibition respecting use of a fuel or fuel additive in a motor vehicle or motor vehicle engine—

"(i) if the Administrator has found that no control or prohibition under paragraph (1) is necessary and has published his finding in the Federal Register, or

"(ii) if the Administrator has prescribed under paragraph (1) a control or prohibition applicable to such fuel or fuel additive, unless State prohibition or control is identical to the prohibition or control prescribed by the Administrator.

"(B) Any State for which application of section 209(a) has at any time been waived under section 209(b) may at any time prescribe and enforce, for the purpose of motor vehicle emission control, a control or prohibition respecting any fuel or fuel additive.

"(C) A State may prescribe and enforce, for purposes of motor vehicle emission control, a control or prohibition respecting the use of a fuel or fuel additive in a motor vehicle or motor vehicle engine if an applicable implementation plan for such State under section 110 so provides. The Administrator may approve such provision in an implementation plan, or promulgate an implementation plan containing such a provision, only if he finds that the State control or prohibition is necessary to achieve the national primary or secondary ambient air quality standard which the plan implements.

"(d) Any person who violates subsection (a) or the regulations prescribed under subsection (c) or who fails to furnish any information required by the Administrator under subsection (c) shall forfeit and pay to the United States a civil penalty of $10,000 for each and every day of the continuance of such violation, which shall accrue to the United States and be recovered in a civil suit in the name of the United States, brought in the district where such person has his principal office or in any district in which he does business. The Administrator may, upon application therefor, remit or mitigate any forfeiture provided for in this subsection and he shall have authority to determine the facts upon all such applications."

OTHER AMENDMENTS TO TITLE II

SEC. 10. (a) The first sentence of section 208(b) of the Clean Air Act (as so redesignated by section 8 of this Act) is amended to read as follows: "Any records, reports or information obtained under subsection (a) shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof (other than emission data), to which the Administrator has access under this section if made public, would divulge methods or processes entitled to protection as trade secrets of such persons, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act."

(b) Section 210 of such Act (as so redesignated by section 8 of this Act) is amended to read as follows:

"STATE GRANTS

"SEC. 210. The Administrator is authorized to make grants to appropriate State agencies in an amount up to two-thirds of the cost of developing and maintaining effective vehicle emission devices and systems inspection and emission testing and control programs, except that—

"(1) no such grant shall be made for any part of any State vehicle inspection program which does not directly relate to the cost of the air pollution control aspects of such a program;

"(2) no such grant shall be made unless the Secretary of Transportation has certified to the Administrator that such program is consistent with any highway safety program developed pursuant to section 402 of title 23 of the United States Code; and

"(3) no such grant shall be made unless the program includes provisions designed to insure that emission control devices and systems on vehicles in actual use have not been discontinued or rendered inoperative."

(c) Title II of the Clean Air Act is amended by inserting after section 211 (as so redesignated by section 8) the following new section:

"DEVELOPMENT OF LOW-EMISSION VEHICLES

"SEC. 212. (a) For the purpose of this section—

"(1) The term 'Board' means the Low-Emission Vehicle Certification Board.

"(2) The term 'Federal Government' includes the legislative, executive, and judicial branches of the Government of the United States, and the government of the District of Columbia.

"(3) The term 'motor vehicle' means any self-propelled vehicle designed for use in the United States on the highways, other than a vehicle designed or used for military field training, combat, or tactical purposes.

"(4) The term 'low-emission vehicle' means any motor vehicle which—

"(A) emits any air pollutant in amounts significantly below new motor vehicle standards applicable under section 202 at the time of procurement to that type of vehicle; and

"(B) with respect to all other air pollutants meets the new motor vehicle standards applicable under section 202 at the time of procurement to that type of vehicle.

"(5) The term 'retail price' means (A) the maximum statutory price applicable to any class or model of motor vehicle; or (B) in any case where there is no applicable maximum statutory price, the most recent procurement price paid for any class or model of motor vehicle.

"(b)(1) There is established a Low-Emission Vehicle Certification Board to be composed of the Administrator or his designee, the Secretary of Transportation or his designee, the Chairman of the Council on Environmental Quality or his designee, the Director of the National Highway Safety Bureau in the Department of Transportation, the Administrator of General Services, and two members appointed by the President. The President shall designate one member of the Board as Chairman.

"(2) Any member of the Board not employed by the United States may receive compensation at the rate of $125 for each day such member is engaged upon work of the Board. Each member of the Board shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(3)(A) The Chairman, with the concur-

rence of the members of the Board, may employ and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Board, but no individual so appointed shall receive compensation in excess of the rate authorized for GS–18 by section 5332 of title 5, United States Code.

"(B) The Chairman may fix the time and place of such meetings as may be required, but a meeting of the Board shall be called whenever a majority of its members so request.

"(C) The Board is granted all other powers necessary for meeting its responsibilities under this section.

"(c) The Administrator shall determine which models or classes of motor vehicles qualify as low-emission vehicles in accordance with the provisions of this section.

"(d)(1) The Board shall certify any class or model of motor vehicles—

"(A) for which a certification application has been filed in accordance with paragraph (3) of this subsection;

"(B) which is a low-emission vehicle as determined by the Administrator; and

"(C) which it determines is suitable for use as a substitute for a class or model of vehicles at that time in use by agencies of the Federal Government.

The Board shall specify with particularity the class or model of vehicles for which the class or model of vehicles described in the application is a suitable substitute. In making the determination under this subsection the Board shall consider the following criteria:

"(i) the safety of the vehicle;

"(ii) its performance characteristics;

"(iii) its reliability potential;

"(iv) its serviceability;

"(v) its fuel availability;

"(vi) its noise level; and

"(vii) its maintenance costs as compared with the class or model of motor vehicle for which it may be a suitable substitute.

"(2) Certification under this section shall be effective for a period of one year from the date of issuance.

"(3)(A) Any party seeking to have a class or model of vehicle certified under this section shall file a certification application in accordance with regulations prescribed by the Board.

"(B) The Board shall publish a notice of each application received in the Federal Register.

"(C) The Administrator and the Board shall make determinations for the purpose of this section in accordance with procedures prescribed by regulation by the Administrator and the Board, respectively.

"(D) The Administrator and the Board shall conduct whatever investigation is necessary, including actual inspection of the vehicle at a place designated in regulations prescribed under subparagraph (A).

"(E) The Board shall receive and evaluate written comments and documents from interested parties in support of, or in opposition to, certification of the class or model of vehicle under consideration.

"(F) Within 90 days after the receipt of a properly filed certification application, the Administrator shall determine whether such class or model of vehicle is a low-emission vehicle, and within 180 days of such determination, the Board shall reach a decision by majority vote as to whether such class or model of vehicle, having been determined to be a low-emission vehicle, is a suitable substitute for any class or classes of vehicles presently being purchased by the Federal Government for use by its agencies.

"(G) Immediately upon making any determination or decision under subparagraph (F), the Administrator and the Board shall each publish in the Federal Register notice of such determination or decision, including reasons therefor and in the case of the Board any dissenting views.

"(e)(1) Certified low-emission vehicles shall be acquired by purchase or lease by the Federal Government for use by the Federal Government in lieu of other vehicles if the Administrator of General Services determines that such certified vehicles have procurement costs which are no more than 150 per centum of the retail price of the least expensive class or model of motor vehicle for which they are certified substitutes.

"(2) In order to encourage development of inherently low-polluting propulsion technology, the Board may, at its discretion, raise the premium set forth in paragraph (1) of this subsection to 200 per centum of the retail price of any class or model of motor vehicle for which a certified low-emission vehicle is a certified substitute, if the Board determines that the certified low-emission vehicle is powered by an inherently low-polluting propulsion system.

"(3) Data relied upon by the Board and the Administrator in determining that a vehicle is a certified low-emission vehicle shall be incorporated in any contract for the procurement of such vehicle.

"(f) The procuring agency shall be required to purchase available certified low-emission vehicles which are eligible for purchase to the extent they are available before purchasing any other vehicles for which any low-emission vehicle is a certified substitute. In making purchasing selections between competing eligible certified low-emission vehicles, the procuring agency shall give priority to (1) any class or model which does not require extensive periodic maintenance to retain its low-polluting qualities or which does not require the use of fuels which are more expensive than those of the classes or models of vehicles for which it is a certified substitute; and (2) passenger vehicles other than buses.

"(g) For the purpose of procuring certified low-emission vehicles any statutory price limitations shall be waived.

"(h) The Administrator shall, from time to time as the Board deems appropriate, test the emissions from certified low-emission vehicles purchased by the Federal Government. If at any time he finds that the emission rates exceed the rates on which certification under this section was based, the Administrator shall notify the Board. Thereupon the Board shall give the supplier of such vehicles written notice of this finding, issue public notice of it, and give the supplier an opportunity to make necessary repairs, adjustments, or replacements. If no such repairs, adjustments, or replacements are made within a period to be set by the Board, the Board may order the supplier to show cause why the vehicle involved should be eligible for certification.

There are authorized to be appropriated for paying additional amounts for motor vehicles pursuant to, and for carrying out the provisions of, this section, $5,000,000 for the fiscal year ending June 30, 1971, and $25,000,000 for each of the two succeeding fiscal years.

"(j) The Board shall promulgate the procedures required to implement this section within one hundred and eighty days after the date of enactment of the Clean Air Amendments of 1970."

(d)(1) Paragraph (1) of section 213 of the Clean Air Act (as so redesignated by section 8) is amended by inserting "202," immediately before "203,".

(2) Paragraph (3) of such section 213 is amended by striking out "The" and inserting in lieu thereof "Except with respect to vehicles or engines imported or offered for importation, the"; and by adding before the period at the end thereof "; and with respect to imported vehicles or engines, such terms mean a motor vehicle and engine, respectively, manufactured after the effective date of a regulation issued under section 202 which is applicable to such vehicle or engine (or which would be applicable to such vehicle or engine had it been manufactured for importation into the United States)".

EMISSION STANDARDS FOR AIRCRAFT

SEC. 11. (a)(1) Title II of the Clean Air Act is amended by adding at the end thereof the following new part:

"PART B—AIRCRAFT EMISSION STANDARDS

"ESTABLISHMENT OF STANDARDS

"SEC. 231. (a)(1) Within 90 days after the date of enactment of the Clean Air Amendments of 1970, the Administrator shall commence a study and investigation of emissions of air pollutants from aircraft in order to determine—

"(A) the extent to which such emissions affect air quality in air quality control regions throughout the United States, and

"(B) the technological feasibility of controlling such emissions.

"(2) Within 180 days after commencing such study and investigation, the Administrator shall publish a report of such study and investigation and shall issue proposed emission standards applicable to emissions of any air pollutant from any class or classes of aircraft or aircraft engines which in his judgment cause or contribute to or are likely to cause or contribute to air pollution which endangers the public health or welfare.

"(3) The Administrator shall hold public hearings with respect to such proposed standards. Such hearings shall, to the extent practicable, be held in air quality control regions which are most seriously affected by aircraft emissions. Within 90 days after the issuance of such proposed regulations, he shall issue such regulations with such modifications as he deems appropriate. Such regulations may be revised from time to time.

"(b) Any regulation prescribed under this section (and any revision thereof) shall take effect after such period as the Administrator finds necessary (after consultation with the Secretary of Transportation) to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"(c) Any regulations under this section, or amendments thereto, with respect to aircraft, shall be prescribed only after consultation with the Secretary of Transportation in order to assure appropriate consideration for aircraft safety.

"ENFORCEMENT OF STANDARDS

"SEC. 232.(a) The Secretary of Transportation, after consultation with the Administrator, shall prescribe regulations to insure compliance with all standards prescribed under section 231 by the Administrator. The regulations of the Secretary of Transportation shall include provisions making such standards applicable in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by the Federal Aviation Act or the Department of Transportation Act. Such Secretary shall insure that all necessary inspections are accomplished, and, may execute any power or duty vested in him by any other provision of law in the execution of all powers and duties vested in him under this section.

"(b) In any action to amend, modify, suspend, or revoke a certificate in which violation of an emission standard prescribed under section 231 or of a regulation prescribed under subsection (a) is at issue, the certificate holder shall have the same notice and appeal rights as are prescribed for such holders in the Federal Aviation Act of 1958 or the Department of Transportation Act, except that in any appeal to the National Transportation Safety Board, the Board may amend, modify, or revoke the order of the Secretary of Transportation only if it finds no violation of such standard or regulation and that such amendment, modification, or revocation is consistent with safety in air transportation.

"STATE STANDARDS AND CONTROLS

"SEC. 233. No State or political subdivision thereof may adopt or attempt to enforce any standard respecting emissions of any air pollutant from any aircraft or engine thereof unless such standard is identical to a standard applicable to such aircraft under this part.

"DEFINITIONS

"SEC. 234. Terms used in this part (other than Administrator) shall have the same meaning as such terms have under section 101 of the Federal Aviation Act of 1958."

(2) Title II of the Clean Air Act is amended—

(A) by striking out "this title" wherever it appears in sections 202 through 213 and inserting in lieu thereof "this part";

(B) by striking out "TITLE II" in the heading for section 213 (as so redesignated by section 8 of this Act) and inserting in lieu thereof "PART A";

(C) by amending the heading for title II to read as follows: "TITLE II—EMISSION STANDARDS FOR MOVING SOURCES"; and

(D) by inserting after section 201 the following:

"PART A—MOTOR VEHICLE EMISSION AND FUEL STANDARDS"

(b)(1) Section 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1421) is amended by adding at the end thereof the following new subsection:

"AVIATION FUEL STANDARDS

"(d) The Administrator shall prescribe, and from time to time revise, regulations (1) establishing standards governing the composition or the chemical or physical properties of any aircraft fuel or fuel additive for the purpose of controlling or eliminating aircraft emissions which the Administrator of the Environmental Protection Agency (pursuant to section 231 of the Clean Air Act) determines endanger the public health or welfare, and (2) providing for the implementation and enforcement of such standards."

(2) Section 610(a) of such Act (49 U.S.C. 1430(a)) is amended by striking out "and" at the end of paragraph (7); by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and" and by adding after paragraph (8) the following new paragraph:

"(9) For any person to manufacture, deliver, sell, or offer for sale, any aviation fuel or fuel additive in violation of any regulation prescribed under section 601(d)."

(3) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 601. General Safety Powers and Duties."

is amended by adding at the end thereof the following:

"(d) Aviation fuel standards.".

GENERAL PROVISIONS

SEC. 12. (a) The Clean Air Act is amended by redesignating sections 303 through 310 as sections 310 through 317, and by inserting after section 302 the following new sections:

"EMERGENCY POWERS

"SEC. 303. Notwithstanding any other provision of this Act, the Administrator, upon receipt of evidence that a pollution source or combination of sources (including moving sources) is presenting an imminent and substantial endangerment to the health of persons, and that appropriate State or local authorities have not acted to abate such sources, may bring suit on behalf of the United States in the appropriate United States district court to immediately restrain any person causing or contributing to the alleged pollution to stop the emission of air pollutants causing or contributing to such pollution or to take such other action as may be necessary.

"CITIZEN SUITS

"SEC. 304. (a) Except as provided in subsection (b), any person may commence a civil action on his own behalf—

"(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the Eleventh Amendment to the Constitution) who is alleged to be in violation of (A) an emission standard or limitation under this Act or (B) an order issued by the Administrator or a State with respect to such a standard or limitation, or

"(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such an emission standard or limitation, or such an order, or to order the Administrator to perform such act or duty, as the case may be.

"(b) No action may be commenced—

"(1) under subsection (a)(1)—

"(A) prior to 60 days after the plaintiff has given notice of the violation (i) to the Administrator, (ii) to the State in which the violation occurs, and (iii) to any alleged violator of the standard, limitation, or order, or

"(B) if the Administrator or State has commenced and is diligently prosecuting a civil action in a court of the United States or a State to require compliance with the standard, limitation, or order, but in any such action in a court of the United States any person may intervene as a matter of right.

"(2) under subsection (a)(2) prior to 60 days after the plaintiff has given notice of such action to the Administrator,

except that such action may be brought immediately after such notification in the case of an action under this section respecting a violation of section 112(c)(1)(B) or an order issued by the Administrator pursuant to section 113(a). Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

"(c)(1) Any action respecting a violation by a stationary source of an emission standard or limitation or an order respecting such standard or limitation may be brought only in the judicial district in which such source is located.

"(2) In such action under this section, the Administrator, if not a party, may intervene as a matter of right.

"(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any emission standard or limitation or to seek any other relief (including relief against the Administrator or a State agency).

"(f) For purposes of this section, the term 'emission standard or limitation under this Act' means—

"(1) a schedule or timetable of compliance, emission limitation, standard of performance or emission standard, or

"(2) a control or prohibition respecting a motor vehicle fuel or fuel additive,

which is in effect under this Act (including a requirement applicable by reason of section 118) or under an applicable implementation plan.

"APPEARANCE

"SEC. 305. The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this Act to which the Administrator is a party. Unless the Attorney General notifies the Administrator that he will appear in such action within a reasonable time, attorneys appointed by the Administrator shall appear and represent him.

"FEDERAL PROCUREMENT

"SEC. 306. (a) No Federal agency may enter into any contract with any person who is convicted of any offense under section 113(c)(1) for the procurement of goods, materials, and services to perform such contract at any facility at which the violation which gave rise to such conviction occurred if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such a conviction has been corrected.

"(b) The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a).

"(c) In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's air, the President shall, not more than 180 days after enactment of the Clean Air Amendments of 1970 cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

"(d) The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

"(e) The President shall annually report to the Congress on measures taken toward implementing the purpose and intent of this section, including but not limited to the progress and problems associated with implementation of this section.

"GENERAL PROVISION RELATING TO ADMINISTRATIVE PROCEEDINGS AND JUDICIAL REVIEW

"SEC. 307 (a)(1) In connection with any determination under section 110(f) or section 202(b)(5), or for purposes of obtaining information under section 202(b)(4) or 210(c)(4), the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Except for emission data, upon a showing satisfactory to the Administrator by such owner or operator that such papers, books, documents, or information or particular part thereof, if made public, would divulge trade secrets or secret processes of such owner or operator, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such paper, book, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act, to persons carrying out the National Academy of Sciences' study and investigation provided for in section 202(c), or when relevant in any proceeding under this Act. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any

person under this subparagraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b)(1) A petition for review of action of the Administrator in promulgating any national primary or secondary ambient air quality standard, any emission standard under section 112, any standard of performance under section 111; any standard under section 202 (other than a standard required to be prescribed under section 202(b)(1)), any determination under section 202(b)(5), any control or prohibition under section 211, or any standard under section 231 may be filed only in the United States Court of Appeals for the District of Columbia. A petition for review of the Administrator's action in approving or promulgating any implementation plan under section 110 or section 111(d) may be filed only in the United States Court of Appeals for the appropriate circuit. Any such petition shall be filed within 30 days from the date of such promulgation or approval, or after such date if such petition is based solely on grounds arising after such 30th day.

"(2) Action of the Administrator with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in civil or criminal proceedings for enforcement.

"(c) In any judicial proceeding in which review is sought of a determination under this Act required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as to the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

"MANDATORY LICENSING

"SEC. 308. Whenever the Attorney General determines, upon application of the Administrator—

"(1) that—

"(A) in the implementation of the requirements of section 111, 112, or 202 of this Act, a right under any United States letters patent, which is being used or intended for public or commercial use and not otherwise reasonably available, is necessary to enable any person required to comply with such limitation to so comply, and

"(B) there are no reasonable alternative methods to accomplish such purpose, and

"(2) that the unavailability of such right may result in a substantial lessening of competition or tendency to create a monopoly in any line of commerce in any section of the country,

the Attorney General may so certify to a district court of the United States, which may issue an order requiring the person who owns such patent to license it on such reasonable terms and conditions as the court, after hearing, may determine. Such certification may be made to the district court for the district in which the person owning the patent resides, does business, or is found.

"POLICY REVIEW

"SEC. 309. (a) The Administrator shall review and comment in writing on the environmental impact of any matter relating to duties and responsibilities granted pursuant to this Act or other provisions of the authority of the Administrator, contained in any (1) legislation proposed by any Federal department or agency, (2) newly authorized Federal projects for construction and any major Federal agency action (other than a project for construction) to which section 102(2)(C) of Public Law 91-190 applies, and (3) proposed regulations published by any department or agency of the Federal Government. Such written comment shall be made public at the conclusion of any such review.

"(b) In the event the Administrator determines that any such legislation, action, or regulation is unsatisfactory from the standpoint of public health or welfare or environmental quality, he shall publish his determination and the matter shall be referred to the Council on Environmental Quality.

AUTHORIZATIONS

"SEC. 13. (a) Section 104(c) of the Clean Air Act is amended to read as follows:

"(c) For the purposes of this section there are authorized to be appropriated $75,000,000 for the fiscal year ending June 30, 1971, $125,000,000 for the fiscal year ending June 30, 1972, and $150,000,000 for the fiscal year ending June 30, 1973. Amounts appropriated pursuant to this subsection shall remain available until expended."

(b) Section 316 of the Clean Air Act (as redesignated by section 12 of this Act) is amended to read as follows:

"APPROPRIATIONS

"SEC. 316. There are authorized to be appropriated to carry out this Act, other than sections 103(f)(3) and (d), 104, 212, and 403, $125,000,000 for the fiscal year ending June 30, 1971, $225,000,000 for the fiscal year ending June 30, 1972, and $300,000,000 for the fiscal year ending June 30, 1973."

SEC. 14. The Clean Air Act is amended by adding at the end thereof a new title to read as follows:

"TITLE IV—NOISE POLLUTION

"SEC. 401. This title may be cited as the 'Noise Pollution and Abatement Act of 1970'.

"SEC. 402. (a) The Administrator shall establish within the Environmental Protection Agency an Office of Noise Abatement and Control, and shall carry out through such Office a full and complete investigation and study of noise and its effect on the public health and welfare in order to (1) identify and classify causes and sources of noise, and (2) determine—

"(A) effects at various levels;

"(B) projected growth of noise levels in urban areas through the year 2000;

"(C) the psychological and physiological effect on humans;

"(D) effects of sporadic extreme noise (such as jet noise near airports) as compared with constant noise;

"(E) effect on wildlife and property (including values);

"(F) effect of sonic booms on property (including values); and

"(G) such other matters as may be of interest in the public welfare.

"(b) In conducting such investigation, the Administrator shall hold public hearings, conduct research, experiments, demonstrations, and studies. The Administrator shall report the results of such investigation and study, together with his recommendations for legislation or other action, to the President and the Congress not later than one year after the date of enactment of this title.

"(c) in any case where any Federal department or agency is carrying out or sponsoring any activity resulting in noise which the Administrator determines amounts to a public nuisance or is otherwise objectionable, such department or agency shall consult with the Administrator to determine possible means of abating such noise.

"SEC. 403. There is authorized to be appropriated such amount, not to exceed $30,000,000 as may be necessary for the purposes of this title."

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 15. (a)(1) Section 302 of the Clean Air Act is amended by striking out subsection (g) and inserting in lieu thereof the following:

"(g) The term 'air pollutant' means an air pollution agent or combination of such agents.

"(h) All language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being."

(2) Section 103(c) of the Clean Air Act is amended by striking out "air pollution agents (or combinations of agents)" and inserting in lieu thereof "air pollutants."

(b)(1) Subject to such requirements as the Civil Service Commission may prescribe, any commissioned officer of the Public Health Service (other than an officer who retires under section 211 of the Public Health Service Act after his election but prior to his transfer pursuant to this paragraph and paragraph (2)) who, upon the day before the effective date of Reorganization Plan Numbered 3 of 1970 (hereinafter in this subsection referred to as the "plan"), is serving as such officer (A) primarily in the performance of functions transferred by such plan to the Environmental Protection Agency or its Administrator (hereinafter in this subsection referred to as the "Agency" and the "Administrator", respectively), may, if such officer so elects, acquire competitive status and be transferred to a competitive position in the Agency; or (B) primarily in the performance of functions determined by the Secretary of Health, Education, and Welfare (hereinafter in this subsection referred to as the "Secretary") to be materially related to the functions so transferred, may, if authorized by agreement between the Secretary and the Administrator, and if such officer so elects, acquire such status and be so transferred.

(2) An election pursuant to paragraph (1) shall be effective only if made, in accordance with such procedures as may be prescribed by the Civil Service Commission (A) before the close of the 24th month after the effective date of the plan, or (B) in the case of a commissioned officer who would be liable for training and service under the Military Selective Service Act of 1967 but for the operation of section 6(b)(3) thereof (50 U.S.C. App. 456(b)(3)), before (if it occurs later than the close of such 24th month) the close of the 90th day after the day upon which he has completed his 24th month of service as such officer.

(3)(A) Except as provided in subparagraph (B), any commissioned officer of the Public Health Service who, pursuant to paragraphs (1) and (2), elects to transfer to a position in the Agency which is subject to chapter 51 and subchapter III of chapter 53 of title 5, United States Code (hereinafter in this subsection referred to as the "transferring officer"), shall receive a pay rate of the General Schedule grade of such position which is not less than the sum of the following amounts computed as of the day preceding the date of such election:

(i) the basic pay, the special pay, the continuation pay, and the subsistence and quarters allowances, to which he is annually

entitled as a commissioned officer of the Public Health Service pursuant to title 37, United States Code;

(ii) the amount of Federal income tax, as determined by estimate of the Secretary, which the transferring officer, had he remained a commissioned officer, would have been required to pay on his subsistence and quarters allowances for the taxable year then current if they had not been tax free;

(iii) an amount equal to the biweekly average cost of the coverages designated "high option, self and family" under the Government-wide Federal employee health benefits program plans, multiplied by twenty-six; and

(iv) an amount equal to 7 per centum of the sum of the amounts determined under clauses (i) through (iii), inclusive.

(B) A transferring officer shall in no event receive, pursuant to subsection subparagraph (A), a pay rate in excess of the maximum rate applicable under the General Schedule to the class of position, as established under chapter 51 of title 5, United States Code, to which such officer is transferred pursuant to paragraphs (1) and (2).

(4)(A) A transferring officer shall be credited, on the day of his transfer pursuant to his election under (4)(A), with one hour of sick leave for each week of active service, as defined by section 211(d) of the Public Health Service Act.

(B) The annual leave to the credit of a transferring officer on the day before the day of his transfer, shall, on such day of transfer, be transferred to his credit in the Agency on an adjusted basis under regulations prescribed by the Civil Service Commission. The portion of such leave, if any, that is in excess of the sum of (i) 240, and (ii) the number of hours that have accrued to the credit of the transferring officer during the calendar year then current and which remain unused, shall thereafter remain to his credit until used, and shall be reduced in the manner described by subsection (c) of section 6304 of title 5, United States Code.

(5) A transferring officer who is required to change his official station as a result of his transfer under this subsection shall be paid such travel, transportation, and related expenses and allowances, as would be provided pursuant to subchapter II of chapter 57 of title 5, United States Code, in the case of a civilian employee so transferred in the interest of the Government. Such officer shall not (either at the time of such transfer or upon a subsequent separation from the competitive service) be deemed to have separated from, or changed permanent station within, a uniformed service for purposes of section 404 of title 37, United States Code.

(6) Each transferring officer who prior to January 1, 1958, was insured pursuant to the Federal Employees' Group Life Insurance Act of 1954, and who subsequently waived such insurance, shall be entitled to become insured under chapter 87 of title 5, United States Code, upon his transfer to the Agency regardless of age and insurability.

(7)(A) Effective as of the date a transferring officer acquires competitive status as an employee of the Agency, there shall be considered as the civilian service of such officer for all purposes of chapter 83, title 5, United States Code, (i) his active service as defined by section 211(d) of the Public Health Service Act, or (ii) any period for which he would have been entitled, upon his retirement as a commissioned officer of the Public Health Service, to receive retired pay pursuant to section 211(a)(4)(B) of such Act; however, no transferring officer may become entitled to benefits under both subchapter III of such chapter and title II of the Social Security Act based on service as such a commissioned officer performed after 1956, but the individual (or his survivors) may irrevocably elect to waive credit for the service under one such law to secure credit under the other.

(B) A transferring officer on whose behalf a deposit is required to be made by subsection (b) subparagraph (c) and who, after transfer to a competitive position in the Agency under a deposit is required to be made by subparagraph (c) and who, after transfer to a competitive position in the Agency under paragraphs (1) and (2), is separated from Federal service or transfers to a position not covered by subchapter III of chapter 83 of title 5, United States Code, shall not be entitled, nor shall his survivors be entitled, to a refund of any amount deposited on his behalf in accordance with this section. In the event he transfers, after transfer under paragraphs (1) and (2), to a position covered by another Government staff requirement system under which credit is allowable for service with respect to which a deposit is required under subparagraph (c), no credit shall be allowed under such subchapter III with respect to such service.

(C) The Secretary shall deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, on behalf of and to the credit of such transferring officer, an amount equal to that which such individual would be required to deposit in such fund to cover the years of service credited to him for purposes of his retirement under subsection (a)(1) subparagraph (A), had such service been service as an employee as defined in section 8331(1) of title 5, United States Code. The amount so required to be deposited with respect to any transferring officer shall be computed on the basis of the sum of each of the amounts described in paragraph (3)(A) which were received by, or accrued to the benefit of, such officer during the years so credited. The deposits which the Secretary is required to make under this subparagraph with respect to any transferring officer shall be made within two years after the date of his transfer as provided in subparagraphs (1) and (2), and the amounts due under this subparagraph shall include interest computed from the period of service credited to the date of payment in accordance with section 8334(e) of title 5, United States Code.

(8)(A) A commissioned officer of the Public Health Service who, upon the day before the effective date of the plan, is on active service therewith primarily assigned to the performance of functions described in paragraph (1)(A), shall, while he remains in active service, as defined by section 211(d) of the Public Health Service Act, be assigned to the performance of duties with the Agency, except as the Secretary and the Administrator may jointly otherwise provide.

(B) Paragraph (2) of section 6(a) of the Military Selection Service Act of 1967 (50 U.S.C. App. 456(a)(2)) is amended by inserting "the Environmental Protection Agency," after "Department of Justice,".

(c)(1) Section 302(a) of the Clean Air Act is amended to read as follows:

"(a) The term 'Administrator' means the Administrator of the Environmental Protection Agency."

(2) The Clean Air Act is amended by striking out "Secretary" wherever it appears (except in reference to the Secretary of a department other than the Department of Health, Education, and Welfare) and inserting in lieu thereof "Administrator"; by striking out "Secretary of Health, Education, and Welfare" wherever it appears, and inserting in lieu thereof "Administrator"; and by striking out "Department of Health, Education, and Welfare" wherever it appears, and inserting in lieu thereof "Environmental Protection Agency".

SAVINGS PROVISIONS

SEC. 16. (a)(1) Any implementation plan adopted by any State and submitted to the Secretary of Health, Education, and Welfare, or to the Administrator pursuant to the Clean Air Act prior to enactment of this Act may be approved under section 110 of the Clean Air Act (as amended by this Act) and shall remain in effect, unless the Administrator determines that such implementation plan, or any portion thereof, is not consistent with the applicable requirements of the Clean Air Act (as amended by this Act) and will not provide for the attainment of national primary ambient air quality standards in the time required by such Act. If the Administrator so determines, he shall, within 90 days after promulgation of any national ambient air quality standards pursuant to section 109(a) of the Clean Air Act, notify the State and specify in what respects changes are needed to meet the additional requirements of such Act, including requirements to implement national secondary ambient air quality standards. If such changes are not adopted by the State after public hearings and within six months after such notification, the Administrator shall promulgate such changes pursuant to section 110(c) of such Act.

(2) The amendments made by section 4(b) shall not be construed as repealing or modifying the powers of the Administrator with respect to any conference convened under section 108(d) of the Clean Air Act before the date of enactment of this Act.

(b) Regulations or standards issued under title II of the Clean Air Act prior to the enactment of this Act shall continue in effect until revised by the Administrator consistent with the purposes of such Act.

And the Senate agree to the same.

HARLEY O. STAGGERS,
JOHN JARMAN,
PAUL G. ROGERS,
WILLIAM L. SPRINGER,
ANCHER NELSEN,
Managers on the Part of the House.

JENNINGS RANDOLPH,
S. T. YOUNG,
EDMUND S. MUSKIE,
W. B. SPONG,
THOMAS F. EAGLETON,
JOHN SHERMAN COOPER,
J. CALEB BOGGS,
HOWARD BAKER,
ROBERT DOLE,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 17255) to amend the Clean Air Act to provide for a more effective program to improve the quality of the Nation's air, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate struck out all of the House bill after the enacting clause and inserted a substitute amendment. The committee of conference has agreed to a substitute for both the House bill and the Senate amendment. Except for technical, clarifying, and conforming changes, the following statement explains the differences between the House bill and the substitute agreed to in conference.

Existing law and the House and Senate versions of the bill all provide that the Clean Air Act is to be carried out by the Secretary of Health, Education, and Welfare. During the period in which the committee of conference was considering the bill, all of the functions of the Secretary of Health, Education, and Welfare under the Clean Air Act were transferred, pursuant to Reorganization Plan Numbered 3 of 1970, to the Administrator of the Environmental Protection Agency. Accordingly, all references to the Secretary in the bill, in existing law, and in the statement of managers have been changed to "Administrator", and provisions have been added authorizing the transfer of personnel of the Public Health Service to the new agency.

RESEARCH

Sections 103 and 104

The House bill would make no changes in the present provisions of the Clean Air Act relating to fuel and vehicle research. The Senate amendment would make several changes in section 104 and would add a new section 107 which would call for special emphasis on research relating to effects of air pollution. In regard to section 104, the Senate amendment would provide (1) new authority for research directed toward development of methods of improving the efficiency of fuels combustion and producing synthetic or new low-pollution fuels, and (2) new authority for awarding of grants and contracts thority for research directed toward develop low-emission alternatives to the internal combustion engine and for payment of the cost of purchasing motor vehicles and engines for research and development and testing. In the proposed new section 107, the Administrator was directed to give special emphasis to research on the short-term and long-term effects of air pollutants, and was authorized to enter into long-term contracts to carry out such research. Proposed new section 107 also would require the Administrator to consult with other Federal agencies to insure that research conducted under such section does not duplicate their research programs.

The conference substitute adopts the Senate provision with respect to section 104 and includes (as a new subsection to existing section 103) the provisions set forth in proposed new section 107.

Section 105. Grants for support of air pollution planning and control programs

The House bill would make no change in existing section 105 of the Clean Air Act. The Senate amendment would make several changes, the principal one being that State agencies would be eligible for the higher levels of Federal grant support currently available only to interstate and intermunicipal agencies. State agencies would be eligible for such greater support only in those instances where the grant funds are to be used for a State-operated regional air pollution planning or control program. The Senate amendment would add two other new provisions to section 105. One of these provisions would authorize a reduction in payments to grantee agencies in cases where Federal employees are detailed to such agencies. The other new provision would authorize the withholding of grant funds from any agency found by the Administrator to be inadequately staffed or funded to meet its responsibilities under the Clean Air Act.

The conference agreement includes the Senate provision to provide greater support to state agencies and authority to detail Federal employees but deletes the provision for withholding grant funds. The conferees recognize that the Administrator has general authority under section 113 to act where a state is not carrying out its enforcement responsibilities.

Section 106. Interstate air quality agencies or commissions

The House bill would delete section 106 of the Clean Air Act. The Senate amendment would retain the provisions for Federal funding of interstate air quality planning programs but would eliminate the existing authority for the Administrator to establish interstate air quality planning commissions.

The conference substitute would modify the Senate amendment to make clear that such Federal grants would be for the purpose of developing implementation plans for designated interstate air quality control regions.

Sec. 107. Air quality control regions

Under the House bill each State was declared to be an air quality control region for purposes of attaining ambient air quality standards. Interstate air quality control regions designated under existing law and interstate regions designated after enactment of this legislation would also be air quality control regions.

Under the Senate amendment, existing interstate and intrastate regions would be retained, and the Administrator could designate new interstate and intrastate regions. Any part of a State not included in a designated region would be an air quality control region, but could be subdivided into two or more regions.

The conference substitute makes it the primary responsibility of each State to assure air quality within the entire geographic area comprising such State by submitting an implementation plan for such State for achieving air quality standards. All interstate and intrastate regions designated prior to enactment of this legislation would remain in effect. The Administrator retains authority to designate interstate and intrastate regions and is authorized to approve the establishment by the State of intrastate regions.

Section 108. Air quality criteria and control techniques

The House bill did not change the substance of the provision of existing law which requires the issuance of air quality criteria and information on control techniques. The Senate amendment proposed to establish a deadline by which criteria for certain pollutants would have to be issued and provided the Administrator with authority to establish a consulting committee to advise him on control technology.

The conference substitute substantially adopts the provisions of the Senate amendment.

Section 109. National ambient air quality standards

Under the House bill the Administrator had 30 days after enactment in which to propose national ambient air quality standards for each pollutant or combination of pollutants for which criteria had been issued under existing law. Such proposed standards were to be published 30 days after the issuance of the criteria for any other pollutant or combination thereof. After allowing a reasonable time for comment on proposed standards, the Administrator was to promulgate the standards with appropriate modifications. In addition, States were authorized to adopt more stringent air quality standards than the national standards established by the Administrator.

The Senate amendment declared that national ambient air quality standards and goals were to be issued by the Administrator. The standards were to be adequate to protect the health of persons. The goals were to be adequate to protect the public health or welfare from any adverse effects.

The Senate amendment called for the Administrator to promulgate proposed standards within 90 days after initial publication. Standards were to be proposed simultaneously with the issuance of criteria for pollutants (or combinations thereof) for which criteria had not been issued under existing law. Proposed national ambient air quality goals were to be published simultaneously with the publication of the proposed standards.

The Senate bill required that each State consider adoption of more stringent air quality standards than the national standards at its public hearing on the proposed implementation plan, unless a separate hearing was held for that purpose. The Senate bill permitted States, political subdivisions thereof and other specified governmental agencies to establish more stringent standards than the national standards or shorter deadlines for their attainment than three years.

The conference substitute follows the Senate amendment in establishing deadlines for the development of national ambient air quality standards. The Senate amendment was modified to provide for primary and secondary standards, the former relating to public health and the latter to public welfare.

Section 110. Implementation Plans

Under the House bill after promulgation of a national ambient air quality standard, each State was to hold public hearings and adopt a plan to implement such standard (or the more stringent State standard). The Administrator was to approve the plan if it assured achievement of the standard within a reasonable time and contained adequate provision for State enforcement, intergovernmental cooperation to attain standards, and revision of the plan under specified circumstances.

The House bill authorized the Administrator to propose a plan applicable to any State, if it failed to submit an acceptable implementation plan within the allotted time. The plan was to be promulgated 30 days after publication, unless the State adopted an acceptable plan or the Governor petitioned the Administrator for a hearing.

Under the Senate amendment each State was to hold public hearings and adopt a plan to implement the national ambient air quality standards (or the more stringent State standards) and national ambient air quality goals. The Administrator was required to approve the plan if he found that it provided for attainment of the standard within three years from the date of approval of the plan. The Governor of a State, however, was authorized to petition the Federal district court to extend for a year the period for attaining a standard. The court could grant relief only upon specified showings and each one-year extension could be granted only after the filing of a new petition and making the required showings. Under the Senate bill implementation plan would also have to provide for necessary land-use and transportation controls, intergovernmental cooperation to attain standards and goals, periodic reports on emissions from specified sources, and certain other requirements.

The conference substitute follows the Senate amendment in establishing deadlines for implementing primary ambient air quality standards but leaves the States free to establish a reasonable time period within which secondary ambient air quality standards will be implemented. The conference substitute modifies the Senate amendment in that it allows the Administrator to grant extensions for good causes shown upon application by the Governors.

Section 111. Standards of Performance for New Stationary Sources

Section 112. National Emission Standards for Hazardous Air Pollutants

Under the House bill, the Administrator would establish emission standards for classes of new stationary sources, emissions from which may contribute substantially to endangerment of public health or welfare. In setting such standards, the Administrator would consider economic and technological feasibility. The Administrator was also authorized to exempt certain sources or classes of sources for reasons specified in the bill. For standards relating to emissions which are extremely hazardous to health, the Administrator could by regulation prohibit new sources of such emissions from being constructed or operated, although he could grant specific exemptions. For standards relating to other emissions, the regulations were to require that new sources of such emissions be designed and equipped to maximize emission control insofar as technologically and economically feasible. The House bill also authorized States to enforce emission standards under this provision if they adopt an adequate enforcement plan. If no such

plan was adopted, the Administrator would establish the enforcement plan.

Under the Senate amendment, the Administrator was to publish a list of categories of stationary sources and standards of performance applicable to such new sources. The standards of performance were to be based on the greatest emission control possible through application of latest available control technology. The Administrator was also required to establish a system of preconstruction review and certification of design and location of new sources in order to assure attainment of primary and secondary ambient air quality standards. States were authorized to conduct the certification upon submission of acceptable procedures to the Administrator. New sources would be prohibited from operating without certification or in violation of any applicable standard of performance. Under the Senate amendment if a standard of performance were violated, the Administrator could issue an abatement order and failure to initiate abatement within 72 hours would result in suspension of the certificate and subject the owner or operator to criminal penalties for operation thereafter.

The Senate amendment also provided in a separate section for the publication of a list of air pollutants (or combination thereof) which are hazardous to the health of persons. Pollutants "hazardous to the health of persons" were defined as those whose presence in trace concentrations in the ambient air will cause or contribute to specified types of damage to health. The Administrator was directed to publish proposed regulations prohibiting emissions of such pollutants from any existing or new stationary source and, after public hearing, he was to promulgate such regulations, unless upon a preponderance of the evidence, he found that the pollutant was not hazardous to the health of persons or that some amount could be emitted without endangering the health of persons. After making either of these findings, the Administrator was to publish an emission standard for such pollutant applicable to designated stationary sources.

Under the conference substitute the Administrator is directed to meet specified deadlines in publishing a list of categories of stationary sources which contribute significantly to air pollution, in issuing proposed Federal standards for new sources in such categories, and in finalizing such standards after receiving comments by interested persons. The conference substitute does not contain the pre-construction review and certification procedure provided for in the Senate amendment. New sources would be held to established standards of performance, and violations of such standards would subject the owners of such sources to abatement actions under Section 113.

The conference substitute requires the Administrator, within specified deadlines, to publish a list of hazardous pollutants, to issue proposed emission standards for such pollutant, and to finalize such standards after public hearings. Emission levels must provide an ample margin of safety to assure public health protection. New sources emitting such pollutants may be constructed only if they meet the standards. Standards would apply to existing sources, but Administrator may grant a waiver for up to two years for those existing sources where such period is necessary for installation of control equipment and where during such period the health of persons is protected from imminent danger by other means. Moreover, the President may exempt any new or existing stationary source for a two-year period if he finds that necessary technology is unavailable to implement standards, and that operation of source is required for reasons of national security. The President may extend national security exemptions for one or more two-year periods, but must report to Congress each exemption or extension.

Section 113. Federal enforcement

Section 114. Inspections, monitoring, and entry

The House bill amended section 108 by authorizing the Secretary of Health, Education, and Welfare, to request the Attorney General to bring suit to abate intrastate as well as interstate air pollution where a State failed to enforce its implementation plan, and, in a new section 112 provided for Federal enforcement of Federal emission standads for stationary sources. Each of the two sections provided for court assessment of penalties against polluters, and authorized entry into and inspection of suspected polluters' facilities by DHEW investigative personnel for purposes of enforcement. The Senate bill established a new section 116 directing the Secretary to issue an abatement order to any person in violation of a State implementation plan requirement not being enforced by the State, and to a person in violation of any Federal stationary source emission standard or limitation required under section 113 or 114 of the Senate bill. Section 116 further provided for the institution of civil actions by the Secretary to obtain compliance with abatement orders, with requirements under section 113, 114, or 115, and with inspection and monitoring requirements imposed in Title I, and authorized substantial fines and imprisonment for knowing violations of emission standards and limitations, knowing failure or refusal to comply with an abatement order, or knowing falsification or misrepresentation in required reports, records, or monitoring data. Also, under section 116, the Senate authorized entry and inspection by DHEW personnel of buildings, facilities, and monitoring equipment for purposes of setting standards and enforcing them. The Senate's proposed new sections 113 and 114 also provided for assessment of civil penalties by the Secretary for violation of standards imposed thereunder.

The conference substitute retains the enforcement provision of existing law for abatement of international pollution problems and abatement against certain sources of pollution not covered by these amendments. Past enforcement action and requirements are preserved.

The conference substitute follows the House bill relating to enforcement in areas of primary State responsibility and the Senate amendment where primary Federal responsibility exists. In case of a violation of any requirement of a State implementation plan, the Administrator is to notify the State in which the violation occurs as well as the violator. If the violation extends beyond the thirtieth day after notification, the Administrator may issue an order requiring compliance by such person or may bring court action against such person. In case of a State failure to enforce a plan, the Administrator shall notify the State. If the State's failure to enforce such plan extends beyond the thirtieth day after notification, the Administrator is to give public notice of such finding and thereupon, until the State resumes enforcement of plan, the Administrator may enforce the implementation plan either through an order requiring any violator in such State to comply or by bringing court action against any such violator.

In the case of a violation of a Federal standard of performance for new stationary sources or a Federal emission standard for hazardous pollutants, the Administrator may enforce such standards either through an order requiring any violator to comply or by bringing court action against any violator. Under section 111 and 112, the Administrator has authority to delegate enforcement authority to the States to enforce these Federal standards concurrently with the Federal Government.

Knowing violations of an order issued by the Administrator or of State implementation plan requirements (where the violator has received notice) or of Federal standards of performance for new sources or of Federal emission standards for hazardous emissions shall be punishable by a fine of not more than $25,000 per day of violation or by imprisonment for not more than one year. For second or subsequent violations the fine is not more than $50,000 and imprisonment for not more than two years.

The provisions of the conference substitute with regard to inspections, monitoring and entry follow substantially the provisions of the Senate amendment.

Section 116. Retention of State authority

Except with respect to standards for moving sources, the States' authority to adopt and enforce standards applicable to air quality and emissions is retained in the conference substitute.

The conference substitute retains the provisions of the Senate amendment which requires (to the extent practicable within the time provided) consultation with advisory committee prior to carrying out certain functions required by Sec. 108. 111, 112 and 202.

Section 118. Control of pollution from Federal facilities

The House bill and the Senate amendment declared that Federal departments and agencies should comply with applicable standards of air quality and emissions.

The conference substitute modifies the House provision to require that the President rather than the Administrator be responsible for assuring compliance by Federal agencies.

Section 202. Establishment of standards

The House bill did not amend the provisions of existing law relating to the establishment of standards for new motor vehicles. The Senate amendment deleted the requirements that such standards be based on a test of technical and economic feasibility, and provided statutory standards for passenger cars and required that such standards be achieved by a date certain. The Senate bill also provided that the statutory deadline could be extended for not more than one year if the Administrator made a series of specified findings. The Senate bill also authorized the Administrator to set standards of emission performance for vessels, commercial vehicles, and aircraft. (The House bill treated aircraft emissions in a different section.)

The conference substitute follows substantially the Senate amendments. The Administrator is directed to establish emission standards for pollutants from new motor vehicles or engines which are likely to endanger the public health or welfare. Such standards are to be applicable for the useful life of the vehicles or engines. The statute specifies that "useful life" shall be a period of use of at least five years or 50,000 miles, whichever occurs first. Administrator shall prescribe regulations to implement this definition. The effective date of the standards is to depend on the period necessary to develop the requisite technology giving appropriate consideration to the cost of complying by such date.

Carbon monoxide and hydrocarbon emissions from light duty vehicles for 1975 model year and thereafter are to be reduced at least 90 per centum over 1970 standards for these pollutants. Oxides of nitrogen emissions from light duty vehicles for the 1976 model year and thereafter are to be reduced by at least 90 per centum over the actual emission of these pollutants from 1971 model vehicles which were not subject to Federal or State standards for such emissions.

Any manufacturer may apply to the Administrator within specified time limits for a one-year suspension of the statutory time limits, and the Administrator is to issue interim standards if he approves such application. Such interim standards are to reflect

the greatest degree of emission control which is achievable by application of technology determined by the Administrator to be available, giving appropriate consideration to the cost of applying such technology within the time available to manufacturer. The Administrator is to take into consideration whether the manufacturer has met statutory requirements relating to public interest, public health and welfare, availability of technology, and good faith efforts to meet standards.

The Administrator is to undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the feasibility of meeting statutory deadlines for the 1975 and 1976 model years. In entering into such arrangements, the Administrator is to request the Academy to submit its first report not later than July 1, 1971. The Administrator is directed to use the authority granted to him to furnish to the Academy any information requested by it.

Section 203–205. Enforcement of motor vehicle emission standards

The House bill revised the enforcement provisions respecting motor vehicle emissions to prohibit sale of new motor vehicles and engines without complying with the House warranty and labeling requirements. The Senate amendment revised these provisions to prohibit rendering emission control systems or devices inoperative after sale of the vehicle or engine, to remove the exemption for vehicles or engines manufactured for export, and to increase the maximum penalty for violations of the enforcement provisions from $1,000 to $10,000 per vehicle.

Sec. 203 generally follows the provisions of the House bill except that prohibited acts are added relating to recall (Sec. 207) or knowing removal of devices by the manufacturer or dealer. Also, vehicles intended solely for export must comply with Federal emission standards unless the importing nation has differing requirements affecting motor vehicle emissions or has advised that no such requirements exist at this time. Penalties provided in Sec. 205 follow the Senate amendment.

Section 206–207. Compliance with motor vehicle emission standards

The provisions of the House bill and the Senate amendment revising the procedures under existing law for prototype testing and authorizing production line testing of new motor vehicles and engines were essentially the same, except that the Senate amendment required compliance testing of each vehicle prior to delivery. In addition, the Senate amendment required semiannual publication of the results of prototype and assembly line testing, and disclosure by manufacturers of the actual cost of emission control devices and systems.

The House bill required manufacturers to warrant that vehicles or engines they produce are of substantially the same construction as the prototype vehicle with respect to which the certificate of conformity was issued. The Senate amendment required (effective 90 days after the Administrator establishes feasible testing methods and procedures) that manufacturers warrant that vehicles and engines will conform with applicable emission standards throughout their useful life (set at 5 years or 50,000 miles) if maintenance and certain other requirements are met.

The Senate amendment also authorized the Administrator, if he determined that any class or category of vehicles or engines did not conform with applicable emission standards, to require manufacturers to notify purchasers of such nonconformity. Moreover, if a manufacturer discovered such nonconformity during the term of any warranty required under the Senate amendment, he was required to notify purchasers of the nonconformity and to remedy such nonconformity at no cost to the owner.

The conference substitute adopts substantially the provisions of the House bill relating to prototype and production line testing and the provisions of the Senate amendment relating to compliance after sale and warranty. The Administrator would be required to test, or require to be tested, any new motor vehicle or engine submitted by any manufacturer to determine whether such vehicle or engine meets Federal emission standards. If such vehicle or engine conforms, Administrator shall issue certificate of conformity for a period not to exceed one year. Additionally, the Administrator would be required to test any emission system incorporated in an automobile submitted by any person (who need not be an automobile manufacturer) to determine whether such system meets the statutory emission standards prescribed by section 202. He is to inform automobile manufacturer, the National Academy of Sciences, and the public of the results of such tests. The Administrator may test (or prescribe tests to be performed by the manufacturer) all or a sample of vehicles or engines on the assembly line to determine whether such vehicles or engines actually conform with applicable emission standards. If the Administrator determines that such vehicles or engines do not conform, he may suspend or revoke certificate in whole or in part. Such suspension or revocation shall apply to vehicles manufactured after date of notification (or if manufactured prior thereto, to vehicles still in the hands of the manufacturer). Such suspension or revocation shall continue until the Administrator finds that vehicles or engines conform. During the period of suspension or revocation, the Administrator may issue certificate of conformity applicable to those vehicles or engines which he has found actually conform to emission standards. An administrative hearing, with judicial review, is provided.

The Administrator's employees may conduct plant inspections or inspect records upon presentation of appropriate credentials.

To assist prospective purchasers, the Administrator is to make available to the public comparative test results.

The Administrator is required to establish methods for testing vehicles and engines in actual use to determine their compliance with emission requirements during their useful life (5 years or 50,000 miles, as defined by the statute).

The provision for warranty follows the Senate bill except, in addition to establishing test procedures, the Administrator must find that inspection facilities or equipment are available to enforce individual vehicle compliance. Also a warranty will not become effective for a vehicle unless failure to comply with a standard subjects the purchaser to sanctions. Proper operation and maintenance are a precondition to the manufacturer's obligation. In addition to the performance warranty, the conference substitute calls for a defect warranty for materials and workmanship.

If the Administrator determines (on the basis of inspections or studies) that a substantial number of any class of vehicles or engines, although properly maintained and used, do not meet the emission standards during the useful life of such vehicles or engines, he shall notify the manufacturer of such nonconformity, and he shall require the manufacturer to submit a plan for remedying such nonconformity. In the case of properly used and maintained vehicles and engines, this is to be done at the expense of the manufacturer. If a manufacturer disagrees with such determination the Administrator shall afford the manufacturer and other interested persons an opportunity to present their views at a public hearing. Unless, upon such hearing, the Administrator withdraws such determination, he shall, within 60 days after completion of the hearing, order the manufacturer to notify purchasers. The Administrator shall prescribe regulations concerning notification procedure. Any cost obligation incurred by any dealer is to be borne by the manufacturer and transfer of such cost obligation through franchise or any agreements from a manufacturer to a dealer is prohibited.

If a manufacturer's advertising makes any statement respecting the cost or value of emission control devices or systems, such statement must set forth the cost or value attributed to such devices or systems by the Secretary of Labor (through the Bureau of Labor Statistics). The manufacturer shall furnish such written instructions for maintenance and use of any vehicles and engines by ultimate purchasers as are necessary to assure proper functioning of emission control devices or systems. The manufacturer must indicate by a permanently attached label that the vehicle or engine is covered by a certificate of conformity.

Section 208. State motor vehicle emission standards

The Senate amendment modified section 208 of existing law to expand the authority of States to adopt and enforce emission standards for new motor vehicles and engines. The House bill did not change existing law.

The conference substitute follows the House bill by retaining the provision of existing law.

Section 211. Regulation of fuels

Existing law (sec. 210 of the Clean Air Act) provides for registration of fuels and fuel additives delivered for introduction into commerce. The House bill amended this section to authorize the Administrator to establish standards respecting the physical or chemical properties of any fuel or fuel additive by specifying limitations on (or providing for elimination of) ingredients (including additives) or on the physical or chemical characteristics of any fuel or class of fuels if either (1) emission products from the fuel or fuel additive endanger public health or welfare, or (2) the fuel or fuel additive will significantly impair performance of an emission control device or system in general use (or likely to be in general use) on a significant number of motor vehicles or motor vehicle engines. Such standards must be based on specified medical, scientific, economic, and technological findings specified in the House bill.

The Administrator's authority under the House bill was applicable to all types of fuels, whether used in stationary sources or in motor vehicles, except that it did not apply to aviation fuel or additives thereto.

The Senate amendment amended the fuel registration provisions to expand the Administration's authority in this area, and in addition authorized him to control or prohibit the introduction into commerce of any fuel for use in vehicle engines if the combustion or evaporation of such fuel produces emissions which endanger the public health or welfare, or if such emissions prevent operation of effective systems for the control of emissions from any vehicle or vehicle engine which the Administrator finds would otherwise conform to applicable emission standards. The Administrator was required to hold public hearings and make certain findings before establishing a control or prohibition under this provision. Regulation of motor vehicle fuels by States and political subdivisions for purposes of emission control was preempted by the Senate amendment.

Under the conference substitute the Administrator may control or prohibit manufacture or sale of any motor vehicle fuel or fuel additive if any emissions therefrom will endanger the public health or welfare, or if emission products of such fuel or additive will impair to a significant degree the performance of any emission control device or system which is or will be in general use.

Existing provisions of law relating to registration of fuels and fuel additives are retained with some revisions.

Before controlling or prohibiting manufacture or sale, the Administrator is required to consider specific technical and cost factors. Automobile manufacturers are required to furnish to the Administrator any information developed concerning emissions from motor vehicles resulting from the use of any fuel or fuel additive or the effect of such use on the performance of any emission control device or system.

No State may prescribe or enforce controls or prohibitions respecting any fuel or additive unless they are identical to those prescribed by the Federal Government or unless a State implementation plan under sec. 110 includes provision for fuel or additive control and such plan is approved by the Administrator as being necessary for achievement of national air quality standards. These restrictions will not apply to California.

A civil penalty of $10,000 per day is provided for violations of the provisions relating to fuels and additives.

Section 210. State grants

The House bill made no changes in existing law under which the Administrator may make grants to State air pollution control agencies in an amount up to two-thirds of the cost of developing uniform motor vehicle emission device inspection and emission testing programs.

Under the Senate amendment, such grant authority would be broadened (1) to cover the costs of maintaining, as well as developing, such programs and (2) to include emission control programs as well as device inspection and emission testing programs. The Senate amendment also provided that grants under section 210 would be in addition to, and not supplant, existing funding programs of a State for air pollution control.

The conference substitute provision is the same as that in the Senate amendment except that (1) the language providing that section 210 grants must be in addition to existing State funding programs is deleted, and (2) such grants to any State are made subject to the condition that the State program includes provisions designed to insure that emission control devices and systems on vehicles in actual use are not disconnected or rendered inoperative.

Section 212. Development of low-emission vehicles

The Senate amendment contains provisions not in the House bill under which the development of low-emission vehicles would be encouraged by requiring such vehicles to be purchased for use by agencies of the Federal Government if the cost of such vehicles would not exceed 150 per centum (200 per centum in the case of vehicles powered by new inherently low-polluting propulsion systems) of the retail price of any class or model of motor vehicle for which such low-emission vehicles are a certified substitute. Under the Senate amendment, such certifications would be made by a Low-Emission Vehicle Certification Board composed of the heads of designated interested Federal agencies, and two members appointed by the President. The Board may certify any class or model of motor vehicles only if a certification application has been filed in accordance with regulations prescribed by the Board, if the Administrator of the Environmental Protection Agency determines that the vehicle concerned is a low-emission vehicle, and the Board determines that such vehicles in use at that time by Federal agencies. The Senate amendment authorized an annual appropriation of not to exceed $50,000,000 for paying additional amounts for low-emission vehicles pursuant to, and for carrying out the purposes of section 212.

The conference substitute substantially incorporates the provisions of the Senate amendment. One significant change relates to the definition of low-emission vehicles. Under the Senate provision, a low-emission vehicle is defined as any motor vehicle which produces significantly less pollution than the class or model of vehicle for which the Board may certify it as a suitable substitute. Under the conference substitute, the definition of a low-emission vehicle takes into account the applicable emission standards which will be applied with respect to newly-manufactured motor vehicles under section 202 by providing that a low-emission vehicle is one which (1) emits any air pollutant in amounts significantly below new motor vehicle standards applicable under such section 202 at the time of procurement to that type or vehicle; and (2) with respect to all other air pollutants, meets the new motor vehicle standards applicable under such section 202 at the time of procurement to that type of vehicle.

The conference substitute would reduce the authorizations in the Senate bill as follows: $5 million for the remainder of fiscal year 1971 and $25 million for fiscal years 1972 and 1973.

Section 241. Aircraft emission standards

Under the House bill (in a separate part of title II of the Clean Air Act) the Administrator was required to prescribe, as soon as practicable, standards applicable to the emission of any substance from aircraft or aircraft engines which in his judgment would, or likely would, cause or contribute to air pollution which endangers the health or welfare of any persons. The Administrator was required to consult with the Federal Aviation Administrator before prescribing such standards. The House bill required the Administrator of the Environmental Protection Agency, in prescribing such standards, to consider technological feasibility and economic costs; to include such requirements with respect to manufacturers' warranties on aircraft emission control systems as are necessary to carry out the purposes of the Act; and to make any such standard effective with respect to any class of aircraft or aircraft engines on such date as the Administrator determines appropriate after taking into account such period of time as may be reasonably necessary for compliance. The House bill also provided that the Federal Aviation Administrator would apply such emission standards in the certification and inspection of aircraft and aircraft engines pursuant to his authority under the Federal Aviation Act of 1958. Under the House bill, the States were preempted from adopting or enforcing any emission control standard with respect to aircraft or aircraft engines to which the Federal standards would apply.

Under the Senate amendment aircraft and aircraft engine emissions were treated in a manner substantially similar to that in the House bill with the exception that the Administrator was not required to consider technological feasibility and economic costs in prescribing emission standards and that new aircraft and aircraft engines were subject to certification and compliance procedures similar to those which would be applied to new motor vehicles and new vehicle engines under section 202 of the Senate amendment.

The conference substitute requires that the Administrator of the Environmental Protection Agency set forth, after a 180-day study of the effect of aircraft emissions on air quality, and the availability of emission control technology, and after public hearings in regions where air quality is most affected by aircraft emissions, standards for such emissions to take effect after such time as the Administrator, in consultation with the Secretary of Transportation, deems necessary to develop and apply requisite technology. The Secretary of Transportation is required to enforce these standards, and States and political subdivisions are prohibited from adopting or enforcing aircraft emission standards unless they are identical to standards prescribed under this legislation.

Section 244. Aviation fuel standards

The House bill amended the Federal Aviation Act to provide for the establishment of standards for aviation fuels for the purpose of controlling or reducing aircraft emissions. The Senate amendment included no comparable provision.

The conference substitute follows the House bill except that the fuel standards are to be recommended by the Administrator of the Environmental Protection Agency. The Administrator of the Federal Aviation Administration is required to prescribe such recommended standards.

Section 303. Emergency powers

The House bill retained the provision of existing law (Sec. 108 (k)) relating to direct action by the Administrator to seek an injunction to abate pollution which presents an imminent and substantial endangerment to public health without regard to location of the source or sources of such pollution. The Senate amendment retained substantially the same authority but placed it in a new section.

The conference substitute follows the Senate amendment.

Section 304. Citizen suits

The House bill did not include a provision for citizen suits. The Senate amendment authorized citizen suits against violators, government agencies, and the Administrator to seek abatement of such violations or for enforcement of the provisions of the Act. Notice of thirty days was required except in certain instances. Discretionary authority was provided to the court to grant reasonable attorney and expert witness fees. Other rights to seek enforcement of standards under other provisions of law were not affected.

The conference substitute retains provisions for citizen suits with certain limitations. Suits against the Administrator are limited to alleged failure to perform mandatory functions to be performed by him. Suits against violators, including the United States and other government agencies, to the extent permitted by the Constitution, would also be authorized. Prior to commencing any action in the district courts, the plaintiff must have provided the violator, the Administrator and the State with sixty days notice. If an abatement action is pending and is being diligently pursued in a United States or State court, such action cannot be commenced but any party in interest may intervene as a matter of right.

No delay following notice is required where there is an alleged violation of a hazardous emission standard or of an order of the Administrator. The conference substitute also provides that actions respecting violations by stationary sources are to be brought in the district in which the source is located and establishes that, in any action, the Administrator may intervene as a matter of right.

The courts' discretionary authority to award costs, as provided in the Senate amendment, is retained. In addition the Courts' discretionary authority to require filing of bond if a temporary restraining order or preliminary injunction is sought is noted.

The right of persons (or class of persons) to seek enforcement or other relief under any statute or common law is not affected.

Section 305. Appearance

The Senate amendment provided authority for the Administrator to represent himself in court rather than relying on the Attorney General. The House bill did not contain a similar provision.

The conference substitute provides the Administrator with authority to represent himself in a court action if, after notice, the Administrator determines that the Attorney

General will not act, or will not act soon enough.

Section 306. Federal procurement

The Senate bill amended the Act by adding a new section 306 declaring that any person not in compliance with a Federal court order issued pursuant to the Act or convicted by a Federal court for a knowing violation of an emission standard or limitation under the Act would not be eligible to enter into procurement contracts with Federal agencies, until such time as the Secretary certifies that the person has come into compliance. The section also directed the President to issue an order instructing Federal agencies to effectuate the purpose and policy of the Act in entering into contracts, and in making grants and loans, but further authorized the President to exempt a particular contract, loan, or grant from all or part of the provisions of the section where necessary in the interests of the United States. The House bill contained no comparable provisions.

The conference substitute is more limited than the Senate provision. It provides that persons convicted of a knowing violation of standards or limitations shall be ineligible to enter into Federal contracts until the Administrator certifies that the violation has been corrected. The remainder of the conference substitute follows the Senate amendment by requiring the President to issue an order requiring Federal agencies (1) to assist in the implementation of this Act and (2) to establish sanctions for non-compliance. Authority is provided to exempt contracts, loans, and grants in the paramount interest of the United States from such sanctions for reasons of national security. Such exemptions and other efforts to implement the Act are to be reported to the Congress.

Section 307. Administrative proceedings and judicial review

The Senate bill inserted a new section 308 in the Act to establish guidelines and specify forums for judicial review of certain actions of the Secretary provided for under the Act and the proposed amendments, and provided that commencement of such proceedings would not stay applicability of any standard, requirement, limitation, or waiver which was the subject of the Secretary's action. No comparable provisions appeared in the House bill.

The conference substitute includes provisions relating to subpenas, specifies the courts in which certain appeals may be prosecuted, and the circumstances under which additional evidence may be ordered by the courts to be taken by the Administrator.

Section 308. Mandatory licensing

The Senate amendments contained provisions for the mandatory licensing of patents, trade secrets, and know-how whenever the Administrator determined that the achievement of standards established under specified sections of the Senate amendments required the utilization of such patents, trade secrets or know-how. The House bill did not contain comparable provisions. The conference substitute is limited to patents. It would authorize the Attorney General (rather than the Administrator) to certify to a U.S. District Court that conditions specified in the section (relating to (1) the need for using the patent to achieve emission limitations required by this Act, (2) the absence of alternative methods to achieve such emissions, and (3) resulting lessening of competition or monopolization) exist and may seek a court rule requiring licensing on such reasonable terms and conditions as the court may determine.

Section 401. Noise pollution

The Senate bill added a new Title IV to the Act, which directed the Secretary of Health, Education, and Welfare to establish an Office of Noise Abatement and Control for the purpose of investigating and identifying the sources of noises and effects on public health and welfare, and to report to the President and Congress within one year of enactment the results of the investigation and study. The Senate amendment also provided a specific authorization of $30 million to carry out Title IV. The House bill made no provision respecting noise.

The conference substitute follows the provisions of the Senate amendment.

Section 309. Authorizations

The House bill would authorize appropriations of the following amounts:

Fiscal year	Sec. 104	Sec. 309	Total
1971	$75,000,000	$125,000,000	$200,000,000
1972	100,000,000	150,000,000	250,000,000
1973	125,000,000	200,000,000	325,000,000
Total	300,000,000	475,000,000	775,000,000

The Senate bill would authorize appropriations of the following amounts:

Fiscal year	Sec. 104	Sec. 309	Total
1971	$125,000,000	$150,000,000	$275,000,000
1972	150,000,000	250,000,000	400,000,000
1973	175,000,000	325,000,000	500,000,000
Total	450,000,000	725,000,000	1,175,000,000

It should be noted that the Senate bill would redesignate section 309 as section 317.

In addition, the Senate bill would authorize appropriations of $15 million under the proposed new section 107 (long-term contract for research on effects of air pollution); $30 million under Title IV for the Office of Noise Abatement and Control; and $50 million annually for low emission vehicle procurement.

The conference substitute adopts the House amount for Fiscal Year 1971 for Sec. 104 and Sec. 309—a total of $200 million. For Fiscal Year 1972 the conference agreement provides for a total of $350 million of which $125 million is for research on fuels and vehicles. For Fiscal Year 1973 the authorization is $150 million for research under Section 104 out of a total of $450 million. In addition the conference substitute retains $15 million for long term contracts for air pollution effects research under Section 103, $30 million for funding the Office of Noise Abatement in the Environmental Protection Agency, and $55 million for low emission vehicle procurement, $5 million of which is authorized for Fiscal Year 1971 and $25 million each for Fiscal Years 1972 and 1973.

Section 310. Policy review

The Senate amendment provides a statutory requirement that the Administrator review and comment on environmental impact statements required by Public Law 90–190 (The National Environmental Policy Act). The Senate amendment also required the Council on Environmental Quality to review any determination of environmental impact and make recommendation to the President. The House bill had no such provision.

The conference agreement follows substantially the Senate version. The Administrator is instructed to review and comment on Federal actions which affect the environment and make such comments public upon completion of the review. The conference substatute eliminates the requirement that the Council make a public recommendation to the President.

HARLEY O. STAGGERS,
JOHN JARMAN,
PAUL G. ROGERS,
WILLIAM L. SPRINGER,
ANCHER NELSEN,
Managers on the Part of the House.

HOUSING AND URBAN DEVELOPMENT ACT OF 1970—CONFERENCE REPORT

Mr. PATMAN submitted the following conference report and statement on the bill (H.R. 19436) to provide for the establishment of a national urban growth policy, to encourage and support the proper growth and development of our States, metropolitan areas, cities, counties, and towns with emphasis upon new community and inner city development, to extend and amend laws relating to housing and urban development, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 91–1784)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 19436) to provide for the establishment of a national urban growth policy, to encourage and support the proper growth and development of our States, metropolitan areas, cities, counties, and towns with emphasis upon new community and inner city development, to extend and amend laws relating to housing and urban development, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Housing and Urban Development Act of 1970".

TITLE I—MORTGAGE CREDIT

EXTENSION OF PROGRAMS

SEC. 101. (a) Section 2(a) of the National Housing Act is amended by striking out "January 1, 1971" in the first sentence and inserting in lieu thereof "October 1, 1972".

(b) Section 217 of such Act is amended by striking out "January 1, 1971" and inserting in lieu thereof "October 1, 1972".

(c) Section 221(f) of such Act is amended by striking out "January 1, 1971" in the fifth sentence and inserting in lieu thereof "October 1, 1972".

(d) Section 235(m) of such Act is amended by striking out "October 1, 1971" and inserting in lieu thereof "October 1, 1972".

(e) Section 236(n) of such Act is amended by striking out "October 1, 1971" and inserting in lieu thereof "October 1, 1972".

(f) Section 809(f) of such Act is amended by striking out "January 1, 1971" in the second sentence and inserting in lieu thereof "October 1, 1972".

(g) Section 810(k) of such Act is amended by striking out "January 1, 1971" in the second sentence and inserting in lieu thereof "October 1, 1972".

(h) Section 1002(a) of such Act is amended by striking out "January 1, 1971" in the second sentence and inserting in lieu thereof "October 1, 1972".

(i) Section 1101(a) of such Act is amended by striking out "January 1, 1971" in the second sentence and inserting in lieu thereof "October 1, 1972".

AUTHORIZATION FOR ASSISTANCE PAYMENTS UNDER SECTIONS 235 AND 236

SEC. 102. (a) The second sentence of section 235(h)(1) of the National Housing Act is amended—

(1) by inserting "outstanding" before "contracts" the first place the term appears; and

(2) by striking out "by $125,000,000 on July 1, 1970, and by $170,000,000 on July 1, 1971" and inserting in lieu thereof "by

$150,000,000 on July 1, 1970, and by $200,000,000 on July 1, 1971".

(b) The second sentence of section 236(i)(1) of such Act is amended—

(1) by inserting "outstanding" before "contracts" the first place the term appears; and

(2) by striking out "by $125,000,000 on July 1, 1970, and by $170,000,000 on July 1, 1971" and inserting in lieu thereof "by $150,000,000 on July 1, 1970, and by $200,000,000 on July 1, 1971".

RENT SUPPLEMENT PAYMENTS

SEC. 103. Section 101(a) of the Housing and Urban Development Act of 1965 is amended by striking out "and by $100,000,000 on July 1, 1970" and inserting in lieu thereof "by $100,000,000 on July 1, 1970, and by $40,000,000 on July 1, 1971".

COMPENSATION FOR DEFECTS IN SECTION 235 EXISTING HOUSING

SEC. 104. Section 518 of the National Housing Act is amended by redesignating subsection (b) as subsection (c) and inserting after subsection (a) a new subsection as follows:

"(b) The Secretary is authorized to make expenditures to correct, or to compensate the owner for, structural or other defects which seriously affect the use and livability of any single-family dwelling which is covered by a mortgage insured under section 235 of this Act and is more than one year old on the date of the issuance of the insurance commitment, if (1) the owner requests assistance from the Secretary not later than one year after the insurance of the mortgage, or, in the case of a dwelling covered by a mortgage which was insured prior to the date of enactment of this subsection, one year after the date of enactment of this subsection, and (2) the defect is one that existed on the date of the issuance of the insurance commitment and is one that a proper inspection could reasonably be expected to disclose. The Secretary may require from the seller of any such dwelling an agreement to reimburse him for any payments made pursuant to this subsection with respect to such dwelling."

USE OF EXISTING HOUSING UNDER SECTION 235 PROGRAM

SEC. 105. Section 235(h) of the National Housing Act is amended—

(1) by striking out "July 1, 1971" in subparagraph (B) of paragraph (3) and inserting in lieu thereof "July 1, 1972"; and

(2) by adding at the end thereof the following new paragraph:

"(4) At least 10 per centum of the total amount of contracts for assistance payments authorized by appropriation Acts to be made after June 30, 1971, shall be available for use only with respect to dwellings, or dwelling units in projects, which are approved by the Secretary prior to substantial rehabilitation."

MORTGAGE INSURANCE UNDER SECTION 235(I) FOR REHABILITATION OF DUPLEXES

SEC. 106. Section 235(i)(3)(A) of the National Housing Act is amended by striking out "if the dwelling is purchased with the assistance of a nonprofit organization and is" and inserting in lieu thereof "and which is".

ASSISTANCE UNDER SECTION 235 PROGRAM FOR COOPERATIVE PROJECTS FINANCED UNDER CERTAIN STATE OR LOCAL PROGRAMS

SEC. 107. Section 235(b)(2) of the National Housing Act is amended by inserting "(A)" after "the cooperative association of which the family is a member shall operate", and by inserting before the period at the end thereof the following: "; or (B) a housing project which is financed under a State or local program providing assistance through loans, loan insurance, or tax abatements, and which prior to completion of construction or rehabilitation is approved for receiving the benefits of this section".

INCLUSION OF CERTAIN COSTS IN SECTION 236 PROJECTS

SEC. 108. Section 236(b) of the National Housing Act is amended by adding at the end thereof the following new sentence: "The term 'mortgage insurance premium', when used in this section in relation to a project financed by a loan under a State or local program, means such fees and charges, approved by the Secretary, as are payable by the mortgagor to the State or local agency mortgagee to meet reserve requirements and administrative expenses of such agency."

MAXIMUM AMOUNT OF FHA-INSURED HOSPITAL MORTGAGE

SEC. 109. Section 242(d)(2) of the National Housing Act is amended by striking out "$25,000,000" and inserting in lieu thereof "$50,000,000".

MORTGAGE INSURANCE FOR PROPRIETARY HOSPITALS

SEC. 110. (a) Section 242(b)(1)(C) of the National Housing Act is amended to read as follows:

"(C) which is a proprietary facility, or facility of a private nonprofit corporation or association, licensed or regulated by the State (or, if there is no State law providing for such licensing or regulation by the State, by the municipality or other political subdivision in which the facility is located); and".

(b) The heading of section 242 of such Act is amended by striking out "NONPROFIT".

(c) The sixth sentence of section 212(a) of such Act is amended by striking out "or association" and inserting in lieu thereof ", association, or other organization".

FHA SUPPLEMENTAL LOANS FOR MULTIFAMILY PROJECTS

SEC. 111. Section 241 of the National Housing Act is amended—

(1) by inserting "or covered by a mortgage held by the Secretary" immediately after "this Act" in the first sentence of subsection (a);

(2) by striking out the proviso in subsection (a) and inserting in lieu thereof the following: ": *Provided*, That a loan involving a nursing home or a group practice facility may also be made for the purpose of financing equipment to be used in the operation of such nursing home or facility";

(3) by inserting "or an amount acceptable to the Secretary" before the semicolon at the end of subsection (b)(1); and

(4) by inserting "or pursuant to which the original mortgage covering the project or facility was insured" before "; and" at the end of subsection (b)(5).

MORTGAGES FOR CIVILIAN PERSONNEL AT MILITARY INSTALLATIONS

SEC. 112. Section 809(b) of the National Housing Act is amended by inserting before the period at the end of the second sentence the following: ": *Provided*, That the Secretary shall relieve the Secretary of Defense from any obligation to guarantee the General Insurance Fund from loss with respect to a mortgage assumed by a person ineligible to receive a certificate under subsection (a), if the original mortgagor is issued another certificate with respect to a mortgage insured under this section on property which the Secretary determines is not an acceptable risk".

MOBILE HOME LOANS UNDER TITLE I

SEC. 113. Section 2(b) of the National Housing Act is amended—

(1) by inserting in clause (1) after "$10,000" the following: "($15,000 in the case of a mobile home composed of two or more modules)"; and

(2) by inserting in the proviso of clause (2) after "days" the following: "(fifteen years and thirty-two days in the case of a mobile home composed of two or more modules)".

USE OF CERTAIN HOUSING FACILITIES UNDER SECTION 221 AND SECTION 236 FOR CLASSROOM PURPOSES

SEC. 114. (a) Section 221(f) of the National Housing Act is amended by adding at the end of the second paragraph the following new sentence: "In any case in which it is determined in accordance with regulations of the Secretary that facilities in existence or under construction on the date of enactment of the Housing and Urban Development Act of 1970 which could appropriately be used for classroom purposes are available in any such property or project and that public schools in the community are overcrowded due in part to the attendance at such schools of residents of the property or project, such facilities may be used for such purposes to the extent permitted in such regulations (without being subject to any of the requirements of the proviso in section 220(d)(3)(B)(iv) except the requirement that the project be predominantly residential)".

(b) Section 236(j)(5) of such Act is amended by adding at the end thereof (after and below subparagraph (C)) the following new sentence:

"In any case in which it is determined in accordance with regulations of the Secretary that facilities in existence or under construction on the date of enactment of the Housing and Urban Development Act of 1970 which could appropriately be used for classroom purposes are available in any such property or project and that public schools in the community are overcrowded due in part to the attendance at such schools or residents of the property or project, such facilities may be used for such purposes to the extent permitted in such regulations (without being subject to any of the requirements of the first proviso in subparagraph (A) except the requirement that the project be predominantly residential)."

CONGREGATE HOUSING FOR THE DISPLACED, ELDERLY, AND HANDICAPPED

SEC. 114. (a)(1) Section 221(f) of the National Housing Act is amended by inserting before the period at the end of the first sentence of the second paragraph of the following: ": *Provided*, That such units, in the case of a project designed primarily for occupancy by displaced, elderly, or handicapped families, need not, with the approval of the Secretary, contain kitchen facilities, and such projects may include central dining and other shared facilities."

(2) Section 221(f) of such Act is further amended—

(A) by inserting "or who is a displaced person," immediately after "Housing Act of 1959," in the fifth sentence of the second paragraph; and

(B) by striking out "the terms 'displaced family' and 'displaced families' shall mean a family or families" in the third paragraph and inserting in lieu thereof "the terms 'displaced family', 'displaced families', and 'displaced person' shall mean a family or families, or a person,".

(b)(1) Section 236(j)(5)(B) of such Act is amended by inserting immediately after "units" the following: ", but such units, in the case of a project designed primarily for occupancy by displaced, elderly, or handicapped families, need not, with the approval of the Secretary, contain kitchen facilities".

(2) Section 236(i) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) Not more than 10 per centum of the total amount of interest reduction payments authorized to be contracted to be made pursuant to appropriation Acts as provided in paragraph (1) after the date of the enactment of the Housing and Urban Development Act of 1970 shall be contracted to be made with respect to projects in which all or part of the dwelling units do not contain kitchen facilities."

(c) Section 101(b) of the Housing and Urban Development Act of 1965 is amended by adding at the end thereof the following new sentence: "Nothing in this section shall be construed as preventing payments to a housing owner with respect to projects in which all or part of the dwelling units do not contain kitchen facilities; but of the total amount of contracts to make annual payments approved in appropriation Acts pursuant to subsection (a) after the date of the enactment of the Housing and Urban Development Act of 1970, not more than 10 per centum in the aggregate shall be made with respect to such projects."

FHA REHABILITATION STANDARDS FOR HOUSING IN URBAN RENEWAL AREAS

SEC. 116. Title V of the National Housing Act is amended by adding at the end thereof the following new section:

FHA REHABILITATION STANDARDS FOR HOUSING IN URBAN RENEWAL AREAS

"SEC. 524. In determining whether properties should be approved by the Secretary prior to rehabilitation and covered by mortgages insured under title II of this Act, the Secretary shall apply uniform property standards as between properties located outside urban renewal areas and those located within urban renewal areas."

INVESTMENT OF FHA RESERVE FUNDS

SEC. 117. (a) Section 206 of the National Housing Act is amended by inserting before the period at the end of the first sentence the following: "or any agency of the United States: Provided, That such moneys shall to the maximum extent feasible be invested in such bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market".

(b) Section 213(o) of such Act is amended by inserting before the period at the end of the second sentence the following: "or any agency of the United States: Provided, That such moneys shall to the maximum extent feasible be invested in such bonds or otner obligations the proceeds of which will be used to directly support the residential mortgage market".

(c) Section 236(g) of such Act is amended by inserting before the period at the end of the third sentence the following: "or any agency of the United States: *Provided*, That such moneys shall to the maximum extent feasible be invested in such bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market".

(d) Section 238(b) of such Act is amended by inserting before the period at the end of the sixth sentence the following: "or any agency of the United States: Provided, That such moneys shall to the maximum extent feasible be invested in such bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market".

(e) Section 519(c) of such Act is amended by inserting before the period at the end of the first sentence the following: "or any agency of the United States: *Provided*, That such moneys shall to the maximum extent feasible be invested in such bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market".

ASSISTANCE UNDER SECTION 236 AND RENT SUPPLEMENT PROGRAMS FOR EXISTING PROJECTS FINANCED UNDER CERTAIN STATE OR LOCAL PROGRAMS

SEC. 118. (a) Section 236(b) of the National Housing Act is amended by striking out "which prior to completion of construction or rehabilitation is approved for receiving the benefits of this section" and inserting in lieu thereof the following: "which may involve either new or existing construction and which is approved for receiving the benefits of this section".

(b) The second sentence of section 101(b) of the Housing and Urban Development Act of 1965 is amended by striking out "which prior to completion of construction or rehabilitation is approved for receiving the benefits of this section" and inserting in lieu thereof the following: "which may involve either new or existing construction and which is approved for receiving the benefits of this section".

LAND DEVELOPMENT PLANNING

SEC. 119. Section 1003(b)(3) of the National Housing Act is amended by inserting before the period at the end thereof the following: "; except that, in the case of land development covered by a mortgage with respect to which an insurance commitment is issued under this title before the expiration of one year after the date of enactment of the Housing and Urban Development Act of 1970, the requirement of this paragraph shall be applicable only if there is actually in existence on the date the commitment is issued a comprehensive plan which covers, or comprehensive planning being carried on for, the area in which the land is situated".

OCCUPANCY PREFERENCE IN FHA RENTAL HOUSING FOR MILITARY PERSONNEL

SEC. 120. (a) Section 101(c)(2) of the Housing and Urban Development Act of 1965 is amended by (1) striking out the word "or" between paragraphs (D) and (E), (2) striking out the period at the end of paragraph (E) and inserting in lieu thereof "; or", and (3) adding after paragraph (E) the following:

"(F) a family whose head, or spouse, is a member of the Armed Forces of the United States who is serving on active duty."

(b) Paragraph (B) of section 101(e)(1) of such Act is amended by striking out the period and inserting in lieu thereof the following: "or is a member of the Armed Forces of the United States serving on active duty."

(c) Section 7 of the Department of Housing and Urban Development Act (as amended by section 905 of this Act) is amended by adding at the end thereof the following new subsection:

"(m) Whenever he shall determine that, because of location or other considerations, any rental housing project assisted under title II of the National Housing Act or title I of the Housing and Urban Development Act of 1965 could ordinarily be expected substantially to serve the family housing needs of lower income military personnel serving on active duty, the Secretary is authorized to provide for or approve such preference or priority of occupancy of such project by such military personnel as he shall determine is appropriate to assure that the project will serve their needs on a continuing basis not withstanding the frequency with which individual members of such personnel may be transferred or reassigned to new duty stations."

STATE FUNDING OF SECTION 236 INTEREST REDUCTION PAYMENTS

SEC. 121. (a) Section 236 of the National Housing Act is amended by adding at the end thereof the following new subsection:

"(n) The Secretary is authorized to enter into agreements with any State or agency thereof under which such State or agency thereof contracts to make interest reduction payments, subject to all the terms and conditions specified in this section and in rules, regulations and procedures adopted by the Secretary under this section, with respect to all or a part of a project covered by a mortgage insured under this section. Any funds provided by a State or agency thereof for the purpose of making interest reduction payments shall be administered, disbursed and accounted for by the Secretary in accordance with the agreements entered into by the Secretary with the State or agency thereof and for such fees as shall be specified therein. Before entering into any agreements pursuant to this subsection the Secretary shall require assurances satisfactory to him that the State or agency thereof is able to provide sufficient funds for the making of interest reduction payments for the full period specified in the interest reduction contract."

(b) The first sentence of section 236(1)(1) of such Act is amended by inserting "by the Secretary" immediately following "entered into".

TITLE II—URBAN RENEWAL AND HOUSING ASSISTANCE PROGRAMS

URBAN RENEWAL GRANT AUTHORITY

SEC. 201. Section 103(b) of the Housing Act of 1949 is amended—

(1) by striking out "and by $1,700,000,000 on July 1, 1970" in the first sentence and inserting in lieu thereof "by $1,700,000,000 on July 1, 1970, and by $1,500,000,000 on July 1, 1971"; and

(2) by striking out "beginning July 1, 1969, and "July 1, 1970" in the second sentence and inserting in lieu thereof "commencing after June 30, 1969 and ending prior to July 1, 1974".

PUBLIC HOUSING ANNUAL CONTRIBUTIONS

SEC. 202. The first sentence of section 10(e) of the United States Housing Act of 1937 is amended by striking out "and $170,000,000 on July 1, 1970" and inserting in lieu thereof "$320,000,000 on July 1, 1970, and $225,000,000 on July 1, 1971".

USE OF PUBLIC HOUSING CONTRACT AUTHORITY FOR LOW-RENT HOUSING IN PRIVATE ACCOMMODATIONS

SEC. 203. The first sentence of section 10(e) of the United States Housing Act of 1937 is amended by striking out *"Provided further"* and inserting in lieu thereof *"Provided further*, That at least 30 per centum of the total amount of contracts for annual contributions entered into in any fiscal year pursuant to the new authority granted under section 202 of the Housing and Urban Development Act of 1970 or under any law subsequently enacted shall be entered into with respect to units of low-rent housing in private accommodations provided under section 23: *And provided further"*.

TERM AND RENEWAL OF CONTRACTS FOR LOW-RENT HOUSING IN PRIVATE ACCOMMODATIONS

SEC. 204. (a)(1) Section 23(a)(3) of the United States Housing Act of 1937 is amended by striking out "an existing" and inserting in lieu thereof "a".

(2) Section 10(c) of such Act is amended by striking out "existing" in the last proviso.

(b) The last sentence of section 23(d) of such Act is amended—

(1) by striking out "not less than twelve months nor more than sixty months" and inserting in lieu thereof "not less than twelve months nor more than one hundred and twenty months"; and

(2) by inserting before the period at the end thereof the following: ": *Provided*, That no renewal of such a contract shall result in a total term exceeding two hundred and forty months (or one hundred and eighty months in the case of an existing structure)".

AUTHORIZATION FOR COLLEGE HOUSING DEBT SERVICE GRANTS

SEC. 205. Section 401(f)(2) of the Housing Act of 1950 is amended by inserting before the period at the end thereof the following: ", and by $12,000,000 on July 1, 1971".

EXPENSES IN CONNECTION WITH THE SALE OF SURPLUS FEDERAL LANDS TO LOCAL URBAN RENEWAL AGENCIES

SEC. 206. The last sentence of section 108 of the Housing Act of 1949 is amended by inserting "net" immediately before "proceeds".

CONGREGATE HOUSING FOR THE DISPLACED, ELDERLY, AND HANDICAPPED

SEC. 207. Section 15 of the United States Housing Act of 1937 is amended by adding at the end thereof a new paragraph as follows:

"(12) The Secretary shall encourage public housing agencies, in providing housing predominantly for displaced, elderly, or handicapped families, to design, develop, or otherwise acquire such housing to meet the special needs of the occupants and, wherever practicable, for use in whole or in part as congregate housing: *Provided*, That not more than 10 per centum of the total amount of contracts for annual contributions entered into in any fiscal year pursuant to the new authority granted under section 202 of the Housing and Urban Development Act of 1970 or under any law subsequently enacted shall be entered into with respect to units in congregate housing. As used in this paragraph, the term 'congregate housing' means low-rent housing (A) in which some or all of the dwelling units do not have kitchen facilities, and (B) connected with which there is a central dining facility to provide wholesome and economical meals for elderly families under terms and conditions prescribed by the public housing agency to permit a generally self-supporting operation. Expenditures incurred by a public agency in the operation of a central dining facility in connection with congregate housing (other than the cost of providing food and service) shall be considered one of the costs of administration of the project."

PUBLIC HOUSING RENT REQUIREMENTS

SEC. 208. (a) Section 2(1) of the United States Housing Act of 1937 is amended by adding at the end of the second paragraph the following: "In defining income for purposes of applying the one-fourth of family income limitation set forth above, the Secretary shall consider income from all sources of each member of the family residing in the household who is at least eighteen years of age; except that (A) nonrecurring income, as determined by the Secretary, and the income of full-time students shall be excluded; (B) an amount equal to the sum of (i) $300 for each dependent, (ii) $300 for each secondary wage earner, (iii) 5 per centum of the family's gross income (10 per centum in the case of elderly families), and (iv) those medical expenses of the family properly considered extraordinary shall be deducted; and (C) the Secretary may allow further deductions in recognition of unusual circumstances."

(b) The income definition contained in the last sentence of the second paragraph of section 2(1) of the Housing Act of 1937, as added by subsection (a) of this section, shall be effective at the first annual reexamination of the tenant's income subsequent to March 24, 1971.

PUBLIC HOUSING COST LIMITS

SEC. 209. (a) The first sentence of section 15(5) of the United States Housing Act of 1937 is amended by striking out all that follows "based" and inserting in lieu thereof the following: "shall not exceed by more than 10 per centum the appropriate prototype cost for the area. Prototype costs shall be determined at least annually by the Secretary on the basis of his estimate of the construction and equipment costs of new dwelling units of various sizes and types in the area suitable for occupancy by persons assisted under this Act. The Secretary in determining the area's prototype costs shall take into account the extra durability required for economical maintenance of assisted housing, and the provision of amenities designed to guarantee safe and healthy family life and neighborhood environment. Further, in developing such prototypes, emphasis should be given to encouraging good design as an essential component of such housing and to producing housing which will be of such quality as to reflect the architectural standards of the neighborhood and community. The prototype costs for any area shall become effective upon the date of publication in the Federal Register."

(b) This section becomes effective on such date as the Secretary of Housing and Urban Development prescribes, but not later than one hundred and twenty days following the date of enactment of this Act.

AMENDMENT OF CONTRACTS TO ASSURE LOW-RENT CHARACTER OF PROJECTS

SEC. 210. The third sentence of section 10(a) of the United States Housing Act of 1937 is amended by striking out the period and inserting in lieu thereof the following: ": *Provided further*, That the Authority is authorized to amend or supersede annual contributions contracts to provide payments annually (within the limitations prescribed by this Act) which the Authority determines are required (1) to assure the low-rent character of the projects involved, and (2) to achieve and maintain adequate operating and maintenance services and reserve funds including payment of outstanding debts."

POLICY STATEMENT

SEC. 211. Section 1 of the United States Housing Act of 1937 is amended by adding at the end thereof the following: "It is the sense of the Congress that no person should be barred from serving on the board of directors or similar governing body of a local public housing agency because of his tenancy in a low-rent housing project."

RELOCATION PAYMENTS

SEC. 212. (a) Section 114(b)(1) of the Housing Act of 1949 is amended by inserting before the semicolon the following: ": *Provided further*, That the Secretary may authorize payment to displaced business concerns of fixed amounts in lieu of their total certified actual moving expenses where he determines that it is impractical for a displaced business concern to calculate the amount of such expenses".

(b) The last sentence of section 114(b) of such Act is amended by striking out "certified actual".

EARLY CLOSEOUT OF URBAN RENEWAL PROJECTS

SEC. 213. (a) Section 106(i) of the Housing Act of 1949 is amended to read as follows:

"(i) Upon determination of the Secretary that the local public agency does not expect to be able in the reasonably near future, due to circumstances beyond its control, to dispose of urban renewal project land acquired in accordance with the urban renewal plan and that all other project activities are completed except local grant-in-aid activities designated in the third proviso to section 110(d) under the conditions specified therein, and that a closeout of the urban renewal project pursuant to this subsection would be in the financial interest of the Federal Government, the urban renewal project may be deemed completed, net project cost may be computed, and the capital grant paid. To facilitate these actions, the Secretary may pay to the local public agency a grant, in addition to the capital grant otherwise payable, equal to one-third (or one-fourth in the case of projects funded on the three-fourths capital grant basis) of the estimated disposition proceeds of such land as accepted by the Secretary. No local grant-in-aid shall be required on account of this additional grant. The approval of the Secretary shall be obtained prior to the disposition of such land by the local public agency and net proceeds realized from the disposition of such land after project closeout shall be paid to the Secretary by the local public agency."

(b) Section 110(f) of such Act is amended by striking out "or for subsequent disposition or retention as prescribed under section 106(i)".

RELEASE FROM CERTAIN PROJECT OBLIGATIONS

SEC. 214. Notwithstanding any other provision of this Act or title I of the Housing Act of 1949, as amended, the Secretary of Housing and Urban Development is authorized and directed to release the City of Stanton, Texas, and the Urban Renewal Agency of the City of Stanton, Texas, from the obligations of their agreement with the Department of Housing and Urban Development entered into in connection with the closeout of projects numbered Tex. R-45 and Tex. R-81 and to close out those projects, effective as of the original date of closeout, on the basis of the authority granted under section 213 of this Act.

URBAN RENEWAL PROJECT IN MONROE, WISCONSIN

SEC. 215. Notwithstanding the date of commencement of construction of streets and highways in the tornado urban renewal area in Monroe, Wisconsin, local expenditures made in connection therewith shall, to the extent otherwise eligible, be counted as a local grant-in-aid to the tornado urban renewal project (Wisconsin R-27) in accordance with the provisions of title I of the Housing Act of 1949.

TITLE III—MODEL CITIES AND METROPOLITAN DEVELOPMENT PROGRAMS

AUTHORIZATION FOR MODEL CITIES PROGRAM

SEC. 301. (a) Section 111(b) of the Demonstration Cities and Metropolitan Development Act of 1966 is amended—

(1) by striking out "and" the third time it appears; and

(2) by inserting before the period at the end thereof the following: ", and not to exceed $200,000,000 for the fiscal year ending June 30, 1972".

(b) Section 111(c) of such Act is amended by striking out "1971" and inserting in lieu thereof "1972".

(c) Section 111 of such Act is further amended by striking out "and administrative expenses" each place it appears.

AUTHORIZATION FOR COMPREHENSIVE PLANNING GRANTS

SEC. 302. The fifth sentence of section 701 (b) of the Housing Act of 1954 is amended by striking out "and not to exceed $390,000,000 prior to July 1, 1971" and inserting in lieu thereof "and not to exceed $420,000,000 prior to July 1, 1972".

NEW COMMUNITY LAND DEVELOPMENT

SEC. 303. (a) Section 407(d) of the Housing and Urban Development Act of 1968 is amended by striking out "$250,000,000" and inserting in lieu thereof "$500,000,000".

(b) Section 412(d) of such Act is amended by striking out "July 1, 1971" and inserting in lieu thereof "July 1, 1974".

(c) Section 408 of such Act is amended—

(1) by striking out "qualified"; and

(2) by striking out all that follows "guaranteed obligation" and inserting in lieu thereof a period.

COMMUNITY FACILITIES GRANTS

SEC. 304. (a) Section 708(a) of the Housing and Urban Development Act of 1965 is amended by adding at the end thereof the following new sentence: "In addition, there is authorized to be appropriated for the fiscal year commencing July 1, 1971, not to exceed $50,000,000 for grants under section 703."

(b) Section 708(b) of such Act is amended by striking out "1971" and inserting in lieu thereof "1972".

EXTENSION OF URBAN INFORMATION AND TECHNICAL ASSISTANCE SERVICES AUTHORIZATION

SEC. 305. Section 906 of the Demonstration Cities and Metropolitan Development Act of 1966 is amended by striking out "July 1, 1971" and inserting in lieu thereof "July 1, 1972".

TITLE IV—CONSOLIDATION OF OPEN-SPACE LAND PROGRAMS

SEC. 401. Effective July 1, 1971, title VII of the Housing Act of 1961 is amended to read as follows:

"TITLE VII—OPEN-SPACE LAND

"FINDINGS AND PURPOSE

"SEC. 701. (a) The Congress finds that the rapid expansion of the Nation's urban areas

and the rapid growth of population within such areas has resulted in severe problems of urban and suburban living for the preponderant majority of the Nation's present and future population, including the lack of valuable open-space land for recreational and other purposes.

"(b) The Congress further finds that there is a need for the additional provision of parks and other open space in the built-up portions of urban areas especially in low income neighborhoods and communities and a need for greater and better coordinated State and local efforts to make available and improve open-space land throughout entire urban areas.

"(c) The Congress further finds that there is a need for timely action to preserve and restore areas, sites, and structures of historic or architectural value in order that these remaining evidences of our history and heritage shall not be lost or destroyed through the expansion and development of the Nation's urban areas.

"(d) It is the purpose of this title to help curb urban sprawl and prevent the spread of urban blight and deterioration, to encourage more economic and desirable urban development, to assist in preserving areas and properties of historic or architectural value, and to help provide necessary recreational, conservation, and scenic areas by assisting State and local public bodies in taking prompt action to (1) provide, preserve, and develop open-space land in a manner consistent with the planned long-range development of the Nation's urban areas, (2) acquire, improve, and restore areas, sites, and structures of historic or architectural value, and (3) develop and improve open space and other public urban land, in accordance with programs to encourage and coordinate local public and private efforts toward this end.

"GRANTS FOR ACQUISITION AND FOR DEVELOPMENT OF OPEN-SPACE LAND

"SEC. 702. (a) The Secretary is authorized to make grants to States and local public bodies to help finance (1) the acquisition of title to, or other interest in, open-space land in urban areas and (2) the development of open-space or other land in urban areas for open-space uses. The amount of any such grant shall not exceed 50 per centum of the eligible project cost, as approved by the Secretary, of such acquisition or development. Not more than 50 per centum of the non-Federal share of such eligible project cost may, to the extent authorized in regulations established by the Secretary be made up by donations of land or materials.

"(b) No grants under this title shall be made to (1) defray ordinary State or local governmental expenses, (2) help finance the acquisition by a public body of land located outside the urban area for which it exercises (or participates in the exercise of) responsibilities consistent with the purpose of this title, (3) acquire and clear developed land in built-up urban areas unless the local governing body determines that adequate open-space land cannot be effectively provided through the use of existing undeveloped land, or (4) provide assistance for historic and architectural preservation purposes, except for districts, sites, buildings, structures, and objects which the Secretary of the Interior determines meet the criteria used in establishing the National Register.

"(c) The Secretary may set such further terms and conditions for assistance under this title as he determines to be desirable.

"(d) The Secretary shall consult with the Secretary of the Interior on the general policies to be followed in reviewing applications for grants under this title. To assist the Secretary in such review, the Secretary of the Interior shall furnish him (1) appropriate information on the status of national and statewide recreation and historic preservation planning as it affects the areas to be assisted with such grants, and (2) the current listing of any districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, and culture which may be contained on a National Register maintained by the Secretary of the Interior pursuant to other provisions of law. The Secretary shall provide current information to the Secretary of the Interior from time to time on significant program developments.

"(e) The Secretary may provide such technical assistance to States and local public bodies as may be required to effectively carry out activities under this section.

"PLANNING REQUIREMENTS

"SEC. 703. The Secretary shall make grants under section 702 only if he finds that such assistance is needed for carrying out a unified or officially coordinated program, meeting criteria established by him, for the provision and development of open-space land which is a part of, or is consistent with, the comprehensively planned development of the urban area.

"CONVERSIONS TO OTHER USES

"SEC. 704. No open-space land for the acquisition of which a grant has been made under section 702 shall be converted to uses not originally approved by the Secretary without his prior approval. Prior approval will be granted only upon satisfactory compliance with regulations established by the Secretary. Such regulations shall require findings that (1) there is adequate assurance of the substitution of other open-space land of as nearly as feasible equivalent usefulness, location, and fair market value at the time of the conversion; (2) the conversion and substitution are needed for orderly growth and development; and (3) the proposed uses of the converted and substituted land are in accord with the then applicable comprehensive plan for the urban area, meeting criteria established by the Secretary.

"CONVERSIONS OF LAND INVOLVING HISTORIC OR ARCHITECTURAL PURPOSES

"SEC. 705. No open-space land involving historic or architectural purposes for which assistance has been granted under this title shall be converted to use for any other purpose without the prior approval of the Secretary of the Interior.

"ACQUISITION OF INTERESTS TO GUIDE URBAN DEVELOPMENT

"SEC. 706. In order to encourage the acquisition of interests in undeveloped or predominantly underdeveloped land which, if withheld from commercial, industrial, and residential development, would have special significance in helping to shape economic and desirable patterns of urban growth (including growth outside of existing urban areas which is directly related to the development of new communities or the expansion and revitalization of existing communities), the Secretary may make grants to State and local public bodies for the acquisition of such interests in an amount not to exceed 75 per centum of the cost of such acquisition. In the case of any interests acquired pursuant to this section, the Secretary may approve the subsequent conversion or disposition of the land involved without regard to other requirements of this title but subject to such terms and conditions as he determines equitable and appropriate with respect to the control of future use and the application or sharing of the proceeds or value realized upon sale or disposition.

"LABOR STANDARDS

"SEC. 707. (a) The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of grants under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary shall not approve any such grant without first obtaining adequate assurance that these labor standards will be maintained upon the construction work.

"(b) The Secretary of Labor shall have, with respect to the labor standards specified in subsection (a), the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. 133z–15), and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276c).

"AUTHORIZATION

"SEC. 708. There are authorized to be appropriated for purposes of making grants under this title not to exceed $560,000,000 prior to July 1, 1972. Any amounts appropriated under this section shall remain available until expended.

"DEFINITIONS

"SEC. 709. As used in this title—

"(1) The term 'open-space land' means any land located in an urban area which has value for (A) park and recreational purposes, (B) conservation of land and other natural resources, or (C) historic, architectural, or scenic purposes.

"(2) The term 'urban area' means any area which is urban in character, including those surrounding areas which, in the judgment of the Secretary, form an economic and socially related region, taking into consideration such factors as present and future population trends and patterns of urban growth, location of transportation facilities and systems, and distribution of industrial, commercial, residential, governmental, institutional, and other activities.

"(3) The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States.

"(4) The term 'local public body' means any public body (including a political subdivision) created by or under the laws of a State or two or more States, or a combination of such bodies, and includes Indian tribes, bands, groups, and nations (including Alaskan Indians, Aleuts, and Eskimos) of the United States.

"(5) The term 'open-space uses' means any use of open-space land for (A) park and recreational purposes, (B) conservation of land and other natural resources, or (C) historic, architectural or scenic purposes."

TITLE V—RESEARCH AND TECHNOLOGY

RESEARCH AND DEMONSTRATIONS

SEC. 501. The Secretary of Housing and Urban Development is authorized and directed to undertake such programs of research, studies, testing, and demonstration relating to the mission and programs of the Department as he determines to be necessary and appropriate. In order to carry out activities under this section there are authorized to be appropriated such sums as may be necessary. All funds so appropriated shall remain available until expended unless specifically limited.

GENERAL PROVISIONS

SEC. 502. (a) The Secretary shall require, to the greatest extent feasible, the employment of new and improved technologies, methods, and materials in housing construction, rehabilitation, and maintenance under programs administered by him with a view to reducing costs, and shall encourage and promote the acceptance and application of such advanced technology, methods, and materials by all segments of the housing industry, communities, industries engaged in

urban development activities, and the general public. To the extent feasible, in connection with the construction, major rehabilitation, or maintenance of any housing assisted under section 501, the Secretary shall assure that there is no restraint by contract, building code, zoning ordinance, or practice against the employment of new or improved technologies, techniques, materials, and methods or of preassembled products which may reduce the cost or improve the quality of such construction, rehabilitation, and maintenance, and therefore stimulate expanded production of housing, except where such restraint is necessary to insure safe and healthful working and living conditions.

(b) To encourage large-scale experimentation in the use of new technologies, methods, and materials, with a view toward the ultimate mass production of housing and related facilities, the Secretary shall wherever feasible conduct programs under section 501 in which qualified organizations, public and private, will submit plans for development and production of housing and related facilities using such new advances on Federal land which has been made available or acquired by the Secretary for the purpose of this subsection or on other land where (1) local building regulations permit such experimental construction, or (2) necessary variances from building regulations can be granted. The Secretary may utilize the funds and authority available to him under the provisions of section 501 to assist in the implementation of plans which he approves.

(c) Notwithstanding any other provision of law, the Secretary is authorized, in connection with projects under this title, to acquire, use and dispose of any land and other property required for the project as he deems necessary. Notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949, any land which is excess property within the meaning of such Act and which is determined by the Secretary to be suitable in furtherance of the purposes of subsection (b) may be transferred to the Secretary upon his request.

(d) In order to effectively carry out his activities under section 501, the Secretary is authorized to provide such advice and technical assistance as may be required and to pay for the cost of writing and publishing reports on activities and undertakings financed under section 501, as well as reports on similar activities and undertakings, not so financed, which are of significant value in furthering the purposes of that section. He may disseminate (without regard to the provisions of section 3204 of title 39, United States Code, or section 4154 of such title with respect to any period before the effective date of such section 3204 as provided in section 15(a) of the Postal Reorganization Act) any reports, data, or information acquired or held under this title, including related data and information otherwise available to the Secretary through the operation of the programs and activities of the Department of Housing and Urban Development, in such form as he determines to be most useful to departments, establishments, and agencies of Federal, State, and local governments, to industry, and to the general public.

(e) The Secretary is authorized to carry out the functions authorized in section 501 either directly or, without regard to section 3709 of the Revised Statutes, by contract or by grant. Advance and progress payments may be made under such contracts or grants without regard to the provisions of section 3648 of the Revised Statutes and such contracts or grants may be made for work to continue for not more than four years from the date thereof.

(f) In carrying out activities under section 501, the Secretary shall utilize to the fullest extent feasible the available facilities of other Federal departments and agencies, and shall consult with, and make recommendations to, such departments and agencies. The Secretary may enter into working agreements with such departments and agencies and contract or make grants on their behalf or have such departments and agencies contract or make grants on his behalf. The Secretary is authorized to make or accept reimbursement for the cost of such activities. The Secretary is further authorized to undertake activities under this title under cooperative agreements with industry and labor, agencies of State or local governments, educational institutions, and other organizations. He may enter into contracts with and receive funds from such agencies, institutions and organizations, and may exercise any of the other powers vested in him by section 502(c) of the Housing Act of 1948.

(g) The Secretary is authorized to request and receive such information or data as he deems appropriate from private individuals and organizations, and from public agencies. Any such information or data shall be used only for the purposes for which it is supplied, and no publication shall be made by the Secretary whereby the information or data furnished by any particular person or establishment can be identified, except with the consent of such person or establishment.

REPEAL OF EXISTING RESEARCH AUTHORITIES

SEC. 503. Effective July 1, 1971, the following provisions of law are repealed; except that such repeal shall not affect contracts, commitments, reservations, or other obligations entered into pursuant to such provisions prior to that date:

(1) title III of the Housing Act of 1948;

(2) section 314 of the Housing Act of 1954;

(3) section 602 of the Housing Act of 1956;

(4) section 207 of the Housing Act of 1961;

(5) section 301 of the Housing and Urban Development Act of 1965;

(6) sections 1010 and 1011 of the Demonstration Cities and Metropolitan Development Act of 1966; and

(7) section 1714(b) of the Housing and Urban Development Act of 1968.

EXPERIMENTAL HOUSING ALLOWANCE PROGRAM

SEC. 504. (a) In carrying out activities under section 501, the Secretary shall undertake on an experimental basis a program to demonstrate the feasibility of providing families of low income with housing allowances to assist them in obtaining rental housing of their choice in existing standard housing units. For this purpose, the Secretary is authorized to pay and to contract to pay, subject to the limitations of this section, monthly housing allowances to such families in localities determined by the Secretary to have an adequate supply of such housing units.

(b) The housing allowance provided to any family of low income shall not exceed the difference between 25 per centum of the family's income and the maximum fair market rental established in the locality by the Secretary for dwelling units of similar size in projects receiving annual payments under contracts authorized by section 101(a) of the Housing and Urban Development Act of 1965. The Secretary shall make the payment of any such allowance to any such family conditional upon an agreement by the family that the allowance will be used solely for the payment of rent for occupancy in existing standard housing.

(c) The Secretary is authorized to contract with public or private organizations to provide the services required in the selection of families of low income for the distribution of monthly housing allowance payments to such families. In contracting with such organizations, the Secretary is authorized (without limiting his authority under any other provision of law) to delegate to such organizations the authority to make the ministerial findings necessary to enable the Secretary to make such payments to families selected by such organizations.

(d) The Secretary is authorized to pay and to contract to pay (in an aggregate amount not to exceed $10,000,000 in each of the fiscal years 1972 and 1973) monthly housing allowance payments to families of low income pursuant to this section. There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to make payments under this subsection.

(e) The Secretary shall, as early as practicable in the calendar years 1972 and 1973 make a report to the respective Committees on Banking and Currency of the Senate and House of Representatives with respect to the administration of the program authorized by this section, together with any recommendations that he may deem appropriate.

(f) As used in this section—

(1) The term "families of low income" has the same meaning as in section 2(2) of the United States Housing Act of 1937.

(2) The term "existing standard housing" means a rental unit which meets standards prescribed by the Secretary.

(g) No housing allowance payments pursuant to this section shall be made after June 30, 1973.

DEMONSTRATIONS WITH RESPECT TO ABANDONED PROPERTIES

SEC. 505. (a) In carrying out activities under section 501, the Secretary may undertake programs to demonstrate the most feasible means of providing assistance to localities in which a substantial number of structures are abandoned or are threatened with abandonment for the purpose of arresting the process of housing abandonment in its incipiency or in restoring viability to blighted areas in which abandonment is pervasive. For this purpose, the Secretary is authorized to make grants, subject to the limitations of this section, to assist local public bodies in planning and implementing demonstration projects for prompt and effective action in alleviating and preventing such abandonment in designated demonstration areas.

(b) In administering this section, the Secretary shall give preference to those demonstration projects which in his judgment can reasonably be expected to arrest the process of abandonment in the demonstration area within a period of two years and which provide for innovative approaches to combating the problem of housing abandonment. Such projects may include, but shall not be limited to (1) acquisition by negotiated purchase, lease, receivership, tax lien proceedings, or other means authorized by law and satisfactory to the Secretary, of real property within the demonstration area or areas which is abandoned, deteriorated, or in violation of applicable code standards; (2) the repair of streets, sidewalks, parks, playgrounds, publicly owned utilities, public buildings to meet needs consistent with the revitalization and continued use of the area; (3) the demolition of structures determined to be structurally unsound or unfit for human habitation or which contribute adversely to the physical or social environment of the locality involved; (4) the establishment of recreational or community facilities including public playgrounds; (5) the improvement of garbage and trash collection, street cleaning and other essential services necessary to the revitalization and maintenance of the area; (6) the rehabilitation of privately and publicly owned real property by the locality; and (7) the establishment and operation of locally controlled, nonprofit housing management corporations and municipal repair programs.

(c) Subject to such conditions as the Secretary may prescribe, real property held as

part of a project assisted under this section may be made available to (1) a limited dividend corporation, nonprofit corporation, or association, cooperative or public body or agency, or other approved purchaser or lessee, or (2) a purchaser who would be eligible for a mortgage issued under section 221(d)(3) or (d)(4), section 221(h)(1), section 235(i) or (j)(1), or section 236 of the National Housing Act, for purchase or lease at fair market value for use by such purchaser or lessee, as, or in the provision of, new or rehabilitated housing for occupancy by families or individuals of low or moderate income.

(d) Grants under this section shall be in amounts which do not exceed 90 per centum of the net project cost as determined by the Secretary. There are authorized to be appropriated for demonstration grants under this section not to exceed $20,000,000 for the fiscal year ending June 30, 1971. Any amounts appropriated shall remain available until expended and any amount authorized but not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1972. Not more than one-third of the aggregate amount of grants made in any fiscal year under this section shall be made with respect to projects undertaken by one locality.

(e) The provisions of sections 106, 114, and 115 of Title I of the Housing Act of 1949, and section 312 of the Housing Act of 1964, may apply to projects assisted under this Act as if such projects were being carried out in urban renewal areas as part of urban renewal projects within the meaning of section 110 of the Housing Act of 1949.

(f) The Secretary shall report annually to the Congress with respect to the status of demonstration projects funded by him and shall make such recommendations to the Congress as he deems necessary to further the purposes of this section.

TITLE VI—CRIME INSURANCE

FINDINGS AND PURPOSE

SEC. 601. Section 1102(b) of the Housing and Urban Development Act of 1968 is amended by striking out "and" immediately before "(2)", and by inserting before the period at the end thereof the following: "; and (3) provide direct insurance through the facilities of the Federal Government in the case of properties for which statewide programs and the Federal reinsurance program either do not make crime insurance available or offer such insurance to property owners only at prohibitive cost".

AMENDMENTS TO TITLE XII OF THE NATIONAL HOUSING ACT

SEC. 602. (a) Section 1201 of the National Housing Act is amended to read as follows:

"PROGRAM AUTHORITY

"SEC. 1201. (a) The Secretary is authorized to establish and carry out the programs provided for in parts A, B, C, and D of this title.

"(b)(1) The powers of the Secretary under this title shall terminate on April 30, 1975, except to the extent necessary—

"(A) to continue reinsurance and direct insurance in accordance with the provisions of sections 1223(b) and 1231(c) until April 30, 1978;

"(B) to process, verify, and pay claims for reinsured losses and directly insured losses and perform other necessary functions in connection therewith; and

"(C) to complete the liquidation and termination of the reinsurance and direct insurance programs.

"(2) On April 30, 1978, or as soon thereafter as possible, the Secretary shall submit to the Congress, for its approval, a plan for the liquidation and termination of the reinsurance and direct insurance programs."

(b) Section 1203(a) of such Act is amended by redesignating paragraphs (1) through (13) as paragraphs (4) through (16), respectively, and by inserting immediately after and below "the term—" the following new paragraphs:

"(1) 'affordable rate' means such premium rate as the Secretary determines would permit the purchase of a specific type of insurance coverage by a reasonably prudent person in similar circumstances with due regard to the costs and benefits involved;

"(2) 'crime insurance' means insurance against losses resulting from robbery, burglary, larceny, and similar crimes, and may include broad form personal theft insurance, mercantile open stock insurance, mercantile robbery and mercantile safe burglary insurance, storekeepers burglary and robbery insurance, office burglary and robbery insurance, and may include business interruption insurance as the Secretary may designate; the term does not include automobile insurance or losses resulting from embezzlement;

"(3) 'directly insured losses' means losses on direct insurance claims and all direct expenses incurred in connection therewith, including but not limited to expenses for processing, verifying, and paying such losses;".

(c) Section 1221(a)(2) of such Act is amended by striking out "section 1203(a)(10)" each place it appears and inserting in lieu thereof "section 1203(a)(13)".

(d) Title XII of such Act is amended by redesignating part C and sections 1231 through 1241 as part D and sections 1241 through 1251, respectively, and by inserting after part B the following new part:

"PART C—FEDERAL INSURANCE AGAINST BURGLARY AND THEFT

"REVIEW AND PROGRAM AUTHORITY

"SEC. 1231. (a) The Secretary shall conduct a continuing review of the market availability situation in each of the several States to determine whether crime insurance is available at affordable rates either through the normal insurance market or through a suitable program adopted under State law.

"(b) Upon determining pursuant to subsection (a) that, at any time on or after August 1, 1971, a critical market unavailability situation for crime insurance then exists in any State and has not been met through appropriate State action, the Secretary is authorized to make crime insurance available at affordable rates within such State through the facilities of the Federal Government. Such insurance shall be provided upon such terms and conditions, and subject to such deductibles and other restrictions and limitations, as the Secretary deems appropriate, but no such insurance shall be made available to a property which the Secretary determines to be uninsurable or to a property with respect to which reasonable protective measures to prevent loss, consistent with standards established by the Secretary, have not been adopted.

"(c) Notwithstanding any other provision of this title, direct insurance may be continued for the term of the policies written prior to the date of termination of the Secretary's direct insurance authority under this part, for as long as the insured pays the required direct insurance premiums; except that direct insurance under this part for any risk shall be terminated after notice whenever the Secretary determines that the standard lines of crime insurance otherwise have become available to such property at affordable rates.

"USE OF EXISTING FACILITIES AND SERVICES

"SEC. 1232. In carrying out his responsibilities under this part, the Secretary may utilize—

"(1) insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations, as fiscal agents of the United States,

"(2) officers and employees of the Department of Housing and Urban Development, and such other officers and employees of any executive agency (as defined in section 105 of title 5 of the United States Code) as the Secretary and the head of any such agency may from time to time agree upon, on a reimbursement or other basis, or

"(3) both the alternatives specified in paragraphs (1) and (2), or any combination thereof.

"ESTABLISHMENT OF AFFORDABLE RATES

"SEC. 1233. In estimating the affordable rates for the various crime insurance coverages offered from time to time under this part, the Secretary shall consult with appropriate State insurance authorities and other knowledgeable persons and is authorized to take into consideration the nature and degree of the risks involved, the protective devices employed, the extent of anticipated losses, the prevailing rates for similar coverages in adjacent or comparable areas and territories, the economic importance of the various individual coverages and the type of property involved, and the relative abilities of the particular classes and types of insureds to pay the full estimated costs of such coverages. Nothing in this section shall be construed to prohibit or require either the adoption of uniform national rates or the periodic modification of currently estimated affordable rates for any particular line or subline of coverage, class, State, territory, or risk on the basis of additional information or actual loss experience.

"REPORTS ON OPERATIONS

"SEC. 1234. The Secretary shall include in his reports to the Congress on the program authorized by this title full and complete information on his operations and activities under this part, together with such recommendations with respect thereto as he may deem appropriate."

(e) Section 1222(a) of such Act is amended by striking out "section 1233" and inserting in lieu thereof "section 1243".

(f) Section 1244(c) of such Act (as redesignated by subsection (d) of this section) is amended by striking out "section 1232" and inserting in lieu thereof "section 1242".

(g) Section 1241(a) of such Act (as so redesignated) is amended by inserting "or direct insurance" after "reinsurance", and by inserting "or property owners" after "insurers".

(h) Section 1241(b) of such Act (as so redesignated) is amended by inserting "or direct insurance" after "reinsurance".

(i) Section 1242(a) of such Act (as so redesignated) is amended—

(1) by striking out "the reinsurance program" and inserting in lieu thereof "the reinsurance and direct insurance programs";

(2) by inserting "or direct insurance" after "reinsurance" in paragraphs (1), (2), and (4);

(3) by inserting "or property owner" after "any insurer" where it first appears in paragraph (4); and

(4) by inserting "or directly insured" after "reinsured" in paragraph (4).

(j) Section 1243 of such Act (as so redesignated) is amended—

(1) by inserting "and direct insurance" after "reinsurance" in subsection (a)(1) and each place it appears in subsection (b)(1);

(2) by striking out "part B" in subsection (b)(1) and inserting in lieu thereof "parts B and C"; and

(3) by redesignating clauses (4) and (5) of subsection (b) as clauses (5) and (6), and inserting after clause (3) a new clause as follows:

"(4) such amounts which are hereby authorized to be appropriated as may be necessary from time to time to reimburse the fund for losses and expenses (including administrative expenses) incurred in carrying out the program authorized under part C;".

(k) Section 1244(a) of such Act (as so redesignated) is amended by striking out "Any insurer or pool acquiring reinsurance" and inserting in lieu thereof "Any insurer, pool, or property owner acquiring reinsurance or direct insurance".

(l) Section 1244(c) of such Act (as so redesignated) is amended by inserting "or direct insurance" after "reinsurance".

REVIEW OF STATEWIDE PLANS

SEC. 603. Title XII of the National Housing Act is amended by inserting after section 1214 a new section as follows:

"OFFICE OF REVIEW AND COMPLIANCE

"SEC. 1215. The Secretary, through an Office of Review and Compliance under the Federal Insurance Administrator, shall periodically review each plan under this part and the methods and practices by which such plan is being actually carried out in the areas and communities where it is intended to operate, in order to assure that such plan is effectively making essential property insurance readily available in such areas and communities and is otherwise carrying out the purposes of this title, and in order to identify any aspects of the operation or administration of such plan which may require revision, modification, or other action to carry out such purposes."

CONFORMING AMENDMENT

SEC. 604. Clause (2) of the first sentence of section 520(b) of the National Housing Act is amended by inserting "and directly insured" after "reinsured" wherever it appears.

TITLE VII—URBAN GROWTH AND NEW COMMUNITY DEVELOPMENT

SHORT TITLE AND STATEMENT OF PURPOSE

SEC. 701. (a) This title may be cited as the "Urban Growth and New Community Development Act of 1970".

(b) It is the policy of the Congress and the purpose of this title to provide for the development of a national urban growth policy and to encourage the rational, orderly, efficient, and economic growth, development, and redevelopment of our States, metropolitan areas, cities, counties, towns, and communities in predominantly rural areas which demonstrate a special potential for accelerated growth; to encourage the prudent use and conservation of our natural resources; and to encourage and support development which will assure our communities of adequate tax bases, community services, job opportunities, and well-balanced neighborhoods in socially, economically, and physically attractive living environments.

PART A—DEVELOPMENT OF A NATIONAL URBAN GROWTH POLICY

FINDINGS AND DECLARATION OF POLICY

SEC. 702. (a) The Congress finds that the rapid growth of urban population and uneven expansion of urban development in the United States, together with a decline in farm population, slower growth in rural areas, and migration to the cities, has created an imbalance between the Nation's needs and resources and seriously threatens our physical environment, and that the economic and social development of the Nation, the proper conservation of our natural resources, and the achievement of satisfactory living standards depend upon the sound, orderly, and more balanced development of all areas of the Nation.

(b) The Congress further finds that Federal programs affect the location of population, economic growth, and the character of urban development; that such programs frequently conflict and result in undesirable and costly patterns of urban development which adversely affect the environment and wastefully use our natural resources; and that existing and future programs must be interrelated and coordinated within a system of orderly development and established priorities consistent with a national urban growth policy.

(c) To promote the general welfare and properly apply the resources of the Federal Government in strengthening the economic and social health of all areas of the Nation and more adequately protect the physical environment and conserve natural resources, the Congress declares that the Federal Government, consistent with the responsibilities of State and local government and the private sector, must assume responsibility for the development of a national urban growth policy which shall incorporate social, economic, and other appropriate factors. Such policy shall serve as a guide in making specific decisions at the national level which affect the pattern of urban growth and shall provide a framework for development of interstate, State, and local growth and stabilization policy.

(d) The Congress further declares that the national urban growth policy should—

(1) favor patterns of urbanization and economic development and stabilization which offer a range of alternative locations and encourage the wise and balanced use of physical and human resources in metropolitan and urban regions as well as in smaller urban places which have a potential for accelerated growth;

(2) foster the continued economic strength of all parts of the United States, including central cities, suburbs, smaller communities, local neighborhoods, and rural areas;

(3) help reverse trends of migration and physical growth which reinforce disparities among States, regions, and cities;

(4) treat comprehensively the problems of poverty and employment (including the erosion of tax bases, and the need for better community services and job opportunities) which are associated with disorderly urbanization and rural decline;

(5) develop means to encourage good housing for all Americans without regard to race or creed;

(6) refine the role of the Federal Government in revitalizing existing communities and encouraging planned, large-scale urban and new community development;

(7) strengthen the capacity of general governmental institutions to contribute to balanced urban growth and stabilization; and

(8) facilitate increased coordination in the administration of Federal programs so as to encourage desirable patterns of urban growth and stabilization, the prudent use of natural resources, and the protection of the physical environment.

URBAN GROWTH REPORT

SEC. 703. (a) In order to assist in the development of a national urban growth policy, the President shall utilize the capacity of his office, adequately organized and staffed for the purpose, through an identified unit of the Domestic Council, and of the departments and agencies within the executive branch to collect, analyze, and evaluate such statistics, data, and other information (including demographic, economic, social, land use, environmental, and governmental information) as will enable him to transmit to the Congress, during the month of February in every even-numbered year beginning with 1972, a Report on Urban Growth for the preceding two calendar years which shall include—

(1) information and statistics describing characteristics of urban growth and stabilization and identifying significant trends and developments;

(2) a summary of significant problems facing the United States as a result of urban growth trends and developments;

(3) an evaluation of the progress and effectiveness of Federal efforts designed to meet such problems and to carry out the national urban growth policy;

(4) an assessment of the policies and structure of existing and proposed interstate planning and developments affecting such policy;

(5) a review of State, local, and private policies, plans, and programs relevant to such policy;

(6) current and foreseeable needs in the areas served by policies, plans, and programs designed to carry out such policy, and the steps being taken to meet such needs; and

(7) recommendations for programs and policies for carrying out such policy, including such legislation and administrative actions as may be deemed necessary and desirable.

(b) The President may transmit from time to time to the Congress supplementary reports on urban growth which shall include such supplementary and revised recommendatitons as may be appropriate.

(c) To assist in the preparation of the Report on Urban Growth and any supplementary reports, the President may establish an advisory board, or seek the advice from time to time of temporary advisory boards, the members of whom shall be drawn from among private citizens familiar with the problems of urban growth and from among Federal officials, Governors of States, mayors, county officials, members of State and local legislative bodies, and others qualified to assist in the preparation of such reports.

PART B—DEVELOPMENT OF NEW COMMUNITIES

FINDINGS AND PURPOSE

SEC. 710. (a) The Congress finds that this Nation is likely to experience during the remaining years of this century a population increase of about seventy-five million persons.

(b) The Congress further finds that continuation of established patterns of urban development, together with the anticipated increase in population, will result in (1) inefficient and wasteful use of land resources which are of national economic and environmental importance; (2) destruction of irreplaceable natural and recreational resources and increasing pollution of air and water; (3) diminished opportunity for the private homebuilding industry to operate at its highest potential capacity in providing good housing needed to serve the expanding population and to replace substandard housing; (4) costly and inefficient public facilities and services at all levels of government; (5) unduly limited options for many of our people as to where they may live, and the types of housing and environment in which they may live; (6) failure to make the most economic use of present and potential resources of many of the Nation's smaller cities and towns, including those in rural and economically depressed areas, and decreasing employment and business opportunities for their residents; (7) further lessening of employment and business opportunities for the residents of central cities and of the ability of such cities to retain a tax base adequate to support vital services for all their citizens, particularly the poor and disadvantaged; (8) further separation of people within metropolitan areas by income and by race; (9) further increases in the distances between the places where people live and where they work and find recreation; and (10) increased cost and decreased effectiveness of public and private facilities for urban transportation.

(c) The Congress further finds that better patterns of urban development and revitalization are essential to accommodate future population growth; to prevent further deterioration of the Nation's physical and social environment; and to make positive contributions to improving the overall quality of life within the Nation.

(d) The Congress further finds that the

national welfare requires the encouragement of well-planned, diversified, and economically sound new communities, including major additions to existing communities, as one of several essential elements of a consistent national program for bettering patterns of development and renewal.

(e) The Congress further finds that desirable new community development on a significant national scale has been prevented by difficulties in (1) obtaining adequate financing at moderate cost for enterprises which involve large initial capital investment, extensive periods before investment can be returned, and irregular patterns of return; (2) the timely assembly of sufficiently large sites in economically favorable locations at reasonable cost; and (3) making necessary arrangements, among all private and public organizations involved, for providing site and related improvements (including streets, sewer and water facilities, and other public and community facilities) in a timely and coordinated manner.

(f) It is, therefore, the purpose of this part to provide private developers and State and local public bodies and agencies (including regional or metropolitan public bodies and agencies) with financial and other assistance necessary for encouraging the orderly development of well-planned, diversified, and economically sound new communities, including major additions to existing communities, and to do so in a manner which will rely to the maximum extent on private enterprise; strengthen the capacity of State and local governments to deal with local problems; preserve and enhance both the natural and urban enrichment; increase for all persons, particularly members of minority groups, the available choices of locations for living and working, thereby providing a more just economic and social environment; encourage the fullest utilization of the economic potential of older central cities, smaller towns, and rural communities; assist in the efficient production of a steady supply of residential, commerical, and industrial building sites at reasonable cost; increase the capability of all segments of the home-building industry, including both small and large producers, to utilize improved technology in producing the large volume of well-designed, inexpensive housing needed to accommodate population growth; help create neighborhoods designed for easier access between the places where people live and the places where they work and find recreation; and encourage desirable innovation in meeting domestic problems whether physical, economic, or social. It is also the purpose of this part to improve the organizational capacity of the Federal Government to carry out programs of assistance for the development of new communities and the revitalization of the Nation's urban areas.

DEFINITIONS

SEC. 711. As used in this part—

(a) The term "new community development program" means a program which is intended to result in a newly built community or a major addition to an existing community and which meets the eligibility standards set forth in section 712.

(b) The term "private new community developer" means any private entity organized in a form satisfactory to the Secretary for carrying out one or more new community development programs.

(c) The term "State land development agency" means any State or local public body or agency with authority to act as developer in carrying out one or more new community development programs.

(d) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of any of the foregoing.

(e) The term "local public body or agency" means any public body or agency, including a political subdivision, created by or under the laws of a State or two or more States, or a combination of such bodies or agencies.

(f) The term "land development" means the process of clearing and grading land, making, installing, or constructing waterlines and water supply installations, sewerlines and sewage disposal installations, steam, gas, and electric lines, and installations, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, and other installations or work, whether on or off the site, which the Secretary deems necessary, or desirable to prepare land for residential, commercial, industrial, or other uses, or to provide facilities for public or common use. The term "land development" includes the construction of public facilities, but does not include the construction of any other building unless it is (1) needed in connection with a water supply or sewage disposal installation or a steam, gas, or electric line or installation, or (2) is to be owned and maintained by residents of the new community under joint or cooperative arrangements approved by the Secretary.

(g) The term "actual cost" means the costs (exclusive of rebates or discounts) incurred by a new community developer in carrying out the land development assisted under this Act. These costs may include amounts paid for labor, materials, construction contracts, land planning, engineers' and architect's fees, surveys, taxes, and interest during development, organizational and legal expenses, such allocation of general overhead expenses as are acceptable to the Secretary, and other items of expenses incidental to development which may be approved by the Secretary. If the Secretary determines that there is an identity of interest between the developer and a contractor, there may be included as a part of actual cost an allowance for the contractor's profit or risk an amount deemed reasonable by the Secretary.

(h) The term "Secretary" means the Secretary of Housing and Urban Development.

(i) The term "Community Development Corporation" means the corporation established within the Department of Housing and Urban Development under section 729.

ELIGIBLE NEW COMMUNITY DEVELOPMENT

SEC. 712. (a) A new community development program is eligible for assistance under this part only if the Secretary determines that the program (or the new community it contemplates)—

(1) will provide an alternative to disorderly urban growth, helping preserve or enhance desirable aspects of the natural and urban environment or so improving general and economic conditions in established communities as to help reverse migration from existing cities or rural areas;

(2) will be economically feasible in terms of economic base or potential for economic growth;

(3) will contribute to the welfare of the entire area which will be substantially affected by the program and of which the land to be developed is a part;

(4) is consistent with comprehensive planning, physical and social, determined by the Secretary to provide an adequate basis for evaluating the new community development program in relation to other plans (including State, local, and private plans) and activities involving area population, housing and development trends, and transportation, water, sewerage, open space, recreation, and other relevant facilities;

(5) has received all governmental reviews and approvals required by State or local law, or by the Secretary;

(6) will contribute to good living conditions in the community, and that such community will be characterized by well balanced and diversified land use patterns and will include or be served by adequate public, community, and commercial facilities (including facilities needed for education, health and social services, recreation, and transportation) deemed satisfactory by the Secretary;

(7) makes substantial provision for housing within the means of persons of low and moderate income and that such housing will constitute an appropriate proportion of the community's housing supply; and

(8) will make significant use of advances in design and technology with respect to land utilization, materials and methods of construction, and the provision of community facilities and services.

(b) A new community development program approved for assistance under this part shall be undertaken by a private new community developer or State land development agency approved by the Secretary on the basis of financial, technical, and administrative ability which demonstrates capacity to carry out the program with reasonable assurance of its completion.

GUARANTEES

SEC. 713. (a) The Secretary (acting through the Community Development Corporation) is authorized to guarantee, and enter into commitments to guarantee, the bonds, debentures, notes, and other obligations issued by or on behalf of private new community developers and State land development agencies for the purpose of financing real property acquisition and land development and to compensate for the use of real property or the removal of liens or encumbrances on such property, pursuant to the new community development programs approved by the Secretary. The Secretary may make such guarantees and enter into such commitments upon such terms and conditions as he may prescribe consistent with the limitations and conditions contained in section 716; except that no obligation of any State land development agency shall be guaranteed under this section if the income from such obligation is exempt from Federal taxation. The Secretary is authorized to make grants to any State land development agency the obligations of which are guaranteed under this section in amounts estimated by him not to exceed the difference between the interest paid on such obligations and the interest on similar obligations the income from which is exempt from Federal taxation.

(b) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to principal, interest, and any redemption premiums. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations.

(c) The outstanding bonds, debentures, notes or other obligations guaranteed under this section with respect to a single new community development program shall involve a principal obligation in an amount (1) in the case of a State land development agency, not exceeding 100 per centum of the sum of the Secretary's estimate of the value of the real property before development and his estimate of the actual cost of the land development, or (2) in the case of a private new community developer, not exceeding the sum of 80 per centum of the Secretary's estimate of the value of the real property before development and 90 per centum of his estimate of the actual cost of the land development.

(d) The outstanding principal obligations guaranteed under this section with respect to a single community development program shall at no time exceed $50,000,000.

(e) The aggregate of the outstanding principal obligations guaranteed under this section shall at no time exceed $500,000,000.

LOANS

SEC. 714. (a) The Secretary (acting through the Community Development Corporation) is authorized, subject to the limitations and conditions contained in section 716, to make and enter into agreements to make loans to or on behalf of private new community developers and State land development agencies for the purpose of assisting them to make interest payments on indebtedness incurred by them to finance new community development programs approved by him. Loans under this section shall be in amounts which do not exceed the amount of interest the Secretary estimates is payable on indebtedness attributable to land acquisition or land development and shall be made only with respect to interest payments on indebtedness outstanding during an initial development period (not to exceed fifteen years) which the Secretary estimates to be prior to the time when land marketing activity is of sufficient volume to permit continued development under the new community development program without the benefit of further loans under this section.

(b) The Secretary shall require that loans under this section shall be repaid, with interest and on terms and conditions satisfactory to him, commencing at such time as development progress and marketing under the new community development program permit such repayment, but not later than fifteen years after the date the loan is made. Such loans shall bear interest at a rate specified by the Secretary which shall not be less than 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, plus one-eighth of 1 per centum.

(c) The principal amount of the loans outstanding at any time under this section with respect to a single new community development program shall not exceed $20,000,000.

(d) The aggregate principal amount of the loans outstanding under this section shall at no time exceed $240,000,000.

PUBLIC SERVICE GRANTS

SEC. 715. In addition to providing assistance under the preceding sections, the Secretary (acting through the Community Development Corporation) may make public service grants (in such amounts and on such terms and conditions as he deems appropriate) to a State land development agency or to the State or local public body having responsibility for providing the services involved to cover the cost of providing during an initial period (not exceeding three years) essential public services (including educational, health, and safety services) which the Secretary deems necessary adequately to serve the needs of the residents of the development prior to completion of permanent arrangements for the provision of such services. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

LIMITATIONS ON GUARANTEES AND LOANS

SEC. 716. (a) No guarantee or loan shall be made under this part unless the Secretary has determined that the new community development program represents an acceptable financial risk to the United States, taking into consideration (1) the financial and security interests of the United States, including the manner in which the developer proposes to finance and schedule land acquisition, land development, and marketing, and (2) the public purposes of this part and the special problems involved in financing new communities, including (i) the large amount of initial capital required to finance sound new communities, (ii) the extended period before initial returns can be expected, and (iii) the irregular pattern of cash returns characteristic of this type of development.

(b) The Secretary shall take such steps as he considers reasonable to assure that bonds, debentures, notes, and other obligations guaranteed, or with respect to which interest loans are made, under this part will—

(1) be issued to investors approved by, or meeting requirements prescribed by, the Secretary, or if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;

(2) bear interest at a rate satisfactory to the Secretary;

(3) contain or be subject to repayment, maturity, and other provisions satisfactory to the Secretary; and

(4) contain or be subject to provisions with respect to the protection of the security interests of the United States, including any provisions deemed appropriate by the Secretary relating to subrogation, liens, and releases of liens, payment of taxes, cost certification procedures, escrow or trusteeship requirements or other matters.

REVOLVING FUND

SEC. 717. (a) The Secretary is authorized to establish a revolving fund to provide for (1) the timely payment of any liabilities incurred as the result of guarantees or grants under section 713; (2) making loans authorized under this part; (3) payment of obligations issued to the Secretary of the Treasury under subsection (b) of this section; and (4) any other program expenditures, including administrative and nonadministrative expenses. Such revolving fund shall be comprised of (1) receipts from fees and charges; (2) recoveries under security, subrogation, and other rights; (3) repayments, interest income, and any other receipts obtained in connection with guarantees or loans made under this part; (4) proceeds of the obligations issued to the Secretary of the Treasury pursuant to subsection (b) of this section; and (5) such sums, which are hereby authorized to be appropriated, as may be required for the payment of the obligations issued to the Secretary of the Treasury for the purpose of making grants to State land development agencies under section 713, and for other purposes under this part. Money in the revolving fund not currently needed for the purpose of this part shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed thereby, or in obligations, participations, or other instruments which are lawful investments for fiduciary, trust, or public funds.

(b) The Secretary may issue obligations to the Secretary of the Treasury in an amount sufficient to enable the Secretary to carry out the functions authorized by this part. The obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations so issued, and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include purchases of the obligations, hereunder.

(c) Notwithstanding any other provision of law relating to the acquisition, handling, improvement, or disposal of real and other property by the United States, the Secretary shall have power, for the protection of the interests of the fund authorized under this section, to pay out of such fund all expenses or charges in connection with the acquisition, handling, improvement, or disposal of any property, real or personal, acquired by him as a result of recoveries under security, subrogation, or other rights.

SUPPLEMENTARY GRANTS FOR PUBLIC FACILITIES

SEC. 718. (a) The Secretary is authorized to make supplementary grants to any State or local public body or agency carrying out a new community assistance project, as defined in subsection (c), if the Secretary determines that such project is necessary or desirable for carrying out a new community development program. In no case shall any grant under this section exceed 20 per centum of the cost of the new community assistance project for which the grant is made; and in no case shall the total Federal contributions to the cost of such project be more than 80 per centum.

(b) In carrying out his authority under this section, the Secretary shall, with respect to any new community assistance project assisted by grants administered by a Federal department or agency other than the Department of Housing and Urban Development, consult with such department or agency concerning the project; and he shall, for the purpose of subsection (a), accept the certification of such department or agency as to the cost of such project.

(c) For the purposes of this section, a "new community assistance project" is a project assisted by grants under section 3 of the Urban Mass Transportation Act of 1964; section 120(a) of title 23, United States Code; section 19 of the Airport and Airway Development Act of 1970; title VI of the Public Health Service Act; title II of the Library Services and Construction Act; section 5 of the Land and Water Conservation Fund Act of 1965; title VII of the Housing Act of 1961; section 702 or 703 of the Housing and Urban Development Act of 1965; section 8 of the Federal Water Pollution Control Act; section 306(a)(2) of the Consolidated Farmers Home Administration Act; section 103 or 104 of the Higher Education Facilities Act of 1963; or section 101(a)(1) of the Public Works and Economic Development Act of 1965 with respect to projects of a type eligible for assistance under any of the other provisions of law listed in this subsection.

(d) There are authorized to be appropriated for supplementary grants under this section not to exceed $36,000,000 for the fiscal year ending June 30, 1971, not to exceed $66,000,000 for each of the fiscal years ending June 30, 1972, and June 30, 1973, and not to exceed such sums as may be necessary for any fiscal year commencing after June 30, 1973. Any amount so appropriated shall remain available until expended, and any amounts authorized for any fiscal year but not appropriated my be appropriated for any succeeding fiscal year. In addition, the amounts authorized to be appropriated for grants under section 412 of the Housing and Urban Development Act of 1968 and the amounts appropriated thereunder shall be available for carrying out this section and shall remain available until appropriated and expended.

TECHNICAL ASSISTANCE

SEC. 719. The Secretary is authorized to provide, either directly or by contract or other arrangements, technical assistance to private new community developers and State land development agencies, or State and local public bodies and agencies to assist them in connection with planning and carrying out new community development programs.

SPECIAL PLANNING ASSISTANCE

SEC. 720. (a) The Secretary may, until June 30, 1975, enter into agreements with private new community developers and State land development agencies to provide financial assistance, in amounts, not exceeding two-thirds of the estimated cost of such work, for planning new community development programs, including planning work which he determines will have special value in assuring that new community develop-

ment programs (1) will be fully responsive to social or environmental problems related to the public purposes of new community development, or (2) will adequately provide for, or encourage the use of, new or advanced technology in support of program objectives.

(b) The Secretary shall enter into agreements under this section only with respect to new community development programs which had been approved or are being actively considered for approval, having met such initial feasibility criteria as the Secretary may have prescribed, and, in the case of private new community developers, only with respect to planning work which the Secretary determines is in excess of that which would ordinarily be needed to establish final market, financial, and engineering feasibility for programs or projects of similar size and scope not subject to the special purposes of this part. The financial assistance extended pursuant to such agreements shall be subject to such terms and conditions, which, in the case of private new community developers, may include provisions for repayment where appropriate, as the Secretary may prescribe.

(c) There are authorized to be appropriated for financial assistance under this section not to exceed $5,000,000, which limit shall be increased by $5,000,000 on July 1, 1971. Any amount appropriated under this section shall remain available until expended.

FEES AND CHARGES

SEC. 721. The Secretary is authorized to establish and collect fees for guarantees under this part, and may make such charges in connection with guarantees, loans, and technical and other assistance under this part as he considers reasonable for the analysis of applications, appraisals, inspections, and other activities related to such assistance. On or before March 1, 1973, the Secretary shall make a report to the Congress concerning the fees and charges for guarantees under this part that he estimates will be adequate to provide income sufficient for a self-supporting guarantee program and concerning the relationship of other charges to costs incurred under this part.

ENCOURAGEMENT OF SMALL BUILDERS

SEC. 722. The Secretary shall adopt such requirements as he deems necessary to assure that new community assistance under this part will (1) help maintain a diversified, local homebuilding industry; (2) increase the capability of all segments of the homebuilding industry, including both small and large producers, to participate, through an increased supply of building sites at reasonable costs and through improved technology, in producing the needed, large volume of well-designed, inexpensive housing; and (3) encourage broad participation by the homebuilding industry, particularly small builders.

NEW COMMUNITY DEMONSTRATION PROJECTS

Sec. 723. Upon specific authorization by the President and under applicable Federal law respecting the use of federally owned lands, the Secretary, utilizing funds made available for the purpose by the Congress, is authorized to plan and carry out large-scale projects demonstrating the development of new communities, which shall be designed to contribute to the achievement of the purposes of this part and serve as models for new community developments which could feasibly be carried out by the other public and private developers.

REAL PROPERTY TAXATION

SEC. 724. Nothing in this part shall be construed to exempt any real property that may be acquired and held by the Secretary as a result of the exercise of lien or subrogation rights from real property taxation to the same extent, according to its value, as other real property is taxed.

AUDIT BY GENERAL ACCOUNTING OFFICE

SEC. 725. Insofar as they relate to any guarantees, loans, or grants made pursuant to this part, the financial transactions of recipients of Federal assistance may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

GENERAL PROVISIONS

SEC. 726. In the performance of, and with respect to, the functions, powers, and duties vested in him by this part, the Secretary, in addition to any authority otherwise vested in him, shall—

(1) have the functions, powers, and duties (including the authority to issue rules and regulations) set forth in section 402, except subsections (c)(2), (c)(4), (d), and (f), of the Housing Act of 1950: *Provided*, That subsection (a)(1) of section 402 shall not apply with respect to functions, powers, and duties under section 719 of this part;

(2) have the power, notwithstanding any other provision of law, in connection with any assistance under this part, whether before or after any default, to provide by contract for the extinguishment upon default of any redemption, equitable, legal, or other right, title, or interest of the private new community developer or State land development agency in any mortgage, deed, trust, or other instrument held by or on behalf of the Secretary for the protection of the security interests of the United States; and

(3) have the power to foreclose on any property or commence any action to protect or enforce any right conferred upon him by law, contract, or other agreement, and bid for and purchase at any foreclosure or other sale or property in connection with which he has provided assistance pursuant to this part. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property. Notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection by way of compromise or otherwise all claims acquired by him in connection with any security, subrogation, or other rights obtained by him in administering this part.

TECHNICAL AND CONFORMING PROVISIONS

SEC. 727. (a) No bonds, debentures, notes, or other obligations shall be guaranteed under title IV of the Housing and Urban Development Act of 1968 after the effective date of this part except pursuant to an offer or commitment to guarantee, or a project approval, made before that date: *Provided*, That a new community developer whose new community development project has, as of the effective date of this part, been approved by the Secretary under title IV shall be eligible with respect to obligations thereafter issued by him for guarantee assistance as authorized either by title IV or by this part, and such guarantee assistance may be given without a further determination by the Secretary under sections 712 and 716(a) of this part. If the Secretary finds that an applicant for title IV assistance has submitted complete financial and internal development plans and related materials pursuant to section 404 of such title IV, or major elements of such plans or materials, the Secretary may accept such plans and materials or major elements, respectively, as fully or partially satisfying the requirement under this part for the submission of a new community development program. All receipts, funds, or other assets, and all liabilities of the revolving fund established pursuant to section 407 of the Housing and Urban Development Act of 1968 (including liabilities arising under guarantees made pursuant to such title IV and this section) shall become and be assets and liabilities of the revolving fund established pursuant to this part, as if such assets and liabilities had been received or incurred pursuant to this part, and shall be paid over, held, and accounted for accordingly.

(b) Section 202(b)(4) of the Housing Amendments of 1955 is amended by adding before the period at the end thereof "or under part B of the Urban Growth and New Community Development Act of 1970".

(c) The first paragraph of section 24 of the Federal Reserve Act is amended by inserting the following before the period at the end of the fourth sentence thereof: "or under part B of the Urban Growth and New Community Development Act of 1970".

(d) The twelfth paragraph of section 5(c) of the Homeowners' Loan Act of 1933 is amended by adding in the last sentence immediately after "under title IV of the Housing and Urban Development Act of 1968" the words "or under part B of the Urban Growth and New Community Development Act of 1970".

(e) Section 701 of the Housing Act of 1954 is amended by—

(1) striking out the word "approved" in subsection (a)(4) and adding before the semicolon at the end of such subsection "or under part B of the Urban Growth and New Community Development Act of 1970";

(2) inserting in subsection (b) after "(2) areas described in" the following: "subsection (a)(4) or"; and

(3) striking out the "No" at the beginning of the third sentence of subsection (b) and inserting in lieu thereof "Except for planning for areas described in subsection (a)(4), no".

(f) All laborers and mechanics employed by contractors or subcontractors in land development assisted under this part shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5). No assistance shall be extended under this part for any land development without first obtaining adequate assurance that these labor standards will be maintained upon the construction work involved in such program. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267), and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(g) With respect to any obligation issued by or on behalf of any State land development agency for which the issuer has elected to receive the benefits of the guarantees provided under this part, the interest paid on such obligation and received by the purchaser thereof (or his successor in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954.

JOINT FUNDING

SEC. 728. Funds made available under any Federal assistance program for projects or activities approved as part of, or pursuant to, a new community development program may be used jointly with funds made available for such projects or activities under any other Federal assistance program, subject to regulations prescribed by the President. Such regulations may include provisions for

common technical or administrative requirements where varying or conflicting provisions of law would otherwise apply, for establishing joint management funds and common non-Federal shares, and for special agreements, or delegations of authority, among different Federal agencies in connection with the supervision or administration of assistance. Such regulations shall in any case include appropriate criteria and procedures to assure that any special authorities conferred, which are not otherwise provided for by law, shall be employed only as necessary to promote effective and efficient administration and in a manner consistent with the protection of the Federal interest and program purposes or statutory requirements of a substantive nature. For purposes of this section, the term "Federal assistance program" has the same meaning as under the Intergovernmental Cooperation Act of 1968.

COMMUNITY DEVELOPMENT CORPORATION

SEC. 729. (a) There is hereby created within the Department of Housing and Urban Development a body corporate to be known as the Community Development Corporation which shall carry out its functions subject to the direction and supervision of the Secretary.

(b) The Corporation shall have a Board of Directors (hereinafter referred to as the "Board") which shall consist of five members as follows:

(1) the Secretary, who shall be Chairman of the Board;

(2) one person, to be appointed by the President by and with the advice and consent of the Senate, who shall serve at the pleasure of the President, shall be the General Manager of the Corporation, serving as its chief executive officer under the Board's general direction, and shall receive compensation at the rate provided for positions at level IV of the Executive Schedule (5 U.S.C. 5315); and

(3) three persons, to be appointed by the Secretary, who shall serve at his pleasure, but not more than one such person shall be selected from among officers or employees of the Department of Housing and Urban Development.

Members of the Board who are regular, full-time officers or employees of the Federal Government shall receive no additional compensation for their services as Board members. Other members shall receive for their services as members, when engaged in the performance of their duties, the per diem equivalent to the rate for level IV of the Federal Executive Salary Schedule under section 5315 of title 5 of the United States Code. Each member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title for persons in the Government service employed intermittently.

(c) The functions of the Secretary with respect to guarantees and loans in aid of new community development under this part shall be administered through the Community Development Corporation, and the Corporation shall perform such additional functions, powers, and duties as the Secretary may prescribe from time to time.

PART C—DEVELOPMENT OF RATIONAL URBAN GROWTH PATTERNS

STATE AND REGIONAL PLANNING

SEC. 735. Section 701 of the Housing Act of 1954 is amended by adding at the end thereof the following new subsection:

"(j) In carrying out the provisions of this section relating to planning for States, regions, or other multijurisdictional areas whose development has significance for purposes of national growth and urban development objectives, the Secretary shall encourage the formulation of plans and programs which will include the studies, criteria, standards, and implementing procedures necessary for effectively guiding and controlling major decisions as to where growth should take place within such States, regions, or areas. Such plans and programs shall take account of the availability of and need for conserving land and other irreplaceable natural resources; of projected changes in size, movement, and composition of population; of the necessity for expanding housing and employment opportunities; of the opportunities, requirements, and possible locations for, new communities and large-scale projects for expanding or revitalizing existing communities; and of the need for methods of achieving modernization, simplification, and improvements in governmental structures, systems, and procedures related to growth objectives. If the Secretary determines that activities otherwise eligible for assistance under this section are necessary to the development or implementation of such plans and programs, he may make grants in support of such activities to any governmental agency or organization of public officials which he determines is capable of carrying out the planning work involved in an effective and efficient manner and may make such grants in an amount equal to not more than 75 per centum of the cost of such activities."

PART D—DEVELOPMENT OF INNER CITY AREAS

PURPOSE

SEC. 740. It is the purpose of this part to provide our cities, which urgently need to augment their inventories of housing (particularly housing for low and moderate income families) and to find sites for essential public facilities and additional sources of employment, but have virtually no vacant land upon which to build, with a program which will make possible the more rational use of urban land and space that is currently occupied by industrial or commercial uses which though not physically blighted are functionally obsolete or uneconomic, or of land and space that is not usable in its present state because of natural hazards or inadequate development, so that in appropriate cases major rebuilding projects (including new communities in town) may be undertaken without major residential clearance activities and with minimal displacement.

AMENDMENTS TO TITLE I OF THE HOUSING ACT OF 1949

SEC. 741. (a) The proviso in section 103(a)(1) of such Act is amended by inserting after "open land" the following: "(other than land within the purview of section 110(c)(1)(v)),".

(b) Section 110(c)(1) of such Act is amended—

(1) by inserting before the first proviso the following: ", or (v) land or space which is vacant, unused, underused, or inappropriately used (including infrequently used rail yards and rail storage facilities, and excessive or vacated railroad rights-of-way; air rights over streets, expressways, railroads, waterways, and similar locations; land which is occupied by functionally obsolete nonresidential buildings or is used for low-utility purposes or is covered by shallow water or is subject to periodic flooding or consists of unused or underused slips or dock areas or other waterfront property; which land or space the Secretary determines may be developed (at a cost reasonably related to the public purpose to be served) without major residential clearance activities, and with full consideration to the preservation of beneficial aspects of the urban and natural environment, for such uses as are consistent with emphasis on housing for low- and moderate-income families, including the provision of schools, hospitals, parks, and other essential public facilities, and, where appropriate, all uses associated with new communities in town or similar large scale undertakings related to inner city needs, including concentrated sources of employment"; and

(2) by striking "clauses (iii) and (iv)" in the first proviso and inserting in lieu thereof "clauses (iii), (iv), and (v)".

(c) Section 110(c)(7) of such Act is amended to read as follows:

"(7) Construction of foundations and platforms necessary for the development of air rights sites in accordance with the provisions of clause (iv) or (v) of paragraph (1) of this subsection."

TITLE VIII—FARM HOUSING

HOUSING AND RELATED FACILITIES FOR DOMESTIC FARM LABOR

SEC. 801. (a) That part of the text of subsection (a) of section 514 of the Housing Act of 1949 which precedes the first numbered paragraph is amended to read as follows: "The Secretary is authorized to insure and make commitments to insure loans made by lenders other than the United States to the owner of any farm or any association of farmers for the purpose of providing housing and related facilities for domestic farm labor, or to any State (or political subdivision thereof), or any broad-based public or private nonprofit organization or any nonprofit organization of farmworkers incorporated within the State for the purpose of providing housing and related facilities for domestic farm labor any place within the State where a need exists. All such loans shall be made in accordance with terms and conditions substantially identical with those specified in section 502, except that—".

(b) Section 514(a) of such Act is amended by striking out in paragraph (2) "5 per centum" and inserting in lieu thereof "1 per centum".

(c) Paragraphs (1) and (2) of section 514(f) and paragraph (1) of section 516(g) are amended by inserting "(including household furnishings)" after "structures", each place the term appears.

(d) Section 516 of such Act is amended—

(1) by striking out that part of the text of subsection (a) which precedes the first numbered paragraph and inserting in lieu thereof the following: "Upon the application of any State or political subdivision thereof, or any broad-based public or private nonprofit organization incorporated within the State, or any nonprofit organization of farmworkers incorporated within the State, the Secretary is authorized to provide financial assistance for the provision of low-rent housing and related facilities (which may be located any place within the State) for domestic farm labor, if he finds that—";

(2) by striking out in paragraph (2) of subsection (a) "one-third" and inserting in lieu thereof "10 per centum";

(3) by inserting after "thereof" in paragraph (3) of subsection (a) the following: ", and such housing and facilities shall be durable and suitable for year-around occupancy or use, unless the Secretary finds that there is no need for such year-around occupancy or use in that area;" and

(4) by striking out in subsection (b) "two-thirds" and inserting in lieu thereof "90 per centum".

RURAL HOUSING LOANS ON NONFARM LEASEHOLD

SEC. 802. Section 501(b)(2) of the Housing Act of 1949 is amended by striking out "this title, the terms 'owner', 'farm', and 'mortgage' shall be deemed to include, respectively, the lessee of, the land included in" and inserting in lieu thereof the following: "sections 502 and 504, the terms 'owner' and 'mortgage' shall be deemed to include, respectively, the lessee of".

MISCELLANEOUS FARM HOUSING AMENDMENTS

SEC. 803. (a) The second sentence of section 504(a) of the Housing Act of 1949 is amended by striking out "in excess of $1,500" and inserting in lieu thereof "in ex-

cess of $2,500, or in excess of such larger amount not exceeding $3,500 as the Secretary determines to be necessary in the case of repairs or improvements involving water supply, septic tank, or bathroom or kitchen plumbing facilities".

(b) Section 508(b) of such Act is amended by striking out "shall" wherever it appears in the first and second sentences and inserting in lieu thereof "may".

(c) Section 515(b)(1) of such Act is amended by striking out "$300,000" and inserting in lieu thereof "$750,000".

(d) Section 517(j)(3) of such Act is amended by inserting after "collections" the following: "or necessary to obtain credit reports on applicants or borrowers".

(e) Section 520 of such Act is amended by striking out "5,500" and inserting in lieu thereof "10,000".

TITLE IX—MISCELLANEOUS

LIABILITY OF FNMA TO UNITED STATES

SEC. 901. (a) In accordance with the provisions of section 303(a) of the National Housing Act concerning payment of a prescribed part of the general surplus and reserves of the corporation, the Federal National Mortgage Association shall pay to the Secretary of the Treasury $52,386,117.

(b) In accordance with the provisions of section 309(c) of the National Housing Act as it existed prior to September 1, 1968, the Federal National Mortgage Association shall pay to the Secretary of the Treasury the remaining income tax equivalent of $16,479,604, plus interest (1) on $2,977,442 at the rate of 6 per centum from September 16, 1967, until the date of payment; (2) on $13,442,424 at the rate of 6 per centum from September 16, 1968, until the date of payment; and (3) on $59,738 at 6 per centum from November 16, 1968, until the date of payment.

(c) The receipt by the Secretary of the Treasury of the amounts required to be paid by subsections (a) and (b) of this section shall constitute a full and final settlement of all matters affected by such subsections. The United States shall be made a party defendant in any case against any person who is, has been, or may be a director, officer, employee, or agent of the Federal National Mortgage Association because of any action taken pursuant to subsection (a) or (b) of this section, and any judgment awarded the Federal National Mortgage Association shall be paid in the same manner as a judgment against the United States.

(d) Section 302(a) of the National Housing Act, as amended, is further amended by adding at the end thereof the following new paragraph:

"(3) The partition transaction effected pursuant to the foregoing paragraph constitutes a reorganization within the meaning of section 368(a)(1)(E) of the Internal Revenue Code of 1954; and for the purposes of such Code, no gain or loss is recognized by the previously existing body corporate by reason of the partition, and the basis and holding period of the assets of the corporation immediately following such partition are the same as the basis and holding period of such assets immediately prior to such partition."

(e) Section 810(a) of the Housing and Urban Development Act of 1968 is amended by adding at the end thereof the following sentence: "For the purposes of the Internal Revenue Code of 1954, no gain or loss is recognized by the holders of such stock on such change, and the the basis and holding period of such stock in the hands of the stockholders immediately after such change are the same as the basis and holding period of such stock in their hands immediately prior to such change."

PURCHASE OF FNMA STOCK

SEC. 902. Section 303(b) of the National Housing Act is amended—

(1) by striking out "shall accumulate" and inserting in lieu thereof "may accumulate";

(2) by striking out "and other";

(3) by striking out "nor less than 1 per centum"; and

(4) by inserting "with the approval of the Secretary of Housing and Urban Development" immediately after "as determined from time to time by the corporation".

ADVICE AND ASSISTANCE WITH RESPECT TO HOUSING FOR LOW- AND MODERATE-INCOME FAMILIES

SEC. 903. (a) Subsection (a) of section 106 of the Housing and Urban Development Act of 1968 is amended to read as follows:

"(a)(1) The Secretary is authorized to provide, or contract with public or private organizations to provide, information, advice, and technical assistance, including but not limited to—

"(i) the assembly, correlation, publication, and dissemination of information with respect to the construction, rehabilitation, and operation of low- and moderate-income housing;

"(ii) the provision of advice and technical assistance to public bodies or to nonprofit or cooperative organizations with respect to the construction, rehabilitation, and operation of low- and moderate-income housing, including assistance with respect to self-help and mutual self-help programs;

"(iii) counseling on household management, self-help, budgeting, money management, child care, and related counseling services which would assist low- and moderate-income families receiving assistance under the United States Housing Act of 1937 or the National Housing Act in improving their living conditions and housing opportunities, and in meeting the responsibilities of homeownership.

"(2) There is authorized to be appropriated for the purposes of this subsection, without fiscal year limitation, not to exceed $5,000,000. Any amounts so appropriated shall remain available until expended."

(b) The first sentence of section 106(b)(1) of such Act is amended by striking out "any federally assisted program" and inserting in lieu thereof "section 235 of the National Housing Act or any other federally assisted program".

(c) Section 2(6) of the United States Housing Act of 1937 is amended by adding at the end thereof the following: "The term also means the financing of tenant programs and services for families residing in low-rent housing projects, particularly where there is maximum feasible participation of the tenants in the development and operation of such tenant programs and services. As used in this paragraph, the term 'tenant programs and services' includes the development and maintenance of tenant organizations which participate in the management of low-rent housing projects; the training of tenants to manage and operate such projects and the utilization of their services in project management and operation; counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies when necessary for the provision of such services. To the maximum extent available and appropriate, existing public and private agencies in the community shall be used for the provision of such services."

(d) Section 15(10) of the United States Housing Act of 1937 is repealed.

TRAINING IN HOUSING MANAGEMENT

SEC. 904. Section 803 of the Housing Act of 1964 is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and inserting after subsection (a) a new subsection as follows:

"(b) Grants may be made under subsection (a) to support (1) the training of persons, especially persons of low income, in acquiring the skills needed in the management of housing for low- and moderate-income persons, and (2) research and the dissemination of information with respect to the problems involved in the management of housing for low- and moderate-income persons."

GENERAL ADMINISTRATIVE POWERS OF THE SECRETARY

SEC. 905. Section 7 of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following new subsections:

"(h) Except as such authority is otherwise expressly provided in any other Act administered by the Secretary, such financial transactions of the Secretary as the making of loans or grants (and vouchers approved by the Secretary in connection with such financial transactions shall be deposited and conclusive upon all officers of the Government. Funds made available to the Secretary pursuant to any provision of law for such financial transactions shall be deposited in a checking account or accounts with the Treasurer of the United States. Such funds and any receipts and assets obtained or held by the Secretary in connection with such financial transactions shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with such financial transactions. Notwithstanding the provisions of any other law, the Secretary may, with the approval of the Comptroller General, consolidate into one or more accounts for banking and checking purposes all cash obtained or held in connection with such financial transactions, including amounts appropriated, from whatever source derived.

"(i) Except as such authority is otherwise expressly provided in any other Act administered by the Secretary, the Secretary is authorized to:

"(1) foreclose on any property or commence any action to protect or enforce any right conferred upon him by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which he has made a loan or grant. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property: *Provided*, That any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property: *Provided further*, That section 3709 of the Revised Statutes shall not apply to any contract for services or supplies on account of any property so acquired or owned if the amount of such contract does not exceed $2,500;

"(2) enter into agreements to pay annual sums in lieu of taxes to any State or local taxing authority with respect to any real property so acquired or owned;

"(3) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as he may fix;

"(4) obtain insurance against loss in connection with property and other assets held;

"(5) consent to the modification, with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract

or agreement to which he is a party or which has been transferred to him; and

"(6) include in any contract or instrument such other covenants, conditions, or provisions as he may deem necessary.

"(j) Notwithstanding any other provision of law the Secretary is authorized to establish fees and charges, chargeable against program beneficiaries and project participants, which shall be adequate to cover over the long run, costs of inspection, project review and financing service, audit by Federal or federally authorized auditors, and other beneficial rights, privileges, licenses, and services. Such fees and charges heretofore or hereafter collected shall be considered nonadministrative and shall remain available for operating expenses of the Department in providing similar services on a consolidated basis.

"(k) (1) The Secretary is authorized to accept and utilize voluntary and uncompensated services and accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Secretary. Property accepted pursuant to this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

"(2) For the purpose of Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift or bequest to or for use of the United States.

"(3) Upon the request of the Secretary, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in paragraph (1). Income accruing from such securities and from any other property held by the Secretary pursuant to paragraph (1) shall be deposited to the credit of the fund and shall be disbursed upon order of the Secretary.

"(l) The Secretary is authorized to appoint, without regard to the civil service laws, such advisory committees as shall be appropriate for the purpose of consultation with and advice to the Department in performance of its functions. Members of such committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Secretary, may be paid compensation at rates not exceeding those authorized for individuals under subsection (e) of this section, and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently."

INCREASED FEES FOR CONSULTANT SERVICES

SEC. 906. Section 7(e) of the Department of Housing and Urban Development Act is amended by striking out everything after the word "rates" and inserting in lieu thereof the following: "for individuals not to exceed the per diem equivalent to the highest rate for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code."

SAVINGS AND LOAN ASSOCIATIONS

SEC. 907. (a) Section 12(b) of the Federal Home Loan Bank Act (12 U.S.C. 1432(b)) is amended by adding at the end a new sentence as follows: "This authority extends to the acquisition, holding, and disposition of loans, or interests therein, having the benefit of any guaranty under section 221 or 222 of the Foreign Assistance Act of 1961, as amended by section 105 of the Foreign Assistance Act of 1969 or as hereafter amended or extended, or of any commitment or agreement for any such guaranty."

(b) Section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended by inserting after the period following "section 224 of such Act, or any commitment or agreement with respect to such loans, or interests therein, made pursuant to either of such sections" a new sentence as follows: "This authority extends to the acquisition, holding, and disposition of loans, or interests therein, having the benefit of any guaranty under section 221 or 222 of the Foreign Assistance Act of 1961, as amended by section 105 of the Foreign Assistance Act of 1969 or as hereafter amended or extended, or of any commitment or agreement for any such guaranty."

(c) The first sentence of section 5(c) of the Home Owners' Loan Act of 1933 is amended by striking out "18" and inserting in lieu thereof "20".

FINANCIAL INSTITUTIONS SUPERVISORY ACT OF 1966

SEC. 908. Title IV of the Financial Institutions Supervisory Act of 1966 (80 Stat. 1056) is repealed.

INTERSTATE LAND SALES FULL DISCLOSURE ACT

SEC. 909. Section 1406(5) of the Interstate Land Sales Full Disclosure Act is amended by inserting after the first comma the following: "the existence of any unusual conditions relating to noise or safety which affect the subdivision and are known to the developer,".

ELIGIBILITY OF AMERICAN SAMOA BANKS FOR FEDERAL DEPOSIT INSURANCE

SEC. 910. (a) Subsection (a) of section 3 of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1813(a)), is further amended by inserting the words "American Samoa," after the word "Guam," each place it appears therein.

(b) Subsection (d) of section 3 of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1813(d)), is further amended by inserting the words "American Samoa," after the word "Guam,".

(c) Subsection (e) of section 3 of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1813(e)), is further amended by inserting the words "American Samoa," after the word "Guam,".

(d) Paragraph (5) of subsection (1) of section 3 of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1813(l)(5)), is further amended by inserting the words "American Samoa," after the word "Guam,".

(e) Subsection (m) of section 3 of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1813(m)), is further amended by inserting the words "of American Samoa," after the word "Guam,".

(f) Subsection (o) of section 3 of the Federal Deposit Insurance Act as amended (12 U.S.C. 1813(o)), is further amended by inserting the words "American Samoa," after the word "Guam,".

(g) Paragraph (4) of subsection (a) of section 7 of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1817(a)(4)), is further amended by inserting the words "American Samoa," after the word "Guam,".

(h) Subparagraph (B) of paragraph (5) of subsection (b) of section 7 of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1817(b)(5)(B)), is further amended by inserting the words "American Samoa," after the word "Guam,".

SURETY BOND GUARANTEES

SEC. 911. (a) Title IV of the Small Business Investment Act of 1958 is amended—

(1) by striking out the title heading and inserting in lieu thereof the following:

"TITLE IV—GUARANTEES

"PART A—LEASE GUARANTEES";

(2) by striking out "this title", wherever it appears in sections 401 and 402, and inserting in lieu thereof "this part";

(3) by amending section 403 thereof to read as follows:

"SEC. 403. There is hereby established a revolving fund for use by the Administration in carrying out the provisions of this part and part B of this title. Initial capital for such fund shall consist of not to exceed $10,000,000 transferred from the fund established under section 4(c) of the Small Business Act: *Provided*, That the last sentence of such section 4(c) shall not apply to any amounts so transferred. Into the fund established by this section there shall be deposited all receipts from the guarantee programs authorized by this title. Moneys in such fund not needed for the payment of current operating expenses or for the payment of claims arising under such programs may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as initial capital for such fund shall not be so invested but shall be returned to the fund established by section 4(c) of the Small Business Act, in such amounts and at such times as the Administration determines to be appropriate, whenever the level of the fund herein established is sufficiently high to permit the return of such moneys without danger to the solvency of the programs under this title. The Administration shall pay into miscellaneous receipts of the Treasury, as of the close of each fiscal year, interest on the net outstanding disbursements of the initial capital from the fund, at rates determined by the Secretary of the Treasury, taking into consideration the average yield on outstanding long-term, interest-bearing marketable public debt obligations of the United States as of the month of June preceding such fiscal year."; and

(4) by adding at the end thereof the following:

"PART B—SURETY BOND GUARANTEES

"DEFINITIONS

"SEC. 410. As used in this part—

"(1) The term 'bid bond' means a bond conditioned upon the bidder on a contract entering into the contract, if he receives the award thereof, and furnishing the prescribed payment bond and performance bond.

"(2) The term 'payment bond' means a bond conditioned upon the payment by the principal of money to persons under contract with him.

"(3) The term 'performance bond' means a bond conditioned upon the completion by the principal of a contract in accordance with its terms.

"(4) The term 'surety' means the person who, (A) under the terms of a bid bond, undertakes to pay a sum of money to the obligee in the event the principal breaches the conditions of the bond, (B) under the terms of a performance bond, undertakes to incur the cost of fulfilling the terms of a contract in the event the principal breaches the conditions of the contract, or (C) under the terms of a payment bond, undertakes to make payment to all persons supplying labor and material in the prosecution of the work provided for in the contract if the principal fails to make prompt payment.

"(5) The term 'obligee' means (A) in the case of a bid bond, the person requesting bids for the performance of a contract, or (B) in the case of a payment bond or performance bond, the person who has contracted with a principal for the completion of the contract and to whom the obligation of the surety runs in the event of a breach by the principal of the conditions of a payment bond or performance bond.

"(6) The term 'principal' means (A) in

the case of a bid bond, a person bidding for the award of a contract, or (B) the person primarily liable to complete a contract for the obligee, or to make payments to other persons in respect of such contract, and for whose performance of his obligation the surety is bound under the terms of a payment or performance bond. A principal may be a prime contractor or a subcontractor.

"(7) The term 'prime contractor' means the person with whom the obligee has contracted to perform the contract.

"(8) The term 'subcontractor' means a person who has contracted with a prime contractor or with another subcontractor to perform a contract.

"AUTHORITY OF THE ADMINISTRATION

"SEC. 411. (a) The Administration may, in consultation with the Secretary of Housing and Urban Development and upon such terms and conditions as it may prescribe, guarantee and enter into commitments to guarantee any surety against loss, as hereinafter provided, as the result of the breach of the terms of a bid bond, payment bond, or performance bond by a principal on any contract up to $500,000 in amount, subject to the following conditions:

"(1) The person who would be the principal of the bond is a small business concern.

"(2) The bond is required in order for such person to bid on a contract, or to serve as a prime contractor or subcontractor thereon.

"(3) Such person is not able to obtain such bond on reasonable terms and conditions without a guarantee under this section.

"(4) The Administration determines that there is a reasonable expectation that such person will perform the covenants and conditions of the contract with respect to which the bond is required.

"(5) The contract meets requirements established by the Administration for feasibility of successful completion and reasonableness of cost.

"(6) The terms and conditions of any bond guaranteed under the authority of this part are reasonable in light of the risks involved and the extent of the surety's participation.

"(b) Any contract of guarantee under this section shall obligate the Administration to pay to the surety a sum not to exceed 90 per centum of the loss incurred by the surety in fulfilling the terms of his contract as the result of the breach by the principal of the terms of a bid bond, performance bond, or payment bond.

"(c) The Administration shall fix a uniform annual fee which it deems reasonable and necessary for any guarantee issued under this section, to be payable at such time and under such conditions as may be determined by the Administration. Such fee shall be subject to periodic review in order that the lowest fee that experience under the program shows to be justified will be placed into effect. The Administration shall also fix such uniform fees for the processing of applications for guarantees under this section as it determines are reasonable and necessary to pay administrative expenses incurred in connection therewith. Any contract of guarantee under this section shall obligate the surety to pay the Administration such portions of the bond fee as the Administration determines to be reasonable in the light of the relative risks and costs involved.

"(d) The provisions of section 402 shall apply in the administration of this section."

(b)(1) The Secretary of Housing and Urban Development is authorized to take such steps and carry out such activities as he determines to be necessary or desirable to provide, either directly or by contract or other arrangement, technical assistance to any contractor or subcontractor for whom a bid, payment, or performance bond is guaranteed under part B of title IV, the Small Business Investment Act of 1958 in connection with any construction contract, in order to assist such contractor or subcontractor in obtaining or carrying out such contract.

(2) There are authorized to be appropriated for each of the first three fiscal years ending after the date of the enactment of this Act such sums, not to exceed $1,500,000, as may be necessary to enable the Secretary to carry out his functions under paragraph (1).

EQUITY SKIMMING

SEC. 912. Whoever, with intent to defraud, willfully engages in a pattern or practice of—

(1) purchasing one- to four-family dwellings which are subject to a loan in default at time of purchase or in default within one year subsequent to the purchase and the loan is secured by a mortgage or deed of trust insured or held by the Secretary of Housing and Urban Development or guaranteed by the Veterans' Administration, or the loan is made by the Veterans' Administration.

(2) failing to make payments under the mortgage or deed of trust as the payments become due, and

(3) applying or authorizing the application of rents from such dwellings for his own use,

shall be fined not more than $5,000 or imprisoned not more than three years, or both. This section shall apply to a purchaser of such a dwelling, or a beneficial owner under any business organization or trust purchasing such dwelling, or to an officer, director, or agent of any such purchaser. Nothing in this section shall apply to the purchaser of only one such dwelling.

REGULATION OF SAVINGS AND LOAN ASSOCIATIONS IN THE DISTRICT OF COLUMBIA

SEC. 913. The Home Owners' Loan Act of 1933 is amended by adding immediately after section 7 the following new section:

"SEC. 8. (a) Without regard to any provision of law other than this section, and without limitation on any other power or function now or hereafter vested in or exercisable by the Federal Home Loan Bank Board by or under this Act or otherwise, the Board shall, with respect to all incorporated or unincorporated building, building or loan, building and loan, or homestead associations, and similar institutions, of or transacting or doing business in the District of Columbia, or maintaining any office in the District of Columbia (other than Federal savings and loan associations), have the same powers and functions as to examination, operation, and regulation as are now or hereafter vested in or exercisable by it with respect to Federal savings and loan associations by or under section 5 of this Act or otherwise, and all of the provisions of subsection (d) of section 5 of this Act as now or hereafter in force shall be applicable with respect to such associations or institutions.

"(b) Any such association or institution incorporated under the laws of, or organized in, the District of Columbia shall have in addition to any existing statutory authority such statutory authority as is from time to time vested in Federal savings and loan associations.

"(c) Charters, certificates of incorporation, articles of incorporation, constitutions, bylaws, or other organic documents of associations or institutions referred to in subsection (b) of this section may, without regard to anything contained therein or otherwise, hereafter be amended in such manner and to such extent and upon such vote or votes if any as the Federal Home Loan Bank Board may by regulation or otherwise provide.

"(d) Nothing herein shall cause, or permit the Federal Home Loan Bank Board to cause, District of Columbia associations to be or become Federal savings and loan associations, or require the Board to impose on District of Columbia associations the same regulations as are imposed on Federal savings and loan associations."

MATURITY OF CERTAIN HOME LOAN BANK ADVANCES TO SAVINGS AND LOAN ASSOCIATIONS

SEC. 914. Section 11(g) of the Federal Home Loan Bank Act is amended by striking out "one year" each place it appears and inserting in lieu thereof "five years".

CRIMINAL PENALTY FOR FRAUD OR FALSE STATEMENTS TO INFLUENCE CERTAIN INSURED INSTITUTIONS AND FEDERAL AGENCIES

SEC. 915. Section 1014 of title 18 of the United States Code is amended by striking out "or an insured State-chartered credit union" and inserting in lieu thereof "an insured State-chartered credit union, any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, any bank the deposits of which are insured by the Federal Deposit Insurance Corporation, any member of the Federal Home Loan Bank System, the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the Administrator of the National Credit Union Administration".

UNPLEDGED DEPOSITS IN BANK FOR SAVINGS AND LOAN ASSOCIATIONS, CHICAGO, ILLINOIS

SEC. 916. Unpledged deposits in the Bank For Savings and Loan Associations, Chicago, Illinois, maintained by any institution which is a member of a Federal Home Loan Bank or is an insured institution as defined in section 401(a) of the National Housing Act, shall be considered assets for purposes of meeting the liquidity requirements of section 5A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1425a(b)).

INFORMATION AND ADVICE TO NONPROFIT PROJECT SPONSORS

SEC. 917. Section 4 of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following new subsection:

"(d) There shall be in the Department an Assistant to the Secretary, designated by the Secretary, who shall be responsible for providing information and advice to nonprofit organizations desiring to sponsor housing projects assisted under programs administered by the Department."

ANNUAL REPORT ON PROGRAM ADMINISTRATION AND MANAGEMENT

SEC. 918. Section 5 of the Housing and Urban Development Act of 1968 is amended by striking out "in the calendar year 1969 and in the calendar year 1970" and inserting in lieu thereof "in each calendar year."

DISPOSITION OF SURPLUS LAND FOR LOW AND MODERATE INCOME HOUSING AND RELATED FACILITIES

SEC. 919. (a) Section 414(a) of the Housing and Urban Development Act of 1969 is amended—

(1) by striking out "rental or cooperative" in the first sentence;

(2) by striking out the period at the end of the first sentence and inserting after "income" the following: ", and for related public facilities and for related commercial and industrial facilities approved by the Secretary."; and

(3) by inserting "235 or" between "section" and "236" in clause (C).

(b) Section 414(b) of such Act is amended—

(1) by striking out "rental or cooperative" in the first sentence;

(2) by inserting "and related facilities" between "housing" and "to" in the first sentence;

(3) by inserting "and the Administrator of General Services" after "Secretary" in the second sentence, and by striking out "has" before "approved" in the second sentence and inserting in lieu thereof "have"; and

(4) by inserting "and the Committees on Government Operations" after "Currency"

in the third sentence, and by striking out "he approves" in the third sentence and inserting in lieu thereof "he and the Administrator of General Services approve".

SAVINGS AND LOAN HOLDING COMPANIES

SEC. 920. Section 408(d)(4)(B) of the Savings and Loan Holding Company Amendments of 1967 is amended by inserting before the semicolon at the end therefore the following: ": *Provided, however,* That with the prior written approval of the Corporation, a subsidiary insured institution may make a loan, discount, or extension of credit to a third party on the security of property acquired from a wholly owned affiliate service corporation. The Corporation shall grant approval of any application for approval under this subdivision if, in the opinion of the Corporation, such a loan, discount, or extension of credit would not be detrimental to the interests of savings account, or extension of credit would not be to the insurance risk of the Corporation with respect to such institution, and would not be a means of facilitating the sale of (1) property purchased from any savings and loan holding company or any affiliate thereof other than such service corporation, or (2) property heretofore owned, legally or beneficially, by any savings and loan holding company or affiliate thereof".

TIMBER FOR HOUSING NEEDS

SEC. 921. Section 2(a) of the Act of April 12, 1926, as amended (16 U.S.C. 617(a)), is amended by striking out "1971" and inserting in lieu thereof "1973".

And the Senate agree to the same.

WRIGHT PATMAN,
W. A. BARRETT,
LEONOR K. SULLIVAN,
THOMAS L. ASHLEY,
WILLIAM B. WIDNALL,
FLORENCE P. DWYER,
J. WILLIAM STANTON,
Managers on the Part of the House.

JOHN SPARKMAN,
WILLIAM PROXMIRE,
HARRISON A. WILLIAMS,
EDMUND S. MUSKIE,
WALLACE BENNETT,
JOHN TOWER,
EDWARD W. BROOKE,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 19436) to provide for the establishment of a national urban growth policy, to encourage and support the proper growth and development of our States, metropolitan areas, cities, counties, and towns with emphasis upon new community and inner city development, to extend and amend laws relating to housing and urban development, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate struck out all of the House bill after the enacting clause and inserted a substitute amendment. The committee of conference has agreed to a substitute for both the House bill and the Senate amendment. Except for minor and nonsubstantive provisions, and technical, clarifying, and conforming changes, the following statement explains the differences between the House bill and the substitute agreed to in conference.

TITLE I—MORTGAGE CREDIT

Authorizations for sections 235 and 236 interest subsidy programs

The Senate amendment provided $80 million in additional contract authority for each of the sections 235 and 236 interest subsidy programs in fiscal year 1972. The House bill provided additional contract authority of $15 million for each of the programs in fiscal year 1972. The conference substitute provides an additional $30 million for each of these programs in fiscal year 1972.

Recapture of contract authority under sections 235 and 236

The Senate amendment contained a provision not in the House bill clarifying the authority of the Secretary of Housing and Urban Development to recapture contract authority under the sections 235 and 236 programs which would otherwise expire whenever an assistance contract is terminated. The conference substitute contains the Senate provision.

Compensation for defects in section 235 existing housing

The Senate amendment contained a provision not in the House bill authorizing the HUD Secretary to make expenditures to correct, or to compensate the owner for, latent or structural defects in an existing dwelling if (1) the owner requests the Secretary's assistance not later than one year after insurance of the mortgage, and (2) the defect is one that a competent appraiser could reasonably be expected to recognize. The conference substitute contains a similar provision with the following substantive modifications: first, the provision would be applicable to all purchasers of section 235 existing homes insured since the inception of the program, and second, the HUD Secretary would be authorized to require the seller of a section 235 existing home to agree to reimburse him for any payments made under this section with respect to such a dwelling.

Rehabilitation under section 235 program

The Senate amendment contained a provision not in the House bill providing that at least 10 percent of the total amount of contracts for section 235 assistance payments authorized beginning in fiscal year 1972 shall be available for use only with respect to rehabilitated dwellings. The conference substitute contains this Senate provision.

Mortgages for civilian personnel at military installations

The Senate amendment contained a provision not in the House bill authorizing HUD under the section 809 mortgage insurance program for civilian employees at military installations to insure mortgages for civilian research employees who are involved in more than one mortgage transaction under the program. The conference substitute contains this Senate provision.

FHA mobile home loans

The Senate amendment contained a provision not in the House bill providing that when a mobile unit is composed of two or more modules, the maximum insurable mobile home loan under the FHA title I loan program may be $15,000 (instead of $10,000) and the maximum term may be 15 years, 32 days (instead of 12 years, 32 days). The conference substitute contains this Senate provision.

Use of certain housing facilities for classroom purposes

The Senate amendment contained a provision authorizing the use of available facilities in existing section 221(d)(3) and section 236 rental assistance projects for classroom purposes where public schools are overcrowded partly as a result of the project. The House bill contained a similar provision, but did not limit such use to existing projects. The conference substitute contains the Senate provision.

Increases in certain FHA mortgage ceilings

The House bill contained a provision not in the Senate amendment permitting the HUD Secretary, in addition to his existing authority to raise section 221(d)(3) per unit cost limits by up to 45 percent in areas where cost levels so require, to further raise these increased limits by up to 20 percent in areas where he finds necessary to meet increased construction costs. The conference report contains no such provision.

Limitation on eligibility for section 235 assistance payments

The House bill contained a provision not in the Senate amendment prohibiting the making of homeownership assistance payments on behalf of any family eligible for section 203(b) mortgage insurance in an amount equal to or exceeding the median mortgage insured under section 203(b) in the area where the property is located, during the most recent 3-month period for which information is available, if the HUD Secretary finds that there is adequate housing within that price range available in the area which meets the standards applicable to new or rehabilitated housing with respect to which assistance payments may be made under section 235. The conference substitute contains no such provision. The conferees deleted the House provision because, as a practical matter, the limitation would have made it difficult, if not impossible, to build needed new housing units in many areas of the country, and that it would have created serious administrative problems and inequities among families otherwise eligible to participate in the section 235 program. The conferees understand that the Department of Housing and Urban Development is dealing with the problem the House provision attempted to correct by administratively excluding from section 235 assistance any family who can afford to buy the particular home without subsidy. The conferees urge the Department to take all further necessary steps to assure that the benefits of the section 235 program are limited to families which cannot afford to obtain decent homes without subsidy.

Assistance under section 236 and rent supplement programs for existing projects financed under State or local programs

The House bill contained a provision not in the Senate amendment authorizing the use of section 236 rental assistance payments and rent supplement payments with respect to rental or cooperative housing projects financed under state or local programs, without regard to the time at which construction or rehabilitation of the project is completed. The conference substitute contains the House provision. The benefits of this provision should be made available only with respect to existing projects where the recent record-high interest rate levels have forced such projects to remain in temporary financing, and consequently endanger the low- and moderate-income character of the projects.

Planning requirements with respect to mortgage insurance for land development

The House bill contained a provision not in the Senate amendment providing that land development projects assisted under the title X mortgage insurance for land development program be required to be consistent with comprehensive planning in the area of the project only if such a comprehensive plan exists in the area. The conference substitute contains a provision permitting approval of projects under the title X program where no comprehensive plan exists for a period of one year after the date of enactment of the Housing and Urban Development Act of 1970.

Section 235 assistance for three-unit dwellings

The House bill contained a provision not in the Senate amendment making 3-family owner-occupied buildings eligible for section 235 homeownership assistance. The conference substitute contains no such provision.

TITLE II—RENEWAL OF HOUSING ASSISTANCE PROGRAM

Public Housing Annual Contributions

The Senate amendment increased public housing contract authority by $150 million in fiscal year 1971 and by $275 million in fiscal year 1972. In addition, the Senate report accompanying S. 4368, provided that of the additional $150 million provided in fiscal year 1971, it was the Committee's intention that $75 million be used exclusively for payment of operating and maintenance expenses authorized to be paid under section 204 of the Senate amendment. The House bill authorized an additional $150 million in fiscal year 1971 and $175 million in fiscal year 1972. The conference substitute authorizes an additional $150 million in fiscal year 1971 and $225 million in fiscal year 1972. The conferees intend that of the $150 million authorized in fiscal year 1971, $75 million be used exclusively for operating and maintenance expenses authorized by section 210 of the conference substitute.

Term and renewal of contracts for low-rent housing in private accommodations

The Senate amendment extended the initial term of leases and renewal periods under the section 23 public housing leasing program from 5 to 10 years. The House bill extended from 5 to 10 years the maximum term of such leases, but provided that the total term of a lease and all renewals was limited to 15 years. The conference substitute contains a provision which (1) extends, from a maximum of 5 years to 10 years, the initial lease term on an existing structure, and permits renewals which could result in a total term of not more than 15 years; and (2) extends, from a maximum of 5 years to 10 years, the initial lease term on a newly built dwelling, and permits renewals which could result in a total term of not more than 20 years.

Congregate housing for the displaced, elderly, handicapped

The Senate amendment directed the HUD Secretary to encourage the provision of public housing projects with common dining facilities for the elderly. The House bill contained a provision expressly including within the meaning of the term "low rent housing" dormitory-type dwelling accommodations to be occupied by displaced, elderly, or handicapped persons of low income, which may contain community kitchens, common dining areas, and other shared facilities. The conference substitute contains the Senate provision, with amendments making clear that congregate housing is to be encouraged for occupancy by the displaced and handicapped, as well as the elderly, and providing that not more than 10 percent of the total number of dwelling units for which contracts for annual contributions are entered into in any fiscal year shall be units in congregate housing.

Public housing rent requirements

The Senate amendment contained a provision not in the House bill providing a statutory definition of income for the purpose of establishing maximum rentals in public housing projects at one-fourth of tenant income. The conference substitute contains the Senate provision, amended as follows: family income would include all monies received by each member of the family in the household who is at least 18 years of age, less (1) income which is determined by the HUD Secretary to be non-recurring, and the income of full-time students, (2) an amount equal to the sum of $300 for each dependent, $300 for each secondary wage earner, 5 percent of the family's gross income (10 percent in the case of elderly families), and extraordinary medical expenses, and (3) further deductions as may be allowed by the HUD Secretary in recognition of usual circumstances.

Public housing cost limits

The Senate amendment contained a provision not in the House bill authorizing the HUD Secretary to determine periodically, and to publish in the *Federal Register*, prototype construction costs for each area based on prevailing cost factors, with the development cost of any project not exceeding by more than 10 percent the appropriate prototype cost for the area. The House bill authorized the HUD Secretary, in areas where he finds it necessary in order to meet increased construction costs, to increase by up to 20 percent, the public housing dwelling unit cost limitations. The conference substitute contains the Senate provision.

Amendment of contracts to assure low-rent character of projects

The Senate amendment contained a provision not in the House bill directing the HUD Secretary to amend annual contributions contracts with public housing agencies to provide annual contributions to achieve and maintain adequate operating and maintenance services. The conference substitute contains a provision clarifying the use of annual contributions to maintain adequate operating and maintenance services.

The Housing and Urban Development Act of 1969 clarified the authority of the Secretary to make annual contributions which exceed debt service requirements. This Congressional directive for a significant change in the traditional subsidy level in public housing was in response to the rapidly rising operating costs and the inability of many local agencies to insure the low-rent character of their projects and still generate enough rental income to meet expenses. In addition, increased subsidy was authorized for the purpose of improving the maintenance services and the living environment in public housing projects. However, HUD has administered this authority in restrictive fashion without adequate attention to this latter purpose.

The substitute would authorize the HUD Secretary to amend or supersede contracts to make annual contributions in an amount not exceeding the statutory maximum set by sections 10 and 14 of the 1937 Act which the Secretary determines are required (1) to assure the low-rent character of the projects involved and (2) to achieve and maintain adequate operating and maintenance services and reserve funds including payment of outstanding debts.

It would permit the Secretary to assure the low-rent character of public housing and assist local housing authorities in achieving and maintaining adequate operating and maintenance services and reserve funds by paying as annual contributions the difference between their annual expenses and income. Among the operating and maintenance services for which Federal subsidies could be provided are those set forth in section 2(6) of the United States Housing Act, as amended by this Act, as well as the following: tenant counseling on family budgets and on care and upkeep of property; guard and other costs relating to the physical security of project residents; tenant access to available community services relating to employment; health, welfare, education, and personal counseling; effective management-tenant liaison including tenant participation in all aspects of housing administration, management, and maintenance; recreational equipment and facilities; and adequate and timely repairs to structures, including the removal of any code violations.

The purpose of additional annual contributions is to provide local housing authorities with additional resources, not available to them from existing revenue sources, to improve immediately their fiscal situation and the deteriorated condition of their properties, while at the same time strengthening their administration and management functions, including activities designed to achieve maximum tenant participation and responsibility, so that they can become fully effective operations.

Policy statement

The Senate amendment contained a provision not in the House bill setting forth the sense of Congress that no person shall be barred from serving on the Board of Directors or similar governing body of a local public housing agency because of his tenancy in a public housing project. The conference substitute contains the Senate provision.

Relocation payments

The Senate amendment contained a provision authorizing the HUD Secretary to pay to displaced business concerns fixed amounts in lieu of their total certified actual moving expenses, where he determines that it is impractical for a displaced business concern to calculate the amount of such expenses. The conference substitute contains this Senate provision.

Urban renewal project in Monroe, Wisconsin

The Senate amendment contained a provision not in the House bill authorizing as a local grant-in-aid credit to the Tornado Urban Renewal Project in Monroe, Wisconsin, certain expenditures made in connection with the project notwithstanding the date of commencement of the construction involving the expenditures. The conferees recognize the uniqueness of the Monroe situation, and accordingly the conference substitute contains this Senate provision.

Solid waste disposal demonstration projects

The House bill contained a provision not contained in the Senate amendment authorizing HUD to make grants under the urban renewal program and the title IV new community program to pay the full project cost of constructing solid waste disposal facilities which have value for demonstration purposes The conference substitute does not contain this House provision.

Grant-in-aid credit for medical or educational institutions

The House bill contained a provision not in the Senate amendment clarifying the authority of the HUD Secretary to permit credit for local grants-in-aid for expenditures by hospital or educational institutions, within 8 years of the authorization of a contract for such assistance in connection with projects for which applications were filed not later than December 24, 1969. The conferees understand that the problem intended to be solved by this provision has been settled administratively, and accordingly the conference substitute does not contain this provision.

TITLE III—MODEL CITIES AND METROPOLITAN DEVELOPMENT PROGRAMS

Authorization for model cities program

The Senate amendment authorized additional appropriations of $162.5 million in fiscal year 1972 for the model cities program, and eliminated the requirement in existing law that administrative expenses be appropriated out of the model cities grant authorization. The House bill authorized an additional $250 million for the model cities program in fiscal year 1972. The conference substitute authorizes an additional $200 million in grant authority for model cities for fiscal year 1972 and retains the Senate provision dealing with administrative expenses.

Title IV—New community development program

The Senate amendment contains provisions not contained in the House bill increasing guarantee authority for new community development projects from $250 million to $500 million, extending unused authorizations for supplementary grants through fiscal year 1974, and making guarantees unqualified regardless of fraud by bond holders.

The conference substitute contains these Senate provisions.

TITLE IV—CONSOLIDATION OF OPEN-SPACE LAND PROGRAMS

Consolidation of open space, urban beautification, and historic preservation programs

The Senate amendment contained provisions consolidating the open-space land, urban beautification, and historic preservation programs into a single program of grants for the acquisition of open-space land in urban areas and the development of open space or other land for open space uses (including historic preservation), authorizing an increase of $100 million for such programs for fiscal year 1972, and authorizing three-fourths grants to public bodies for the acquisition of interests in open-space land to guide urban growth. The House bill contained similar provisions relating to the consolidation of open-space land programs, except that (1) the authorization for such programs was increased by only $90 million, and (2) the conversion of open-space land involving historic sites was prohibited unless approved by the Secretary of the Interior. The conference substitute contains the Senate provision with an amendment prohibiting the conversion of open-space land involving historic or architectural purposes without the prior approval of the Secretary of Interior.

With respect to the new program of grants to guide urban growth, the conferees intend to make clear that there is no intent to establish programs of land banking. The provisions adopted in the conference substitute are intended to provide a useful tool to guide urban growth and channel development in a more orderly fashion.

TITLE V—RESEARCH AND TECHNOLOGY

Consolidation of research and technology programs

The Senate bill consolidates several research authorities under a general authorization that the HUD Secretary undertake such programs of research, studies, testing, and demonstrations relating to missions and programs of the Department as he determines necessary and appropriate, with authorization of such appropriations of funds as may be necessary. The House bill contained similar provisions, including a provision authorizing the HUD Secretary to waive requirements of other acts administered by him with respect to research projects. The conference substitute contains the Senate provisions only.

Experimental housing allowance program

The Senate amendment contained a provision not in the House bill authorizing the HUD Secretary to conduct research programs to demonstrate the feasibility of providing low income families with housing allowances in order to assist them in obtaining existing standard rental housing of their choice, with $15 million authorized annually for a 3-year period. The conference substitute contains the Senate provision with an amendment limiting the demonstration to a 2-year period with an authorization of $10 million for each year.

Demonstrations with respect to abandoned properties

The Senate amendment contained a provision not in the House bill authorizing a 2-year demonstration grant program to assist public bodies in testing methods of arresting housing abandonment, with $25 million authorized for the 2-year period. The conference substitute contains the Senate provision with an amendment authorizing up to $20 million for the 2-year period.

TITLE VI—CRIME INSURANCE

Effective date of available Federal crime insurance

The Senate amendment contained provisions which would authorize the HUD Secretary to provide direct writing of crime insurance in any state in which such insurance is unavailable or available only at prohibitive costs after August 1, 1971, or the close of the first full regular session of the State Legisture, whichever is later. The House bill authorized the Secretary to provide crime insurance immediately upon the date of enactment of this Act. The conference substitute contains provisions requiring the Secretary of HUD to conduct a continuing review of the market availability of crime insurance at affordable rates in each of the several states. Upon determining that such insurance is not available, the Secretary would be authorized to provide crime insurance on or after August 1, 1971. The conferees expect that states in which the availability of crime insurance is a serious problem will take the initiative to provide a program of adequate crime insurance prior to August 1, 1971. The conferees urge the Secretary to have this crime insurance program available for immediate implementation on August 1, 1971, where appropriate state action has not been taken.

Brokers' commissions under the FAIR plans

The House bill contained a provision not in the Senate amendment, prohibiting payments of commissions to agents, brokers, and producers under State FAIR plans at lower rates than those paid for similar business in normal insurance markets. The conference substitute contains no such provision. The conferees recognize the vital need for the use of insurance agents and brokers to insure the success of the Federal Government in the issuance of crime insurance and for the continued operation of the FAIR plans. The conferees believe that the Secretary in making use of agents and brokers in connection with FAIR plans and in this new program of Federal crime insurance should provide that reasonable and adequate commissions be permitted.

TITLE VII—URBAN GROWTH AND NEW COMMUNITY DEVELOPMENT

The Senate amendment contained provisions not in the House bill setting forth a national urban growth policy, requiring a biennial report on urban growth to be transmitted by the President to the Congress, and establishing a greatly expanded program of guarantees, loans, and grants for new community development. The conference substitute includes the Senate provisions with four amendments, as follows: (1) authority for the HUD Secretary, upon specific authorization by the President and using funds appropriated by the Congress, to plan and carry out new community demonstration projects on Federally-owned lands; (2) authority for the HUD Secretary to make grants to states or local public bodies to provide public services to residents of new community projects during their initial period of development; (3) authority to guarantee, in the case of a state land development agency, obligations covering up to 100 percent of land value and development costs; and (4) authority for the HUD Secretary to provide grant assistance to developers to plan new community development programs.

Urban mass transportation

The conferees rejected Senate amendment provisions not contained in the House bill authorizing Department of Transportation grants for indebtedness and operating deficits of local mass transit systems. In passing the Urban Mass Transportation Act of 1970, P. L. 91-453, the Congress directed the Secretary of Transportation to conduct a study of the feasibility of providing Federal assistance to help defray the operating costs of mass transportation companies. This study with its findings and recommendations is required to be submitted to the Congress by October 15, 1971. The conferees urge the Secretary of Transportation to take all necessary steps to expedite action on this study and to complete it as soon as he possibly can, in order that the next Congress have recommendations before it on the feasibility of Federal assistance for operating expenses of mass transit companies.

TITLE VIII—FARM HOUSING

Loans and grants for domestic farm labor housing

The Senate amendment contained provisions providing insured loans and grants to finance housing for domestic farm labor, with the interest rate on insured loans to range from 5 percent down to 1 percent. The House bill contained a similar provision, except that no provision for lower interest rate loans were provided. The conference substitute contains the Senate provisions.

Rental housing—Increased loan limit

The Senate amendment contained a provision increasing from $300,000 to $1 million the loan limit for the Farmers Home Administration Program for rental housing for the elderly. The House bill contained a similar provision increasing the loan limit to $500,000. The conference substitute contains a provision increasing the loan limit to $750,000.

Use of attorneys in FMHA programs

It is the intent of the conferees that all qualified attorneys be given equal opportunity to participate in providing title and loan closing services required in connection with Farmers Home Administration rural housing loans.

HUD migrant farm housing

The House bill contained a provision not in the Senate amendment authorizing the Secretary of HUD to provide housing for migrant farm workers, authorizing $10 million annually for a 3-year period. The conference substitute contains no such provision.

TITLE IX—MISCELLANEOUS

Authorization for technical assistance

The Senate amendment contained provisions consolidating HUD programs of technical advice and assistance on housing, and authorized financial assistance to low- and moderate-income tenant organizations, in addition to nonprofit sponsors of multifamily housing. It also authorized $5 million for assistance with respect to self-help programs. The House bill contained similar provisions, but without specific authorization for self-help programs. The conference substitute contains the Senate provisions.

Seed money loans

The Senate amendment contained a provision not in the House bill clarifying the authority of the HUD Secretary to make "seed money" loans to nonprofit organizations developing section 235 sale housing. The conference substitute contains the Senate provision.

Public housing tenant services

The Senate amendment contained a provision not in the House bill repealing the public housing tenant services grant authority and authorizing such services to be financed out of project income and annual contribution payments. The conference substitute contains the Senate provision.

CONTRACTOR SURETY BONDS

The House bill contained a provision not in the Senate amendment authorizing the HUD Secretary to provide or guarantee surety bonds for construction contractors or subcontractors in furtherance of the purposes of the Small Business Act or section 3 of the Housing and Urban Development Act of 1968. It also authorized an appropriation of $3 million to enable HUD to provide technical assistance to such contractors. The conference substitute contains a surety bond provision which is generally similar to the House amendment, but which places

the administration of this program within the Small Business Administration. The conference substitute provides for consultation between the Secretary of HUD and the Small Business Administrator in carrying out the provisions of this section. In addition, the conference substitute authorizes $1.5 million annually for a 3-year period for the HUD Secretary to provide technical assistance to such contractors.

Federal Home Loan Bank Board conflict of interest authority

The House bill contained a provision not in the Senate amendment clarifying the authority of the Federal Home Loan Bank Board to regulate insured savings and loan associations with respect to situations in which conflicts of interest are likely to appear. No such provision is contained in the conference substitute. The conferees believe the Home Loan Bank Board has considerable authority to regulate matters regarding conflicts of interest situations involving savings and loan associations and agree to postpone consideration of additional authority until next year, when appropriate hearings can be held. The conferees further believe that the Board should more vigorously apply its existing authority.

Criminal penalties for fraud

The House bill contained a provision not in the Senate amendment providing criminal penalties for making false statements or reports in connection with loans or other similar transactions involving an insured savings and loan association. The conference substitute contains the House provision with an amendment applying the same penalties to financial institutions insured by the Federal Deposit Insurance Corporation and credit unions insured by the National Credit Union Share Insurance Fund.

Disposition of surplus land

The conference substitute contains a provision in the House bill broadening the uses of surplus land disposed of by the General Services Administration to the HUD Secretary to include sales (as well as rental) housing, and related public, commercial, or industrial facilities. The conferees intend that surplus land disposed of for industrial or commercial use should be closely related and integral to the provision of housing for which land is being made available under this section.

Prohibition against using nonstatutory factors in considering applications for HUD assistance

The House bill contained a provision not in the Senate amendment providing that in making a determination to approve or disapprove or confer a particular status upon any application for a loan, grant, or other assistance under any program administered by the Department of HUD, no consideration could be given to any factor or circumstance other than those contained in the statutes. The conference substitute contains no such provision.

Timber for housing needs

The conferees note that in the administration of export limitations under section 2(a) of the Act of April 12, 1926, as amended, the Forest Service has allocated export exemption quotas in such a way as to impose an undue burden on domestic lumber manufacturing concerns in certain geographic areas. To correct any inequity, the conferees recommend that the 350 million board feet exemption under the provision in the House bill be allocated, insofar as practical, in proportion to the normal sales programs for those Federal timber lands which have been designated to provide exemption quota volumes.

FDIC insurance for banks in American Samoa

The Senate amendment contained a provision not in the House bill authorizing the Federal Deposit Insurance Corporation to provide deposit insurance for banks in American Samoa. The conference substitute retains the Senate provision.

WRIGHT PATMAN,
WILLIAM A. BARRETT,
LEONOR K. SULLIVAN,
THOMAS L. ASHLEY,
WILLIAM B. WIDNALL,
FLORENCE P. DWYER,
J. WILLIAM STANTON,
Managers on the Part of the House.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. KLUCZYNSKI (at the request of Mr. BOGGS), for today, on account of official business.

Mr. ANDERSON of Illinois (at the request of Mr. GERALD R. FORD), for December 16 and 17, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. SIKES, for 30 minutes, December 18, 1970, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. KYL) to revise and extend their remarks and include extraneous material:)

Mr. PRICE of Texas, for 30 minutes, today.

Mr. MILLER of Ohio, for 5 minutes, today.

Mr. SCHWENGEL for 30 minutes, December 18.

(The following Members (at the request of Mr. MARSH) to revise and extend their remarks and include extraneous material:)

Mr. FLOOD, for 20 minutes, today.

Mr. HAMILTON, for 15 minutes, today.

Mr. O'HARA, for 10 minutes today.

Mr. MIVKA, for 60 minutes, December 18.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SIKES in five instances and to include extraneous matter.

Mr. MADDEN in two instances and to include extraneous matter.

Mr. ANDERSON of California, immediately following the remarks of Mr. VAN DEERLIN, and Mr. WYATT, today.

Mr. AYRES (at the request of Mr. STEIGER of Wisconsin) immediately preceding the remarks of Mr. STEIGER of Wisconsin today on the conference report on S. 2193, Occupational Safety and Health Act of 1970.

(The following Members (at the request of Mr. KYL) and to include extraneous matter:)

Mr. RHODES in five instances.
Mr. RAILSBACK.
Mr. GUDE in two instances.
Mr. SEBELIUS.
Mr. GROSS.
Mr. WATSON.
Mr. ADAIR.
Mr. HOGAN.
Mr. WOLD.
Mr. DEVINE.
Mr. HOSMER.
Mr. WEICKER.
Mr. TAFT.
Mr. WYMAN in two instances.
Mr. SCHMITZ in three instances.
Mr. ZWACH.
Mr. CRAMER in two instances.
Mr. NELSEN in two instances.
Mr. WHITEHURST.
Mr. CHAMBERLAIN.
Mr. BERRY in four instances.
Mr. PRICE of Texas.
Mr. STEIGER of Wisconsin.
Mr. FORSYTHE.
Mr. FOREMAN.
Mr. LUJAN.
Mr. BUCHANAN.
Mr. GOODLING.
Mr. FRELINGHUYSEN.
Mr. RUPPE.

(The following Members (at the request of Mr. MARSH) and to revise and extend their remarks:)

Mr. GIAIMO in 10 instances.
Mr. FISHER in six instances.
Mr. CLAY in eight instances.
Mr. GRIFFIN in two instances.
Mr. FRASER in two instances.
Mr. BARING in two instances.
Mr. HUNGATE in three instances.
Mr. STOKES in two instances.
Mr. JOHNSON of California in two instances
Mr. FLOOD in two instances.
Mr. WRIGHT in three instances.
Mr. YATRON.
Mr. EDWARDS of California in two instances.
Mr. COHELAN in five instances.
Mr. JACOBS.
Mr. KLUCZYNSKI in two instances.
Mr. FOUNTAIN in two instances.
Mr. DINGELL in two instances.
Mr. RODINO.
Mr. CELLER.
Mr. MURPHY of New York in two instances.
Mr. TUNNEY in two instances.
Mr. ALBERT.
Mr. PRICE of Illinois.
Mr. HANNA in five instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 4. An act to establish the Big Thicket National Park in Texas; to the Committee on Interior and Insular Affairs.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1785. An act for the relief of Irene Sadowska Sullivan;

S. 2162. An act to provide for special packaging to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting household substances, and for other purposes;

S. 2336. An act relating to the parishes and congregation of the Protestant Episcopal Church in the District of Columbia;

S. 3318. An act to amend the Library Services and Construction Act, and for other purposes;

S. J. Res. 74. Joint Resolution to provide for designation of the first full calendar week

in May 1971, as "National Employ the Older Worker Week";

S. J. Res. 172. Joint resolution to authorize the President to issue a proclamation designating the first full calendar week in May 1971 as "Clean Waters for America Week";

S. J. Res. 187. Joint resolution to authorize the President to designate the third Sunday in June 1971, as "Father's Day."

S.J. Res. 226. Joint resolution to authorize the President to proclaim the period from May 9, 1971, Mother's Day, through June 20, 1971, Father's day, as the "National Multiple Sclerosis Society Annual Hope Chest Appeal Weeks"; and

S. J. Res. 236. Joint resolution authorizing the preparation and printing of a revised edition of the Constitution of the United States of America—Analysis and Interpretation of decennial revised editions thereof, and of biennial cumulative supplements to such revised editions.

BILLS PRESENTED TO THE PRESIDENT

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 8298. An act to amend section 303(b) of the Interstate Commerce Act to modernize certain restrictions upon the application and scope of the exemption provided therein, and for other purposes.

H.R. 16498 to permit the sale of the passenger vessel "Atlantic" to an alien and for other purposes; and

H.R. 19888 to provide for the inspection of certain egg products by the United States Department of Agriculture; restriction on the disposition of certain qualities of eggs; uniformity of standards for eggs in interstate or foreign commerce; and cooperation with State agencies in administration of this Act, and for other purposes.

ADJOURNMENT

Mr. MARSH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 40 minutes p.m.), the House adjourned until tomorrow, Friday, December 18, 1970, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PHILBIN: Committee on Armed Services. S. 4571. An act to amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, and for other purposes (Rept. No. 91–1771). Referred to the Committee of the Whole House on the State of the Union.

Mr. DENT: Committee on House Administration. House Concurrent Resolution 771. Concurrent resolution for the printing of environmental report (Rept. No. 91–1772). Ordered to be printed.

Mr. DENT: Committee on House Administration. House Concurrent Resolution 785. Concurrent resolution authorizing the printing as a House document the book entitled "Our American Government and How It Works: 1001 Questions and Answers." (Rept. No. 91–1773). Ordered to be printed.

Mr. DENT: Committee on House Administration. House Concurrent Resolution 790. Concurrent resolution to provide for the printing of 5,000 additional copies of parts I and II of the hearings before the Special Subcommittee on Education of the Committee on Education and Labor entitled "Discrimination Against Women" (Rept. No. 91–1774). Ordered to be printed.

Mr. DENT: Committee on House Administration. House Resolution 1311. Authorizing reprinting of House Report No. 91–1673 (Rept. No. 91–1775). Ordered to be printed.

Mr. HAYS: Committee on House Administration. House Resolution 1293. Resolution authorizing the establishment of six additional positions of sergeant and one additional position of lieutenant on the U.S. Capitol Police force for duty under the House of Representatives, and for other purposes (Rept No. 91–1776). Ordered to be printed.

Mr. DULSKI: Committee on Post Office and Civil Service. Report on accuracy of the 1970 Census enumeration (Rept. No. 91–1777). Referred to the Committee of the Whole House on the State of the Union.

Mr. FULTON of Tennessee: Committee on Ways and Means. H.R. 19562. A bill to amend the Internal Revenue Code of 1954 in relation to corporate reorganizations; with amendments (Rept. No. 91–1778). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLS: Committee on Ways and Means. H.R. 19881. A bill. Consolidated returns of life insurance companies; with an amendment (Rept. No. 91–1779). Referred to the Committee of the Whole House on the State of the Union.

Mr. FALLON: Committee of conference. Conference report on H.R. 19504; with amendment (Rept. No. 91–1780). Ordered to be printed.

Mr. O'NEILL of Massachusetts: Committee on Rules. House Resolution 1315. Resolution providing for the consideration of H.R. 19953, a bill to authorize the Interstate Commerce Commission to provide financial assistance to certain railroads in order to preserve essential rail services, and for other purposes with amendment (Rept. No. 91–1781). Referred to the House Calendar.

Mr. BLATNIK: Committee on Public Works. Conference report on H.R. 19877 (Rept. No. 91–1782). Ordered to be printed.

Mr. STAGGERS: Committee of conference. Conference report on H.R. 17255 (Rept. No. 91–1783). Ordered to be printed.

Mr. PATMAN: Committee of conference. Conference report on H.R. 19436 (Rept. No. 91–1784). Ordered to be printed.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2623. A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting a report on Department of Defense procurement from small and other business firms for July–September 1970, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Banking and Currency.

2624. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to remove certain limitations on the granting of relief to owners of lost or stolen bearer securities of the United States, and for other purposes; to the Committee on Government Operations.

2625. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and referred as follows:

By Mr. ROUSSELOT:

H.R. 19969. A bill to provide for the procurement of voluntary military manpower; to the Committee on Armed Services.

By Mr. WAMPLER:

H.R. 19970. A bill to amend the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits of orphans whose fathers die of pneumoconiosis; to the Committee on Education and Labor.

By Mr. MILLS:

H.R. 19971. A bill to amend section 582(c)(3) of the Internal Revenue Code of 1954, as amended; to the Committee on Ways and Means.

By Mr. RARICK:

H.R. 19972. A bill to provide for the garnishment of the wages of Federal employees; to the Committee on the Judiciary.

H.R. 19973. A bill to amend the Internal Revenue Code of 1954 to allow an income tax deduction for social security taxes paid by employees and by the self-employed; to the Committee on Ways and Means.

By Mr. OBEY (for himself, Mr. FRASER, Mr. HECHLER of West Virginia, Mr. HUNGATE, Mr. PRICE of Illinois, Mr. ECKHARDT, Mr. KASTENMEIER, Mr. MIKVA, Mr. UDALL, Mr. O'HARA, Mr. HICKS, Mrs. GRIFFITHS, Mr. MORSE, Mr. GUDE, Mr. RAILSBACK, Mr. SCHWENGEL, Mr. CONTE, Mr. MCDADE, Mr. MCCLOSKEY, Mrs. MINK, Mr. PUCINSKI, Mr. WHALEN, Mr. ANDERSON of Tennessee, Mr. WILLIAM D. FORD, and Mr. HAMILTON):

H. Res. 1313. Resolution to authorize the Military Operations Subcommittee of the Committee on Government Operations to conduct an investigation and study of any alleged military surveillance of Members of Congress and other public officials; to the Committee on Rules.

By Mr. SCHADEBERG:

H. Res. 1314. Resolution declaring that the House of Representatives rejects the majority report of the Presidential Commission on Obscenity and Pornography and adopts the minority report of Father Morton A. Hill, S.J., the Reverend Winfred C. Link, and Charles H. Keating, Esq.; to the Committee on Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADDABBO:

H.R. 19974. A bill for the relief of Amadeo Luciano; to the Committee on the Judiciary.

By Mr. BURTON of California:

H.R. 19975. A bill for the relief of Lucia Di Virgilio; to the Committee on the Judiciary.

By Mr. DAVIS of Georgia:

H.R. 19976. A bill for the relief of Janis Mikelis Blumenaus (also known as Jon Michael) and his wife, Carol Diane Blumenaus; to the Committee on the Judiciary.

By Mr. WHITE:

H.R. 19977. A bill for the relief of Michiko Unoki Gonzalez; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII.

654. The SPEAKER presented petition of the Idaho Legislative Interim Highway Roads and Streets Needs Study Committee, relative to continuation of the Federal Aid Highway Trust Fund; to the Committee on Public Works.