SENATE—*Thursday, June 21, 1973*

(Legislative day of Monday, June 18, 1973)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, who at creation brought order out of chaos and light out of darkness, we beseech Thee to bring order out of the chaos of our present world. Send Thy pure light to illuminate the darkness of man's despair and doubt. Give us grace and wisdom to distinguish between light and darkness, good and evil, truth and falsehood. Grant unto us who labor here a holy discernment to know and to do Thy will. "Take from our souls the strain and stress; and let our ordered lives confess, the beauty of Thy peace."

Through Him who is the Light of the world. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 21, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. ROBERT C. BYRD thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Wednesday, June 20, 1973, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Mayo J. Thompson, of Texas, to be a Federal Trade Commissioner.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nomination on the Executive Calendar, under Federal Trade Commission, will be stated.

FEDERAL TRADE COMMISSION

The second assistant legislative clerk read the nomination of Mayo J. Thompson, of Texas, to be a Federal Trade Commissioner for the unexpired term of 7 years from September 26, 1968.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished Republican leader desire recognition?

Mr. SCOTT of Pennsylvania. Mr. President, I yield back my time.

LAND USE POLICY AND PLANNING ASSISTANCE ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume the consideration of the unfinished business, S. 268, which the clerk will state.

The legislative clerk read as follows:

S. 268, to establish a national land use policy, to authorize the Secretary of the Interior to make grants to assist the States to develop and implement State land use programs, to coordinate Federal programs and policies which have a land use impact, to coordinate planning and management of Federal lands and planning and management of adjacent non-Federal lands, and to establish an Office of Land Use Policy Administration in the Department of the Interior, and for other purposes.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. The question is on agreeing to amendment No. 244 of the Senator from Wyoming (Mr. HANSEN), on which there is a time limitation of 1 hour, with the vote to occur no later than 10 a.m. today.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time to be taken out of the allocation of time to the Senator from Wyoming.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, amendment No. 244 is designed to focus attention on specific language needed to propose changes which its proponents believe will be clearly in the public interest. In dealing with legislation which has such far-reaching effects as this one will, and which makes projections that will carry into the future great caution must be exercised. As the Senators know this bill would create land use policy boards in each of the 50 States and would require an inventory of the present uses of all the privately owned land to determine what areas are of critical environmental concern. This includes the determination of what the future needs of the people of the country may be insofar as their requirements for food and fiber, recreational areas, esthetic values and whatever else may be designated. These subjective criteria imposed upon the States make it nearly impossible for any State to discharge what might be expected of it by those who have drafted this bill.

It is with that thought in mind that we offer this proposal to modify the language contained on page 121. I am reading from subsection (i), beginning on page 120:

"Areas of critical environmental concern" means areas as defined and designated by the State on non-Federal lands where uncontrolled or incompatible development could result in damage to the environment, life or property, or the long term public interest which is of more than local significance.

The section continues:

Such areas, subject to State definition of their extent, shall include—

(1) "Fragile or historic lands" where uncontrolled or incompatible development could result in irreversible damage to important historic, cultural, scientific, or esthetic values or natural systems which are of more than local significance, such lands to include shorelands of rivers, lakes, and streams; rare or valuable ecosystems and geological formations; significant wildlife habitats; and unique scenic or historic areas;

(2) "Natural hazard lands" where uncontrolled or incompatible development could unreasonably endanger life and property, such lands to include flood plains and areas frequently subject to weather disasters, areas of unstable geological, ice, or snow formations, and areas with high seismic or volcanic activity;

(3) "Renewable resource lands" where uncontrolled or incompatible development which results in the loss or reduction of continued long-range productivity could endanger future water, food, and fiber requirements of more than local concern, such lands to include watershed lands, aquifers and aquifer recharge areas, significant agricultural and grazing lands, and forest lands; and

(4) such additional areas as the State determines to be of critical environmental concern.

Mr. President, I invite the attention of Senators to the debate of yesterday on the Johnston amendment, and I ask that they recall the objections that were raised by the distinguished Senator from Louisiana to this sort of guideline being made part of the law.

We believe that in the phrase "uncontrolled or incompatible," we should delete the word "or" and insert in lieu thereof the word "and," so that this section would read "uncontrolled and incompatible development." This would require that the definition of the "areas of critical environmental concern" is to be applied only where there is the possibility of uncontrolled and incompatible development.

These are subjective tests. I suggest that when we try to envision what the long-range public interest of a people might be, we are dealing in a highly speculative area. Who knows what the long-range public interest of the people is?

I suspect that 15 years ago, we might well have considered that it would be in the long-range public interest if every person in this country owned an automobile, as we were thinking about how to raise the standard of living of people in this country. Yet, today, with our increasing concern about air pollution, we recognize that history's goals and values could indeed render a greater disservice to us today than would result by a restriction being placed upon these things. So whenever we talk about the long-range public interest, I think we must recognize that, at very best, it is extremely difficult to know what the long-range public interest might be.

Let me suggest another possibility, to illustrate my point. There is concern—and rightly so—for cleaning up the environment, for improving the quality of the air and the water, and for seeing that the countryside is as beautiful as we can make it. In accomplishing some of these things, we have had to impose restrictions or limitations on development in this country. I would suggest that if indeed we were to find, as a consequence of our actions in seeking to achieve these goals, that we would so weaken America insofar as its defense is concerned and that at some later date we would fall prey to the aggressive designs of a foreign enemy and lose this Republic, historians might look back and say in trying to bring about the good life for all Americans in this country, America went overboard and failed to understand and to comprehend the threat that people in other countries and dictators with aggressive designs posed upon the security of Americans. I am not suggesting for a moment that this is likely to happen. I am not suggesting that any of us know what might happen.

I do say that I think it is extremely difficult to know what may be in the best long-range public interest of all Americans. I think those are goals and objectives that we have to redefine from time to time, based upon the experience that takes place every day of our lives.

I hope we might recognize in this language, when we go so far as to include guidelines that are as broad as these, that we now should stop and ask ourselves, "Do we find it in the interest of this country to spell out as precisely as is done in this language exactly what the States must do in implementing this land use bill, if and when it becomes law?"

So our second suggestion, Mr. President, would be that we strike, in appropriate places, the word "could" and insert in lieu thereof the word "would."

Our reason for doing that is that the word "could" is too subjective; almost anything could happen. I think what Americans want to forestall is the clear likelihood that something will happen. For that reason it seems indicated to me that we should make this change. We should strike "could" and insert the word "would" so as to limit, restrict, and bring into sharper focus those precise actions which in our judgment will undoubtedly result in a situation that we find not acceptable. This can be achieved by striking the word "could" and inserting the word "would."

Now, part (C) of this amendment is to strike the words "or the long-term interest." As I indicated earlier, the public interest is something that is in constant change. History has demonstrated time after time, as the dust of this century settles over the country and the world, we find that public interest changes and shifts. Environment, life or property is sufficiently broad. For these reasons we would like to strike "or the long-term public interest."

This definition is actually written in two parts: general terms and specifics. The specifics refer to: First, fragile or historic lands; second, natural hazard lands; and third, renewable resource lands. If a court were to scrutinize whether a specific piece of land was, in fact, an "area of critical environmental concern," the court would initially look to one of the three specific categories to determine whether it would fit in one of those classifications. If it failed to fit into one of those three specific categories, then the court would return to the general language of critical environmental concern which now is defined as lands "where uncontrolled or incompatible development could result in damage to the environment, life or property, or the long term public interest which is of more than local significance."

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. HANSEN. I am happy to yield to the distinguished Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I thank my distinguished colleague, the Senator from Wyoming.

I am aware of his amendment and I think it would make more restrictive the areas of authority for the Secretary of the Interior.

I think we found in various acts, the Clean Air Act, NEPA, and other very important and very worthwhile creatures of this Congress.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate and will staff aides take seats and not be standing in the aisles and elsewhere.

Mr. BARTLETT. And very worthwhile.

Mr. ROBERT C. BYRD. I beg the Senator's pardon. I hope the Sergeant at Arms will keep staff people seated.

Mr. HANSEN. I do not mean to make an issue of this, but I am very much aware of what the Senator from Oklahoma is saying. A little bit ago there was a little confusion, too. It happens that these people are on the side, trying to be helpful.

Mr. ROBERT C. BYRD. I understand they are trying to be helpful.

Mr. HANSEN. I am sure the Senator from Oklahoma would not want us to be denied the benefit of their recommendations. There are two seats here.

Mr. ROBERT C. BYRD. I understand that. I understand they have important business. I have no objection to their helping Senators, but I do ask that they remain seated when possible. There is entirely too much standing around in the aisles and talking by staff aides when they could be seated.

This complies with a Senate rule providing for order in the Senate. I am asking the Chair to enforce the rule.

Mr. HANSEN. I do not mean to argue with the assistant majority leader.

Mr. BARTLETT. Mr. President, I feel this amendment addresses itself to an area that could be a weakness in the bill, an area where the Secretary of the Interior is given extremely broad authority. The amendment provides for areas of critical environmental concern—this would mean lands where uncontrolled or incompatible development could result in damage to the environment—and that would read "irreversible" damage to the environment, life or property which is of more than local significance.

This amendment would provide that the Secretary would have ample authority not only to review the State's land use plans but to add to those as he would see fit, as the bill is now written. This happens to be a part of the bill, his authority to add to the State plan, with which I do not concur, but nonetheless I think this gives ample authority for the Secretary to add to and put in additional areas of programs in the land use program.

So I compliment the Senator from Wyoming for seeing that in the definition that now exists in the bill there are many very broad and indefinite areas of responsibility that would make this, on the one hand, a judicial nightmare, and on the other hand would provide for the judiciary, if it wanted to legislate, an opportunity to write any kind of legislation in the form of judicial decisions they would see fit.

As the definition now stands, "rare or valuable ecosystems and geological formations" could cover any State. It provides that "natural hazard lands" shall include "flood plains and areas frequently subject to weather disasters." This would cover the entire State of Oklahoma and many States in the United States if this were the intent or desire at any time of the Secretary of the Interior or the various heads of departments. They could inflict changes on the State plans almost as they would see fit.

So I compliment very much the Senator from Wyoming for tightening up language that I think is very important so that this bill would really deal with the damages to the environment where

this would happen, where there would be problems to life or property, and where there would be serious and irreversible damages.

So I would like to compliment again the Senator from Wyoming and thank him for his interest in land use and his interest in having a bill that is workable and which addresses itself to real problems and does not go past the target to the point where unfairness could result from Federal action that would not be knowledgeable in the State land use area or that would not know sufficiently about the areas about which they would be legislating.

So I congratulate the Senator from Wyoming and thank him very much for this presentation to this body for its consideration.

Mr. HANSEN. Mr. President, I thank my distinguished colleague from Oklahoma for his perceptive comments on the amendment. I regret that, because of his willingness to chair hearings before a subcommittee of the Committee on Interior and Insular Affairs, it is not possible for him to remain on the floor while the amendment, of which he is a cosponsor, is being debated; but that is the way it is. I know we will miss him. I think he understands better than most the importance of this amendment, and I appreciate very much the observations that he has given to us, his colleagues.

The necessity for placing "irreversible" as an adjective to describe the degree of damage to the environment, life, or property, is essential. The idea is to limit the definition to places that could suffer severe or irreversible damage. If left alone, the definition would apply to any damage to environment, life, or property.

I would just note further that in the version of S. 268 which passed the 92d Congress the definition of areas of critical environmental concern uses the word "irreversible."

Mr. President, the reason I think it is necessary and vital, in the interest of all Americans, to place some limitation on these definitions was called to the attention of Senators yesterday. Under the laws that deal with ambient air qualities, the fact is that there can be no degradation in air quality standards. The efforts of the EPA must be to enhance quality of air.

My reason for calling attention to this matter, Mr. President, is that in this country, right today, this first day of summer, which came at 9:01 a.m. this morning, I am told, there is an electrical power shorage. I do not think, despite the brilliance of our engineers and of our chemists and all people involved in the development of electrical energy——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HANSEN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Colorado has 26 minutes.

Mr. HASKELL. Mr. President——

Mr. HANSEN. Mr. President, may I rise to make one point? How much time did I have?

The PRESIDING OFFICER. The Senator has no time.

Mr. HANSEN. How much time did I have to begin with?

The PRESIDING OFFICER. Twenty-six minutes.

Mr. HANSEN. Will the Chair check the RECORD? I think the Senator from Washington said yesterday he would yield me 50 minutes.

Mr. HASKELL. Mr. President, I will agree that the Senator from Washington (Mr. JACKSON) said yesterday the Senator from Wyoming could have 50 minutes and the Senator from Washington or I would take 10 minutes. I believe that was the agreement.

The PRESIDING OFFICER. Does the Senator yield 20 minutes to the Senator?

Mr. HASKELL. I do, reserving 10 to myself.

Mr. HANSEN. I thank my distinguished colleague from Colorado. I simply wanted to finish this one sentence, and that is that when we talk about absolutes, and when this amendment talks about them, we leave absolutely no latitude, no elbow room at all. I think that is dangerous.

The reason why I raise this point is that I do not see how there can be additional power plants brought into being in this country that will not result in the degradation of the quality of air. It is for this precise reason that I think it is extremely important that we do not do in this bill the same thing we have done in previous pieces of legislation, so as to absolutely throttle us and make it impossible for this country to undertake efforts that are necessary in order to achieve broad public purposes.

I thank my distinguished colleague from Colorado.

Mr. HASKELL. Mr. President, the amendment proposed by the Senator from Wyoming would completely upset the balance that we tried to put in this bill between the necessity for orderly development and the equal necessity for preservation of the environment, and in doing so, it would weaken this bill far beyond the weakening that would have taken place yesterday had the amendment of the distinguished junior Senator from Louisiana (Mr. JOHNSTON) been adopted. Of course, that amendment was not adopted.

Mr. President, I would like to point out that in trying to attain this balance between development, as I say, and preservation of the environment, in both areas, we have asked the States themselves to address themselves to the problem, to define the areas. In the bill, both with respect to key facilities and development for public facilities, in the development section and in the areas of critical environmental concern, the States are given examples in each area of what they should address themselves to. But I would like to point to the words "as defined and as designated by the State." Therefore, it is up to the State to further define each area.

Take a shoreline. The Senator from Wyoming and the Senator from Colorado have shorelines in their States. A State, in defining a shoreline as an area to be protected, could go back 20 feet from the water's edge or 1,000 feet, whatever the State wanted to do. But a shoreline obviously is an area of critical environmental concern—there is no question about it—and therefore all this bill does is ask the State to address itself to that problem.

I would like to point out that the subcategories in this definition, which the distinguished Senator from Wyoming seeks to eliminate, had not only the strong endorsement of environmental groups such as the Sierra Club, but the endorsement as well of such trade groups as the National Forest Products Association.

I therefore hope, Mr. President, that the Senate does not completely tilt, overturn, and make ineffective this piece of legislation, which in my opinion the Nation needs, by agreeing to this amendment that has been offered.

Mr. President, with that statement and with the hope that the amendment be rejected, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HANSEN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally charged to both sides.

Mr. HASKELL. Mr. President, if I might suggest, in view of the fact that I only have 10 minutes and the proponents have 50 minutes, I would hope that the proponents of the amendment would have the time taken out of their time.

Mr. HANSEN. That is agreeable.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HANSEN. Mr. President, the area of critical environmental concern is the only substantive area reviewable by the Secretary under section 204(1) of this bill. That language is to be found on page 78 of the bill.

Section 204 reads in part:

> As a further condition of continued eligibility of a State for grants pursuant to this Act after the five complete fiscal year period following the enactment of this Act, in accordance with the procedures provided in section 306, it shall be determined, upon review of the State land use program, that—
>
> (1) in designating areas of critical environmental concern, the State has not excluded any areas of critical environmental concern which are of more than statewide significance.

It is for that reason, Mr. President, that it seems highly appropriate to me that we clearly define precisely what is involved. We must make some effort to strike a balance between what the Federal legislation calls for on one hand and what the States must do on the other.

I say that because the situation, as my good friend, the Senator from Colorado, knows, differs from State to State. If a State is not blessed with the abundant beauty that we find in Colorado and Wyoming, it may indeed determine that there are areas that are of rather minimal interest that would indeed qualify as areas of minimal environmental concern. We need to have some way to give the States a little bit of latitude so that

they can determine what will serve their public best.

Mr. FANNIN. Mr. President, if the Senator will yield, I wholeheartedly support my good friend, the Senator from Wyoming, and join with him as a cosponsor of his amendment. I commend him on his comments and agree with him wholeheartedly that this specfic definition of "areas of critical environmental concern" as we find it on pages 120–121 in S. 268, is so important and indeed vital as it would be applied in the specific provisions of the bill. This definition, in fact, is drafted in such a fashion as to insure that the Federal Government can dictate to the States all these various and sundry lands within that State that they consider to be "areas of critical environmental concern." The definition is so broad, so expansive, that as we have said on previous occasions, it is not unreasonable to expect that any land within any State could be so designated as an "area of critical environmental concern." By this definition we cover the waterfront of lands. "Fragile or historic lands"—what really do we mean by "fragile or historic lands"? As written on page 121, we must include within our definition "fragile or historic lands where uncontrolled or incompatible development could result in irreversible damage to important historical, cultural, scientific or esthetic values or natural systems which are of more than local significance, such lands to include shorelands of rivers, lakes and streams; rare or valuable ecosystems and geological formations; significant wildlife habitats; and unique scenic or historic areas." I call upon each one of my colleagues, each Senator, to reflect what "fragile or historic lands" he might reasonably expect to be located in his own State.

Recall the significance of our words, because the operative provisions of S. 268, as the bill now stands, gives the Secretary of Interior the override veto, if you will, over the States in their definition of that term. Recall that the State is required, pursuant to section 203(a)(3)(A), to exercise control over areas of critical environmental concern. The State must also, under section 203(d) have the authority to prohibit the use of lands which have been designated as "areas of critical environmental concern."

Next, we go on to "natural hazard lands," and here they refer specifically to "flood plains and areas frequently subject to weather disasters, areas of unstable geological, ice or snow formations, and areas with high seismic or volcanic activity." Finally, we turn to another required definition within a definition—and such areas shall include, and I underline shall include, it does not say may—it says shall—as a mandatory requirement—"renewable resource lands" to include "watershed lands, acquifers and aquifer recharge areas, significant agricultural and grazing lands, and forest lands." Have we not, indeed, by these definitions within a definition covered the waterfront on every square inch of land that could possibly reside within a State?

So, we see, when my distinguished friend from Wyoming introduced this amendment to attempt to define the definition so that the States make the decision as to what specifically should be in that definition—and merely leave them with a guideline, a guideline that says that we want to include lands within the State where uncontrolled and incompatible development would result in irreversible damage to environment, life, or property which is of more than local significance.

Lest we forget, such a definition as now written, could include everyman's backyard. Because indeed, backyards include grass, and in our arid climate and soils of Arizona, grass is not only a practical and necessary vegetative cover, but it also provides necessary oxygen and that oxygen floats in the air, and that oxygen is consumed by people who pass through Arizona, or who reside in Arizona—and certainly that oxygen is of more than local significance. I am not being facetious when I say that this definition lends itself to an opportunity for violence.

Let me take you now through the provisions of the bill which deal with "areas of critical environmental concern" and that definition. This is essential to demonstrate why this definition is so important. First we look on page 64—this is section 202(a)(3), which is the process portion of S. 268. Recall, this is where we are telling the States that their process must include certain specific things. And on line 14, we say that that process must include protection of "areas of critical environmental concern." Mr. President, this does not mean that we can ignore "areas of critical environmental concern." It means exactly what it says—we must protect "areas of critical environmental concern." So we see, we are not pointing out to the States the mere procedural aspects of how they might proceed in their process, but we are telling them what substantively must be included in that process. For here we call upon the States to protect those areas. Recall the recent Supreme Court decision of Sierra Club against Ruckelshaus where the Court in a 4-to-4 decision upheld the lower court decision that said in the Clean Air Act when the purposes section of the bill said we must protect and enhance the air—that is exactly what was meant.

And that any action that was taken by Government or by private enterprise or by private individuals that would tend to degrade the air, even though that air was of higher quality than our Federal standards required—would be in violation of the law and subject to injunctive process to halt whatever they were doing which might degrade that air. Let us keep that decision in mind when we are drafting the purposes section of the bill, because it is in fact very vital—especially when the courts are asked to construe the intent of Congress.

Next, let me take you to section 202(a)(8), on page 66. Recall here, we are again talking about section 202, which is the process and enumerating what must be within that process. Here on line 2, we have told the State that their State process must establish a method for identifying and designating areas of critical environmental concern. Next, we look at section 203(a)(3)(A) on page 73. On line 21, we are telling the States that they must have a State program, and that the program must include these specific things: An adequate process, a statement of State land use policies and objectives; and finally, we are telling the States that they must have a method of implementation for exercising control over the use and development of land in areas of critical environmental concern. We recall the definition of implement—it means to carry out, to accomplish or to fulfill. So here again, we are spelling out in definitive terms, not mere procedure, but the substance of that procedure by telling the States how to implement their State programs.

The State must exercise control over the use and development of lands in areas of critical environmental concern. So we are seeing a gradual escalation of this term throughout the bill and a gradual escalation of its importance. Follow me still, if you will, to page 77, in section 203(d)—and on line 3, we are referring here to the State program again, and telling the States again that they must have the authority within their own State law to prohibit the use of land within areas which under the State land use program, have been designated as areas of critical environmental concern, of course, the language when we talk of these areas says which use is inconsistent with the requirements of the State land use program as they pertain to areas of critical environmental concern—or which use is incompatible and inconsistent.

We are asking, in fact, we are begging, because we did not sufficiently define what we are talking about for the courts to intercede to in order to resolve the conflict of what the Congress meant when they used these phrases. This is why it is so essential and important to amend this definition, as my colleague from Wyoming has suggested.

Follow with me on page 78, section 204(1), for here, Mr. President, is the hooker. For here, Mr. President, is the real significance of areas of critical environmental concern. Recall, we are talking about section 204, which is a perusal of that process and program by the Secretary of Interior to determine whether there ought to be continued eligibility, and the Secretary shall look and review that State program to determine that in designating areas of critical environmental concern, the State has not excluded any areas which he believes is of more than Statewide significance.

Here we have created a provision which allows the Secretary of Interior in Washington, D.C., to tell the Governor and the State land use planning agency in that State that they have not designated as area of critical environmental concern which he deems to be of more that than statewide significance. Recall now, that we have no definition of an area of critical environmental concern for more than statewide significance. We have one for areas of local significance—which is on page 120–121, but we do not have one for statewide significance. The Secretary is left to his blind discretion to decide whatever piece of land he would like to have

within a State so defined and so designated. Now, I hope that you can see the important nature of this definition, and how it affects and how it will affect the State, the local government, the private landowner, the State landowner, and the Indian landowner.

We must amend this definition, and I wholeheartedly support this amendment.

The PRESIDING OFFICER (Mr. NELSON). The Senator from Colorado has 6 minutes remaining.

Mr. HASKELL. I yield myself not to exceed 4 minutes, and will appreciate it if the Chair will let me know when that time has expired.

In response to the statement of the distinguished Senator from Arizona, I would reiterate that by eliminating areas of critical environmental concern, we are overtipping the bill and making it completely a developmental bill.

As far as areas of critical environmental concern go, it is the State that defines them. Furthermore, unless the Secretary can carry the burden of proof before the ad hoc hearing board that the State has not acted in good faith, the State has nothing to fear from it. This, as Senators know, Mr. President, is an almost impossible burden of proof.

Where an area of critical environmental concern is of more than statewide significance, then the Secretary may ask the State to designate it for inclusion in the State program, and the Secretary must have the burden of proving that his action is reasonable. But this is a very narrow exception. This is where an area of critical environmental concern is of more than statewide significance. I would suggest that the only one that leaps to my mind is the Grand Canyon, located in the State of the distinguished Senator from Arizona.

So it is only in this one narrow area that the Secretary can say anything to the States as far as what areas shall be defined.

For that reason, I would ask, Mr. President, that the Senate reject the amendment, because if this amendment carries, the bill would become totally a development bill, whereas we strove in committee to have a very equal balance, and I stress that we strove in committee to leave it up to the States.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, will the Senator yield me 1 minute?

Mr. HASKELL. I yield.

Mr. JACKSON. Mr. President, I merely want to associate myself with the remarks of my able colleague, the Senator from Colorado, who has been handling this amendment so well.

It seems to me that there are two points here that need to be made again. One is that I think the amendment as offered by my good friend from Wyoming is offered in the context that the present bill somehow will result in a national land use planning act leaving the States out, that we are going to have federalized zoning in this country.

That is exactly what we are not doing. On the contrary, Mr. President, we are trying to provide the kind of encouragement to the States so that the States will do this job, starting in the local communities and right up to the Governor's office. This is precisely what we are trying to do.

On matters of national critical environmental concern, as the Senator from Colorado has pointed out, this language is absolutely essential, Mr. President, and the States, in the last analysis, make the judgment on that point. For the Secretary to overcome the burden, he would have to find, I would think, a situation that would clearly, on its face, be a direct violation of any understanding of what constitutes critical environmental concern; and that, as the Senator from Colorado has just mentioned, is a burden of proof that he would have to sustain.

I cannot conceive of a situation in which the Secretary would be able to abuse his discretion to the point where he could, in effect, simply act in an arbitrary and capricious manner.

If this amendment is adopted, it will gut the bill. This amendment is far more severe than the Johnston amendment which was rejected yesterday. So I hope that my colleagues will understand exactly what they are doing, and that the amendment will be rejected.

Mr. President, I have a matter here that I want to take up out of order.

The PRESIDING OFFICER. The Senator may proceed.

AMENDMENT OF WATER RESOURCES PLANNING ACT

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1501.

The PRESIDING OFFICER (Mr. McGOVERN) laid before the Senate the amendments of the House of Representatives to the bill (S. 1501) to amend the Water Resources Planning Act to authorize appropriations for fiscal year 1974 which were to strike out all after the enacting clause, and insert:

That section 401 of the Water Resources Planning Act (Public Law 89–80; 79 Stat. 244; 42 U.S.C. 1962d) is amended to delete, immediately after the phrase "(c) not to exceed $3,500,000," the words "in fiscal year 1973 and such annual amounts as may be authorized by subsequent Acts" and to insert "annually for fiscal years 1974 and 1975".

And amend the title so as to read: "An act to amend the Water Resources Planning Act to provide for continuing authorization for appropriations."

Mr. JACKSON. Mr. President, the purpose of S. 1501 is to authorize the appropriation of $3,500,000 in fiscal year 1974 to support work which is underway by the Water Resources Council. The funds involved would provide for continued work on the Council's second assessment of national water supplies and needs and for the coordination of Federal agency participation in comprehensive river basin planning.

The bill, which was proposed by the administration, was passed by the Senate on May 30, 1973. Although the activities which are involved are continuing activities, the Senate amended the measure to limit the authority to fiscal year 1974 rather than to provide a continuing authority as the original bill would have done.

The House, on June 19, amended the bill by substituting the text of H.R. 6338, a similar measure which would provide authority for appropriations in both fiscal year 1974 and fiscal year 1975.

The intent of both the Senate and House versions is to provide for periodic congressional oversight of the activities. The 2-year authorization provided in the House amendment will adequately support that purpose.

Mr. President, I move that the Senate concur in the amendments of the House.

The motion was agreed to.

LAND USE POLICY AND PLANNING ASSISTANCE ACT

The Senate continued with the consideration of the bill (S. 268) to establish a national land use policy, to authorize the Secretary of the Interior to make grants to assist the States to develop and implement State land use programs, to coordinate Federal programs and policies which have a land use impact, to coordinate planning and management of Federal lands and planning and management of adjacent non-Federal lands, and to establish an Office of Land Use Policy Administration in the Department of the Interior, and for other purposes.

The PRESIDING OFFICER (Mr. McGOVERN). The hour of 10 a.m. having arrived, the question is on agreeing to the amendment of the Senator from Wyoming (Mr. HANSEN) No. 244.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clark called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. METCALF), the Senator from Iowa (Mr. HUGHES), and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Delaware (Mr. BIDEN), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Minnesota (Mr. HUMPHREY) are absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Iowa (Mr. HUGHES) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The Senator from New Jersey (Mr. CASE), the Senator from Idaho (Mr. McCLURE), the Senator from Ohio (Mr. SAXBE), and the Senator from Alaska (Mr. STEVENS) are absent on official business.

The Senator from New Hampshire (Mr. COTTON), the Senator from Maryland (Mr. MATHIAS), and the Senator from Connecticut (Mr. WEICKER) are detained on official business.

The result was announced—yeas 20, nays 63, as follows:

[No. 210 Leg.]

YEAS—20

Allen	Dole	McClellan
Bartlett	Ervin	Scott, Pa.
Bennett	Fannin	Scott, Va.
Brock	Fong	Talmadge
Byrd, Harry F., Jr.	Hansen	Thurmond
Curtis	Helms	Tower
	Hruska	Young

NAYS—63

Aiken	Gravel	Moss
Baker	Griffin	Muskie
Bayh	Gurney	Nelson
Beall	Hart	Nunn
Bellmon	Hartke	Packwood
Bentsen	Haskell	Pastore
Bible	Hatfield	Pearson
Brooke	Hathaway	Pell
Buckley	Hollings	Percy
Burdick	Jackson	Proxmire
Byrd, Robert C.	Javits	Randolph
Cannon	Johnston	Ribicoff
Chiles	Kennedy	Roth
Church	Long	Schweiker
Clark	Magnuson	Sparkman
Cook	Mansfield	Stafford
Cranston	McGee	Stevenson
Domenici	McGovern	Symington
Dominick	McIntyre	Taft
Eagleton	Mondale	Tunney
Fulbright	Montoya	Williams

NOT VOTING—17

Abourezk	Huddleston	Metcalf
Biden	Hughes	Saxbe
Case	Humphrey	Stennis
Cotton	Inouye	Stevens
Eastland	Mathias	Weicker
Goldwater	McClure	

So Mr. HANSEN's amendment No. 244 was rejected.

Mr. JACKSON. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

Mr. HASKELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McINTYRE. Mr. President, I ask unanimous consent that, out of order, I may speak for one minute.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

A TRIBUTE TO MY COLLEAGUE, NORRIS COTTON, UPON ANNOUNCEMENT OF HIS RETIREMENT AT THE END OF HIS TERM

Mr. McINTYRE. Mr. President, no Senator could ask for a warmer friend or more thoughtful colleague than I have been privileged to have in my senior colleague, Senator NORRIS COTTON. It is, therefore, with deep personal regret that I bring to the Senators' attention Senator COTTON's announcement that he will retire from the Senate at the end of his present term.

NORRIS COTTON has served New Hampshire and the Nation in the Congress for nearly a generation. And the Members of the body will personally testify that his service here has been characterized by a special civility, integrity, high intellect, Yankee wit, and profound patriotism.

All of us in public life know—indeed, each of us as an individual human being knows deep in his heart—that life poses no more difficult decision than choosing to retire from the race. And NORRIS COTTON's colleagues will agree as they read his announcement that each of us would hope to make this decision with as much grace, courage, self-command, and sense of fulfillment as NORRIS COTTON. God bless him.

Mr. President, I ask unanimous consent that my distinguished senior colleague's announcement of retirement be placed in the RECORD at this point.

There being no objection, the announcement was ordered to be printed in the RECORD, as follows:

NORRIS COTTON'S ANNOUNCEMENT OF HIS FORTHCOMING RETIREMENT

Twenty-five years ago as a member of the House, I wrote my first "Report" to my folks back home in New Hampshire. These I have continued through the years from both the House and Senate with unfailing regularity except in recent months when the pressure of mounting duties and responsibilities have compelled me to send them only intermittently. These Reports, in many respects, have meant more to me than any of the many activities in which a Senator must be involved because they have not only been my closest contact with you but, writing every one of them myself, they have helped me to analyze the decisions I have had to make on hundreds of issues and the reasoning that led to those decisions.

Because these Reports have been my closest contact with you, I think it is fitting that I should make use of this one to tell you that next year when my present term as Senator expires, I shall not be a candidate for re-election.

Naturally, this has been a hard decision to make and, being only human, I make it with a deep feeling of unhappiness. Of course, there are reasons that can be advanced to rationalize my seeking to continue in the Senate, and don't think I haven't thought of them all. At 73 I appear to be in vigorous health and able to perform my duties with the same zest that I have in the past. Experience and seniority have placed me in a position to accomplish more for New Hampshire and exert a greater influence in national and international affairs than ever before. At the beginning of this Congress, I was elected Chairman of the Republican Conference which comprises all of the Republicans in the Senate. In that capacity I am a member of the official Leadership that goes to the White House periodically to consult with the President. I am the fourth ranking Republican in the Senate, first on the Commerce Committee, and third on the powerful Appropriations Committee. At the end of 28 years in the Senate—8 in the House and 20 in the Senate—it is hard to turn one's back on all of this and retire to rust on the shelf.

But there is another side to this picture and facts that, if faced, lead to an inescapable conclusion. Ruth, my wife, has a serious heart condition, complicated by a broken hip which, at best, may mean months of convalescence during which she needs me by her side. Thus, I couldn't carry on an active, statewide campaign. My years in politics have taught me that people, particularly the new, young voters, expect and have a right to see and weigh their candidates. But it would be unfair to Ruth to attribute my decision to her or trade upon a devotion she so richly deserves after our 46 years together. There are other compelling reasons for my determination not to run again.

The people of New Hampshire have been mighty good to me. They have elected me four times to the House of Representatives and four times to the Senate. Come next election, I shall be 74 years old. I just don't believe I have the right to ask them to elect me for another six-year term at the end of which I would be 80. True, I am well able to do my job now, but I can testify to you from personal experience that due to the growth of our Nation and the complexity of problems confronting us, the job of a United States Senator becomes more burdensome every passing year. The people of New Hampshire are entitled to young, active, dynamic representation. Furthermore, odd as it may sound, a Senator has an obligation, insofar as it lies in his power, to neither resign nor die in office, thus enabling some Governor to appoint his successor and give a marked advantage to that person. The people of New Hampshire have been kind enough to elect me to the Senate. They, and they alone, should have the opportunity to choose my successor.

Incidentally, my term runs until January 3, 1975, and I intend to render you the best service in my power to the very last day. Therefore, this will not be my last Report because there are things which must be said and I can say them better as a noncandidate.

I hate to go. I can think of no greater privilege than the one you have granted me of serving in the United States Senate. Its associations deepen and mellow as the years go by, and the greatest days are the latter days. I think of the words of Rollin Wells in his poem, "Growing Old."

A little more tired at close of day,
A little less anxious to have our way;
A little less ready to scold and blame,
A little more care of a brother's name;
And so we are nearing our journey's end,
When time and eternity meet and blend.

LAND USE POLICY AND PLANNING ASSISTANCE ACT

The Senate continued with the consideration of the bill (S. 268) to establish a national land use policy, to authorize the Secretary of the Interior to make grants to assist the States to develop and implement State land use programs, to coordinate Federal programs and policies which have a land use impact, to coordinate planning and management of Federal lands and planning and management of adjacent non-Federal lands, and to establish a Office of Land Use Policy Administration in the Department of the Interior, and for other purposes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oklahoma.

AMENDMENT NO. 236

Mr. BARTLETT. Mr. President, I call up my Amendment No. 236.

The PRESIDING OFFICER. The amendment will be stated.

Mr. BARTLETT. Mr. President, I ask that the amendment be modified by deleting lines 3, 4, and 5.

The PRESIDING OFFICER. The Senator has the right to modify his amendment. The amendment is so modified.

The amendment, as modified, is as follows:

On page 64, line 17, after "the" add "exploration," and after "development" add "production, mining,".

Mr. BARTLETT. I thank the Chair.

The PRESIDING OFFICER. The Senator may proceed.

Mr. BARTLETT. Mr. President, this amendment as modified would alter slightly, but I think significantly, the processes that a State must use in its land use planning, so that in addition to development, generation, and transmission of energy, the process also would include exploration, development, and production mining.

I think this is more indicative of the situation that faces those States with natural resources in the energy field and it would provide a broader scope and more realistic scope of the processes that would affect the energy situation.

Mr. JACKSON. Mr. President, I am very pleased to accept the amendment.

It would include in the inventory, I understand, the matters the Senator referred to—exploration, development, and mining of fuels. In other words, the inventory would include those areas which are involved in the production of fuels. Is that correct?

Mr. BARTLETT. Yes. I would like to add that with the problems of shortages it is important that we address ourselves to a solution of the problem by increasing our domestic energy.

Mr. JACKSON. I agree with that concept and I accept the amendment.

Mr. BARTLETT. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

QUORUM CALL

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIBLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

PROGRAM FOR PRESERVATION OF HISTORIC PROPERTIES

Mr. BIBLE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1201.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1201) to amend the Act of October 15, 1966 (80 Stat. 915), as amended, establishing a program for the preservation of additional historic properties throughout the Nation, and for other purposes, which was to strike out all after the enacting clause, and insert:

That the Act of October 15, 1966 (80 Stat. 915), as amended (16 U.S.C. 470) is further amended in the following respects:

(a) Section 108 is amended by deleting the first sentence and inserting in lieu thereof the following: "To carry out the provisions of this title, there are authorized to be appropriated not more than $15,600,000 in fiscal year 1974, $20,000,000 in fiscal year 1975, and $24,400,000 in fiscal year 1976."

(b) Section 206 is amended by deleting all of subsection (c) and inserting in lieu thereof the following:

"(c) For the purposes of this section there are authorized to be appropriated not more than $100,000 in fiscal year 1974, $100,000 in fiscal year 1975, and $125,000 in fiscal year 1976: *Provided*, That effective January 1, 1974, no appropriation is authorized and no payment shall be made to the Centre in excess of 25 per centum of the total annual assessment of such organization."

(c) Section 201 is amended by inserting the following new subsection:

"(g) The Council shall continue in existence until December 31, 1985."

(d) Section 101(b)(1) is amended by deleting "and American Samoa." and inserting "American Samoa, and the Trust Territory of the Pacific Islands."

Mr. BIBLE. Mr. President, the most substantive of the amendments made by the House to S. 1201 was to increase the authorization for appropriations from $15 million annually for fiscal years 1974, 1975, and 1976, as passed by the Senate, to $15,600,000 for 1974; $20 million for 1975 and $24,400,000 in fiscal 1976. There was also a slight increase in the funding for participation in the Rome Centre for fiscal year 1976.

While these amounts are somewhat higher than those authorized by the Senate, Mr. President, the Subcommittee on Interior Appropriations, which I have the honor to chair, will have every opportunity to oversee closely this program as will the Interior and Insular Affairs Committee.

The other changes made by the House to S. 1201 were technical in nature, and therefore, Mr. President, I move that the Senate concur in the amendment of the House to S. 1201.

The motion was agreed to.

LAND USE POLICY AND PLANNING ASSISTANCE ACT

The Senate continued with the consideration of the bill (S. 268) to establish a national land use policy, to authorize the Secretary of the Interior to make grants to assist the States to develop and implement State land use programs, to coordinate Federal programs and policies which have a land use impact, to coordinate planning and management of Federal lands and planning and management of adjacent non-Federal lands, and to establish an Office of Land Use Policy Administration in the Department of the Interior, and for other purposes.

Mr. FANNIN. Mr. President, I send to the desk an amendment, which is offered by request, and ask that it be stated.

The PRESIDING OFFICER. The amendment was stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. FANNIN. Mr. President, I ask unanimous consent that the reading of the amendment may be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

(a) Page 126, line 8, through line 15, strike and insert in lieu: "Sec. 606. (a) Annual grants, pursuant to Part A of title II, to States found eligible for financial assistance pursuant to this Act shall be made in amounts not to exceed 66⅔ per centum of the estimated cost of developing and administering the State land use programs for the eight complete fiscal year period following the enactment of this Act."

(b) Page 128, line 19 through line 23, strike and insert in lieu: "Sec. 608. (a) For the eight complete fiscal year period following the enactment of this Act, there are authorized to be appropriated to the Secretary for grants to the States $40,000,000 for each of the first two fiscal years and $30,000,000 for each of the next four fiscal years and $20,000,000 and $10,000,000 for each of the last two fiscal years respectively to carry out the purposes of this Act."

(c) Page 128, line 24 through line 129, line 7, Strike

(d) Page 129, line 8 through line 12, strike and insert in lieu: "(d) For the eight complete fiscal year period following the enactment of this Act, there are authorized to be appropriated to the Secretary for grants to Indian tribes such sums as are necessary to carry out the purpose of title V of this Act."

Mr. FANNIN. Mr. President, this amendment would reduce the authorized amount for grants to the States from $100 million annually for 8 years to $40 million annually for the first 2 years and $30 million annually for the next 4 years, and $20 million and $10 million annually for the last 2 years, respectively. The amendment would also delete the authorized amounts for State grants for interstate coordination and grants for research and training and would reduce the Federal share of the total costs from 90 percent during the first 5 years to 66⅔ percent. With respect to grants for Indian tribes, this amendment would authorize the appropriation of such sums as necessary for land use planning and regulations.

Important as the purpose for which this bill is being considered, that is to assist the States to establish a land use planning process and regulation program, it is realistic to ask "How much Federal money will the States be able to make meaningful use of in order to fulfill the purpose of the bill?" and "What level of expenditure can the States be asked to contribute?"

To date we have no definitive indication as to the cost of developing and administering a State land use program. There is in my view a real danger that an overfunded land use planning program would generate mountains of data unrelated to developing a planning program related to critical areas and important development as required.

The administration has agreed that if through experience, additional funds for grants to the States and research and training is needed beyond that which would be provided by this amendment or existing research and training programs, it will return to the Congress with a clearly documented request for a specific amount.

Mr. President, I believe that the amount of funding which would be authorized by this amendment is a reasonable estimate.

Only experience can indicate what additional amount may be needed.

Mr. President, section 606 of the bill covers "Allotments." The amount that is involved is covered on page 132 of the report, "Authorization of Appropriations." It reads:

A sum of $100,000,000 annually for each of the eight fiscal years after enactment is authorized to be appropriated to the Secretary of the Interior for grants to the States to assist them to develop statewide planning processes and develop and implement State land use programs.

My point is that we do not have any formula that is definitive in determining how much money will be allotted. We do not have any determination that this amount of money will be needed. Consequently, I feel it is unwise at this time to say we need this amount of money. Last year the bill provided a much lesser amount after floor action but it started out with a larger amount. We deter-

mined that such a large amount would not be needed.

Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. FANNIN. Mr. President, in addition, the report at page 132 continues:

A sum of $15 million annually for each of the eight fiscal years after enactment is authorized to be appropriated to the Secretary of the Interior for grants to the States to carry out the purposes of section 205 concerning coordination of land use planning in interstate areas.

We do not know at this time how much money is going to be needed for this purpose. If at a later time it is determined that additional money is needed, it can be authorized by the Congress. We do not have a complete study of what will be involved and what amounts of money will be needed.

To some persons, $2 million a year for 8 years after enactment may sound like a very small amount of money to carry out the research and training purposes of section 308 of the bill. That may not be a large amount, but we are dealing with an unknown quantity.

Additionally, a sum of $10 million annually for each of the 8 fiscal years after enactment is included for grants to Indian tribes.

We are not asking for anything that is unreasonable. Here we are trying to make it possible to do what we all desire to do, and that is to cut down on the tremendous appropriations that increase the deficits that face the Nation each year and have for several years, and certainly for the foreseeable future it looks very dreary from the standpoint of our being able to deal with it. Here we are talking about spending $1,066 million-plus, through the full 8-year period. As far as the administration of the program is concerned, it goes only for 5 years. That provides for $50 million. If we take the $50 million, we are providing for the 8-year period $1,016 million.

I feel, for the purposes of fiscal responsibility, this is a good amendment. If it is found at a later time that additional money is needed, certainly we can appropriate more.

Mr. JACKSON. Mr. President, I shall be very brief. The committee had the benefit of the testimony of a wide variety of witnesses in connection with the land use bill. I can say to you, Mr. President, that the grant-in-aid part of the bill as it has been presented to the Senate had the unanimous support of all witnesses except the spokesmen for the administration. The administration disagreed on the formula in connection with the grant-in-aid funds. I point out that the trade associations as well as the environmental groups all joined in, in saying we needed more funding at a higher Federal level to insure that the State land use programs are good programs. The governors were unanimous. There was general unanimity of feeling on this. We had a voice vote in the committee—we did not have a rollcall vote—and it passed by a unanimous vote.

I think the question boils down to: If we are going to have a land use bill, if we are going to have a land use program that is at all meaningful in this country, all witnesses agree that if we are going in that direction—which obviously we must do—we need the resources to do the job.

I would hope the Senate would reject the amendment. I cannot think of anything worse than to embark on an important program of this kind without adequate resources to do the job.

I might point out that under the HUD 701 program for urban areas, the amount allowed is even greater. For highway planning, Mr. President, it is 3 or 4 times the amount. So it seems to me that when we are talking about the kind of planning that has to relate all these activities, the need for development and the need for conservation, we are talking about a much larger effort than we are talking about in the other programs, and we must have at least the authorization now in S. 268.

Therefore, I hope the Senate will reject the amendment.

Mr. FANNIN. Mr. President, we have experience in the highway program. We have experience in the HUD program. We do not have experience in this particular program.

I reemphasize, Mr. President, the administration has agreed that if, with experience, additional funds for grants to the States and additional funds for research and training are needed beyond that provided by the amount for research and training purposes, it will be returned to Congress with a clearly documented request for a specific amount.

The amendment we are talking about involves a considerable sum of money. We are talking about $260 million over an 8-year period.

Mr. President, I trust that the Senate will in its wisdom realize that we can start this program adequately with the money that is provided by this amendment and that if additional funds are needed at a later date, the administration will push for them to be appropriated.

Mr. JACKSON. Mr. President, I think we are prepared to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona. On this question the yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. METCALF), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Iowa (Mr. HUGHES) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Delaware (Mr. BIDEN), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Minnesota (Mr. HUMPHREY) are absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Iowa (Mr. HUGHES) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The Senator from New Jersey (Mr. CASE), the Senator from Idaho (Mr. MCCLURE), the Senator from Ohio (Mr. SAXBE), and the Senator from Alaska (Mr. STEVENS) are absent on official business.

The Senator from New Hampshire (Mr. COTTON) and the Senator from Maryland (Mr. MATHIAS) are detained on official business.

The result was announced—yeas 27, nays 57, as follows:

[No. 211 Leg.]

YEAS—27

Allen	Fannin	Roth
Bartlett	Fong	Scott, Pa.
Bennett	Griffin	Scott, Va.
Bentsen	Gurney	Talmadge
Brock	Hansen	Thurmond
Byrd, Harry F., Jr.	Helms	Tower
Curtis	Hruska	Weicker
Dole	McClellan	Young
Ervin	Percy	
	Proxmire	

NAYS—57

Aiken	Gravel	Montoya
Baker	Hart	Moss
Bayh	Hartke	Muskie
Beall	Haskell	Nelson
Bellmon	Hatfield	Nunn
Bible	Hathaway	Packwood
Brooke	Hollings	Pastore
Buckley	Inouye	Pearson
Burdick	Jackson	Pell
Byrd, Robert C.	Javits	Randolph
Cannon	Johnston	Ribicoff
Chiles	Kennedy	Schweiker
Church	Long	Sparkman
Clark	Magnuson	Stafford
Cook	Mansfield	Stevenson
Cranston	McGee	Symington
Domenici	McGovern	Taft
Dominick	McIntyre	Tunney
Eagleton	Mondale	Williams

NOT VOTING—16

Abourezk	Goldwater	Metcalf
Biden	Huddleston	Saxbe
Case	Hughes	Stennis
Cotton	Humphrey	Stevens
Eastland	Mathias	
Fulbright	McClure	

So Mr. FANNIN's amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed——

Mr. JACKSON. Mr. President, there will be some more amendments. I think the Senator from Wyoming has an amendment. I yield to him.

Mr. HANSEN. Mr. President, I call up an amendment to delete section 306(f) of the bill in its entirety, and substitute provisions for judicial review under appropriate circumstances.

The PRESIDING OFFICER. Will the Senator send his amendment to the desk?

The amendment will be stated.

The assistant legislative clerk read as follows:

Page 96, line 4, through page 98, line 12, strike and insert in lieu:

"(f) (1) In the event the Secretary determines that a State is ineligible for grants pursuant to part A, title II of this Act, or having found a State eligible for such grants, subsequently determines that grounds exist for withdrawal of such grants, subsequently determines that grounds exist

for withdrawal of such eligibility, he shall, following adequate public notice, conduct a public hearing on such determination of ineligibility at which time the State and all other interested parties may be heard.

"(2) Any State which receives notice that the Secretary, in accordance with the procedures provided in this section, has determined that the State is ineligible for grants pursuant to part A of title II, or, having found a State eligible for such grants, subsequently determines that grounds exist for withdrawal of such eligibility, may, within sixty days after receiving such notice, file with the United States Court of Appeals for the circuit in which such State is located, or in the United States Court of Appeals for the District of Columbia, a petition for review of the Secretary's action. The petitioner shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in the litigation.

"(3) The Secretary shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. No objection to the action of the Secretary shall be considered by the court unless such objection has been urged before the Secretary.

"(4) The court shall have jurisdiction to affirm or modify the action of the Secretary or to set it aside in whole or in part. The findings of fact by the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may order additional evidence to be taken by the Secretary, and to be made part of the record. The Secretary may modify his findings of fact, or make new findings, by reason of the new evidence so taken and filed with court, and he shall also file such modified or new findings, which findings with respect to questions of fact shall be conclusive if supported by substantial evidence on the record considered as a whole, and shall also file his recommendations, if any, for the modification or setting aside of his original action.

"(5) Upon the finding of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28, United States Code."

Page 98, line 13 through line 14, after "(g)" strike the words "In the consideration of eligibility before the "Board" and insert in lieu: "In the review of the Secretary's action before the court."

Mr. HANSEN. Mr. President, this amendment would delete subsection 306(f) of the bill in its entirety and substitute provisions for judicial review under appropriate circumstances. Subsection 306(f) provides that if the Secretary determines that a State is ineligible for grants, the President shall convene an "ad hoc hearing board" composed of the Governor of a different State, a knowledgeable impartial Federal official, and an impartial citizen selected by the other two members. The job of the "ad hoc hearing board" would be to review the Secretary's determination and require him to reverse his determination if they found that it was unreasonable. The judgment of the board would then be subject to review by the Federal courts.

In lieu of the board, this amendment would substitute an appeal to the U.S. court of apeals for the circuit in which the appealing State is located or that for the District of Columbia, to determine whether the Secretary's determination meets the tests imposed by subsection 306(g). This amendment would also substitute the word "court" for the word "Board" in that subsection.

I point out that I submitted this amendment at the request of the administration, and I shall vote "No."

Mr. JACKSON. Mr. President, that being the case, I think we are ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment was rejected.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. JACKSON. I yield to the distinguished senior Senator from Kentucky.

Mr. COOK. Mr. President, what I would like to discuss with the manager of the bill concerns a matter with reference to which I had originally intended to offer an amendment, relative to the language starting on page 123 concerning land sales within 10 miles of a metropolitan area. I find that the matter about which I am concerned does not fit into that category, but this is a problem as to which I would like to inquire. Perhaps it would come under subsection (3) on page 124.

This, Mr. President, is a problem we have when an individual will come along and acquire a strip of land along a county road, and divide it into 10 lots. There is no planning or zoning or anything else in the county, and there is no building inspector. He will build 10 small houses on lots 100 by 150 feet, usually consisting of 800 to 900 square feet, with no control as to easements alongside the road for drainage or anything else, and within a very short period of time we almost have a rural slum, except that the houses are farther apart.

I, for one, would like at least to get it into the legislative history that under subsection (3) on page 124, "such other projects as may be designated by the State," we ought to consider this idea of their responsibility for what I refer to as rural strip zoning. I am not really concerned, may I say to the manager of the bill, with the individual who lays out a 50-lot development, because that individual is not going to lay out 50 lots along a county road; he is going to have to get his easements, establish his water lines, put his roads in, and have it all surveyed, and as a result he will have a sufficient sum of money involved in that 50-lot development that it will be a good development.

What bothers me is the oversight responsibility someone should have and the responsibility that we have to advise the States that they have got to take some authority or at least some responsibility for this strip zoning, when a man will come in and buy a strip of land along a county road, build his houses, and he is gone. I can show the Senator areas in my State which are now so run down and they have all kinds of problems and the county cannot cope with them because it does not have the zoning regulations.

I should like to address this problem to the manager of the bill because it is a problem and a serious one.

Mr. JACKSON. I share the Senator's concern. Yesterday the Senator and I discussed informally—not in the formal proceedings of the Senate—this problem which the Senator from Kentucky has properly raised. It is an area of concern that is not as controllable, that is, when we get into 10 units, and so forth, in which there can be gross violations of all the standards deemed appropirate in a proper kind of development.

I should like the legislative RECORD to show, as well as the clear intent, as manager and author of the bill, that on page 124, line 5, (3), it states:

Such other projects as may be designated by the State.

That does not preclude a State from establishing even tougher standards than are set forth in the bill. As a matter of fact, I would hope that the States would use their discretion in trying and endeavoring to toughen the bill to the extent of including this kind of housing development, which presents one of the most serious problems we face from an overall environmental point of view.

I think the Senator has raised a proper question and I want to try to respond properly by saying that under 601(1) (3) to which I have just referred, the States do have full authority to do what the distinguished Senator from Kentucky has pointed out.

Mr. COOK. May I say that one of the problems——

Mr. JACKSON. That is our intent.

Mr. COOK. I am delighted the Senator has said that, because right after that, starting on line 7, under the (m), "developer"—a developer for the purpose of a project is a person who falls within the category defined in subsection (l)—that comes within the framework of a 50-lot development.

Mr. JACKSON. It also comes within (3).

Mr. COOK. I would hope that we would make this clear because if, in fact, we are going to have a responsible land use program, then this has got to be considered, because we can go through rural America and every once in awhile we run across 10 houses along the road. It will be a rural countryside, with farms and all that, yet here are 10 houses. Usually the reason is there will be some kind of facility, a State facility, or a small industrial plant of some kind, and all of a sudden, right in the middle of nowhere, 10 houses have been built, completely uncontrolled, uncontrolled as to any planning and as to any type of appropriate easements. A gentleman comes along and he will buy a strip of land—I call it a ribbon—and he will make it a development and then he is gone.

Mr. JACKSON. When one talks about the land and the environment, he cannot help being impressed with what has

been going on all over the country, that is, the utter anarchy in the development of home properties in areas which should have been planned in advance, and development moving into those areas which probably should have been set aside for a park or for public recreation purposes. It is a total state of unplanning.

The need for land use planning, which we are trying to encourage in this bill, is typified by public awareness and concern about the developer and what he has done to the environment.

There are many good developers, of course. We are talking only about those who ignore all the rules. We are talking only about those who come into a State, exploit it, develop it for their own purposes, and then pull out—they are gone. They leave many people on the hook. We are not addressing ourselves to the situation where the developers are responsible. Responsible developers will be fully able to meet the requirements of section 202(d).

Thus, I want to say again, in making my intent clear, that what we are talking about in this section of the bill on land sales or second homesite developers is only about minimum standards—I repeat, minimum standards.

I know that the State of Kentucky has gone further than what is provided in the bill. I would hope that the States would take it on themselves to do an even better job than we have laid down in the bill. It is within the discretion of the States, and I hope they will exercise that discretion thoughtfully and keep in mind our desire to try to get order out of chaos.

Mr. COOK. I should like to raise another point with the manager of the bill, and that is, I voted against an amendment to take out some of the language on page 121. The reason for that is stated under item 2 under "Natural Hazard Lands"—

> . . . where uncontrolled or incompatible development could unreasonably endanger life and property, such lands to include flood plains and areas frequently subject to weather disasters, areas of unstable geological, ice, or snow formations, and areas with high seismic or volcanic activity.

Let me explain to the Senator from Washington why I voted against the amendment to take that out.

As county executive in my home community, we attempted to establish a zone classification called a flood plain zone, along the Ohio River in Kentucky, and we were taken to the court of appeals, which is our highest court in Kentucky, which court ruled that we could not establish such a zoning, that it was improper.

We then had people developing that area. We had several years of extremely dry weather. There were no problems in the winter. Houses went up and they were sold as fast as they could be built. All of a sudden, in 1962, the Ohio River decided to go on a good and solid rampage and we literally had hundreds of people whom we had to move, including all their furniture, or the storing of their furniture. Now they are in the process of having before this body, and it is now under way, an extremely expensive and tremendously multimillion dollar flood wall, participated in by the Federal Government to a great extent, so that we can protect an area that was exploited, really, and developed when, in fact, we knew—the planning and zoning commission knew—that the facts were hard and cold that we would have a series of floods, and that those floods would absolutely inundate the area; yet we could not stop it. So, I am delighted——

Mr. JACKSON. This amendment, I will say to my good friend from Kentucky, is made to order——

Mr. COOK. It certainly is.

Mr. JACKSON. For the problem the Senator has described in his own State. I share his concern about a situation like that, which certainly should have been avoided in the first place. This particular standard we have set, I think, addresses itself uniquely——

Mr. COOK. I am delighted to hear that.

Mr. JACKSON. To the problem the Senator has described.

Mr. COOK. Those were the two points I wanted to raise, and I thank the Senator for his comments.

Mr. HANSEN. Mr. President, will the Senator from Kentucky yield?

Mr. COOK. I yield.

Mr. HANSEN. I should like to make an additional comment, that is, I think each of us can usually get the benefit of hindsight from things we should have done. I would hope that we would not make the mistake of assuming that with the exercise of this hindsight, we should arrogate unto ourselves this authority. I know it is not the opinion of the distinguished Senator from Washington that we do it on this point, as on many other points he and I agree. But the States do have the authority. This is not the proper place for the Federal Government to step in.

The reason this body has to meet every year is that despite the excellence and the complete totality of usefulness of the Ten Commandments, people still seem not to obey them. So, from time to time we have to amend the laws. The fact is that if we look back and see what happened this year with some 13 million acres of land under water, some of it for as much as 7 and 8 weeks, it would be extremely easy to say we are not going to allow any building, any homes, any construction in these areas.

I think a clear line of demarcation can be made logically between the exercise of proper State authority on the one hand and a proper spelling out of Federal interests on the other.

I think that if people choose to move into a flood plain area that by history has demonstrated the ability to damage people time after time, people who choose, despite that record, to move in ought not be accorded the benefit of a Federal flood insurance program.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. HANSEN. I yield.

Mr. JACKSON. What is distressing is that many poor people sometimes end up renting facilities in a potential flood area and do not know what they are getting into; they are not really conversant with it.

Mr. COOK. I do not think the Senator has to limit his statement to poor people who rent facilities in that area. Let us take the individual who is not particularly greatly endowed with finances, who buys a home in that area, who has equity in it, who has payments to make every month, and who finds that as a result of that burden, he cannot move. It is not particularly the one who finds himself in that particular area as a renter.

Mr. JACKSON. I was referring to a situation in which they move into an area with full warning, full notice, that the area has previously been flooded and the house has been damaged, and they buy it knowing that fact. That is not usually the situation.

Mr. COOK. Let me add to that, in all fairness, when we talk about full knowledge, that we also have to take into consideration—the Senator cannot write this into the bill, and I would not want him to do so—the fact that someone may buy a home in the areas that have been flooded on the Mississippi River and somebody might say, "I want you to understand and have knowledge that in 1873 this was flooded, and they did not have another flood until 1973." I do not think one can inpute that particular kind of knowledge to an individual and deny him the resources of his government. With the progress we are making, we see areas that have become backwater flood areas as a result of the major projects of the Corps of Engineers.

Mr. HANSEN. The Senator makes the point I intended to make.

I listened to the Senator from Louisiana (Mr. JOHNSTON) relate yesterday that despite the fact that there are areas along the Mississippi that have been flooded, people move back there to build and farm. Why? They do it simply because the opportunity to live better is greater there than any place else they know. They are going to call for help if another flood strikes them, but they are willing to take that chance, because they want to live better than they would be able to live if they were not to move back there.

That is the point I hope we bear in mind as we discuss the ramifications of this bill. I agree with the distinguished Senator from Kentucky that it is not enough to say, as I could say, that in Wyoming we had an ice age that scooped all our land bare 10,000 years ago. Perhaps another one is coming. I do not know. At any rate, I think that some place between long-term experiences or repetitions and shorter ones can be found a logical place to draw a line.

I wish to make another point: There are situations, such as described by the distinguished Senator from Kentucky, that I think make manifest the need for action. I suggest, together with the distinguished chairman of the full committee, that the States do have the authority. Sometimes they do not act quickly enough; sometimes they are not

as responsive as soon as we would hope they would be; but I do think that is an area that ought not be invaded by the Federal Government.

Mr. COOK. I want to make clear that one of the greatest opportunities the individual property owner has in his community is to attend meetings that make changes in the basic substance of his community. I would hate to see—and I had to make those decisions for almost 8 years on zoning cases—a system whereby we move that forum away from the most important local government in regard to that individual's piece of property. I hope there is nothing in this bill that would create or even give a semblance of an idea that the opportunity to attend a zoning meeting, an opportunity to object to zoning, an opportunity to be heard by the local officials, would in any way be impaired, because this is the basic forum.

If this bill would in any way, in my mind, make the Secretary of the Interior, in Washington, a zoning czar, I would be so much against it that there would not be any way I could even talk about it. The idea that an individual property owner can attend that meeting and protect his rights before his local officials is one of the greatest rights he has in relation to his investment.

I say to the Senator from Wyoming that I would not even want that authority transferred to State government; because the right of a man to go to his local city hall and attend that meeting and have his attitudes and his ideas heard, instead of having to travel to a State capital, is a right he should never be denied.

I say to the Senator that we face the problem—and many States face the problem—as a result of this, that, all of a sudden, we find States that are unprepared, totally unprepared, to have a planning program. Yet, we have local communities in the United States that have excellent staffs. The Louisville and the Jefferson County Planning and Zoning Commission probably has 200 or 300 employees, and I doubt that the State has even 50.

It bothers me that, somehow or other, we do not have a better program or a better setup vis-a-vis the ability within the framework of this bill for the community to establish its plans and not be under the onus of saying that a State can summarily say, "We reject that plan, and that plan is not according to what we want." This truly bothers me.

I know that the planning agencies in the city of New York would feel bad if, somehow or other, all programs were subject to a planning agency in Albany. I think the same goes for the State of Colorado.

So I think that somewhere in this record we have to establish—and I hope the Senator would say it is in the bill; the Senator from Colorado told me it was—that when a local unit of government has an exceptionally fine planning commission and the State is in the process of building this type of commission, the State can contract with that local planning commission, can utilize the efforts of that local planning commission, rather than stand in judgment, not having had the expertise and not having had the history of really being able to come up with a rather remarkable plan for a community. Some communities have spent millions of dollars doing this.

Mr. HASKELL. Mr. President, if the Senator will yield for a comment, the Senator is absolutely correct. The bill does not tell the States in any way how to do it. It asks the States to do it. The bill provides that it can be done through any number of governmental units, depending on what the local governmental unit in the State is.

For example, in my State, we have councils of regional governments that are very good planning units. Possibly in the Senator's State some other unit would be appropriate. But it is completely up to the State to determine how this should be done.

I concur 100 percent with the Senator from Kentucky that to take away the right of any individual to go to his local town board would be very bad.

Mr. COOK. I might say that, for instance, in our community we have been developing now for over 15 years, a land use program on every piece of land in that community. I know the State is 15 years behind that program. I would hate somehow to think that under the terms of this bill that we would take this expertise and all of a sudden make it subservient under this bill because it calls on States to come up with a land use program; then there would be an arbitrary attitude—the Senator mentioned land use programs in Phoenix and Tucson—and somehow you would get into a conflict with the State government and that plan would be rejected when it has cost the taxpayers hundreds of thousands of dollars, if not millions of dollars to develop.

This gives me a problem.

Mr. FANNAN, I commend the Senator, I share his concern. I think he has contributed greatly in making the legislative record of what is intended to be in the bill. He realizes that I am not satisfied but at the same time I think he is certainly giving us a better understanding of what he feels should be in the bill and the record that has been made by the agreement with the committee chairman, the distinguished Senator from Washington, has assisted greatly in clarifying some of the misunderstanding that could come about if it had not been for the contribution of the Senator from Kentucky.

Mr. COOK. I thank my colleague for this colloquy.

Mr. President, I yield the floor.

MR. SPARKMAN. Mr. President, will the Senator from Washington yield to me for a brief colloquy?

Mr. JACKSON. I yield.

Mr. SPARKMAN. Mr. President, what I have to say is very much in line with the discussion we are having, but the discussion does not cover something I am particularly interested in on the same provision of the bill, and that is the effect it might have in orderly, regular construction of rural housing.

May I say in that connection we have had a hard time over the years in getting adequate rural housing programs. We have good, adequate laws for rural housing now, and I want to be sure and I hope it is not the intention of this particular provision in the bill to restrict normal building of rural housing. It is hard even to get the housing built because contractors do not like to go out and build a single house here and another over here. I want to feel safe in that this will not prohibit or interfere with that normal method of building safe, decent, and sanitary housing in rural areas.

Mr. JACKSON. The answer is definitely not. On the contrary many of us recognize we have more poverty in rural America than we have in some of our cities, and about as bad slums. That is one thing people do not realize.

The Senator from Alabama, who has had long service in the Senate and in the House has been the leader in the housing area to improve the quality of housing, not only in cities, but also in rural areas. Those of us who have had a chance to look into some of the slum areas of rural America recognize this problem.

I want to say to my friend, who is a leader in the field of better quality housing, that this is what we want to do. We want to improve the quality of housing in those areas that otherwise could result in poor quality housing.

We recognize there are a lot of good developers in this country. The overwhelming majority are good and want to do a good job. We are trying to get at the fly-by-nighter who rushes in, makes a fast buck, and rushes out. This is what it is aimed at. Our language here aids and abets the long-term goals of the distinguished chairman of the Committee on Banking, Housing and Urban Affairs, of which he has been the leader for so long.

I can give him positive, definitive assurance that that is our intent; and as the author of the bill, I can say that that is exactly what we are trying to do.

Mr. SPARKMAN. I thank the Senator from Washington. I feel more secure than I did upon my first reading of the bill. I thank the Senator very much.

Mr. JACKSON. I am glad to clarify the record in this regard. I want to emphasize that obviously we are concerned about the slums of our cities, but it is my judgment, looking down the road, that we shall have to have a new concept of living, from which we will build whole new towns.

The fact is that we are going to see more and more people going out into the open areas. When I saw last week, as perhaps most Senators did, in the Sunday newspaper a picture of that huge housing development—I have forgotten the number of buildings and stories—that was abandoned in St. Louis. There was that huge investment in the heart of the city. I think that should be a lesson to all of us. I think we must look far enough ahead and recognize that if, in particular for the poor, we are going to strengthen family life, we will not strengthen it on the 40th floor of an apartment house, where they cannot raise a family.

I believe they will have to move into the open areas, where they can have an open place for the kids to grow up in and be normal. Rural America affords that great opportunity.

I want to see the kind of projects in the future that will provide the kind of environment as to which a person can say, "This is my home; this is my green area; and out yonder is all that open space." I think we have to reverse the whole process.

I did not mean to get off on another subject. We have to reverse the whole process of public housing, in which we have built huge projects which have become huge slums. I think we will have to limit the number of people who can live in a city block. After a certain point, they do not live; they barely exist.

I must say that I am proud of the leadership of the great Senator from Alabama (Mr. SPARKMAN) in trying to provide housing for all Americans in all walks of life, and I hope that we can work together to accomplish that.

Mr. SPARKMAN. I certainly thank the Senator from Washington.

Mr. JAVITS. Mr. President, I wish to make an observation concerning what the Senator has just said, and I should like to ask him a question.

I represent what is probably the most densely settled city in the country and I recognize the great interest of the Senator from Washington and the Senator from Alabama in the problems of the cities.

I think it would be a mistake to assume that not only all but even a majority of the additional housing is slums.

There are other areas I would invite them to see besides the terribly depressing areas which have developed. Much of it is housing which is beautifully kept while only a minority of that housing has been abused.

But when we look at the land along the East River, in New York, it is just one more example of a renascence in a city's living conditions.

I thoroughly agree with the Senator from Washington that slums do encroach upon new areas, and we must see to it that new and even more beautiful construction is built. I am deeply devoted to the "New Cities" concept.

Mr. JACKSON. I, of course, have supported all the public housing programs. My only observation is that I think some have been reasonably successful; others have not. I feel that the poor deserve better than what they have been getting in some of the housing programs where they are cramped into a limited space where they do not have the opportunity to provide for a family and individual home.

I am talking about a long-term goal. I just feel that there is a relationship in our society between congestion on one hand and violence on the other. If we get congestion even in a new area, we can get congestion and trouble. I am talking in long-term goals.

I am not saying all public housing projects are bad, but they have not panned out as well as some of us had hoped for. I think my colleague will agree with me.

What I am suggesting is an even greater program, but it is going to be a more costly program, giving people an opportunity to get into open areas.

Mr. JAVITS. It will provide jobs, too.

Mr. JACKSON. We have to relate it to transportation and jobs.

Mr. JAVITS. It has worked out very well considering where we started from, but it is a moment for a new departure. I agree with that.

The question I wanted to ask the manager of the bill is this: The bill seems to contemplate future to State land use programs rather than existing programs and reading sections 201, 202, and 203 at least leaves that question somewhat up in the air. For example, section 201(a) reads:

> The Secretary . . . is authorized to make annual grants to each State to assist each State in developing and adminstering a State land use program meeting the requirements set forth in this Act.

That seems to take into account plans which are ongoing when the bill becomes law. On the other hand, other sections, like section 203, are ambivalent as to whether it is based on existing plans or plans under this act. In New York we have had, under a succession of Governors, culminating in Governor Rockefeller, developed a remarkable land use plan for the area called the Adirondacks. The Adirondack Park Agency administers the plan which covers 6 million acres, both private and public lands. The plan developed for this area and approved by the State legislature fits in with the concept of this bill very well.

Question: Is this any disqualification or is any special qualification needed to bring this existing plan under the terms of the bill? Will it be recognized that we have in effect an ongoing land use program like the one I have described, under the terms of this bill?

Mr. JACKSON. I would say that the State of New York has a leg up on the rest of the country in that regard, rather than a leg down. There is no penalty for being progressive and farsighted, as New York has been. I am very proud of the great leadership, as the Senator knows, on land use planning by Laurance Rockefeller. He has been a national leader in conservation and a strong supporter in connection with the pending measure. He and his brother, working together, have implemented I think a very fine plan in connection with the Adirondacks. So there are no penalties. On the other hand, New York will benefit immeasurably by this legislation because they are further along than the other States.

I hope that response will satisfactorily answer the questions the Senator has raised.

Mr. JAVITS. I thank the Senator.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. JACKSON. Certainly.

Mr. DOMENICI. Let me also join in an observation about the problem of density of population, which the distinguished Senator from Washington brings up. Let me share a few thoughts I have after serving as mayor of a city. When I left the mayorship of our city, someone asked what problems—one single one—in terms of the city I would use to describe the most difficult kind of governmental problem on leaving. I thought a bit about it. As the Senator knows, my city is not a terribly large one, but I, nonetheless, concluded that it was density of population, and I concluded that our government should begin to look at homes along the cost-benefit ratio, something like this: We pass a job training program totaling about $3 million or $4 million and then we define its general structure. All of a sudden we wonder why the rural unemployeds move to the city. They go there to seek the training that the Federal Government enticed. When they get there, they are now part of the growing density problem.

It seems to me that we could analyze the social programs and come up with a conclusion that, indeed, we ought to look at a counterprogram every time we promote density, a counterprogram to demote density and to entice people to live in a small town.

I would not say I totally agree with this bill as an effort to do that. I do not. I have a few concerns about it. But I agree with the concept that the future of our land lies in building, not more density, but, rather, an orderly dispersion or spreading out of livability.

I say to those who say it is too expensive, look at the social cost to this country of putting people one on top of another in buildings. Look at problems our families are having that might be related to their not having a home or house. Look at the relationships that are social and that we do not understand, before you judge the cost and the small kind of environment we want to build in a little town or rural America.

I will say that we do not need planning forced into every aspect of our lives, but, indeed, land is our great inventory and, indeed, it is available to our people in a different kind of attitude than when our big cities were formed. Why were they formed? We know why they were. It was due to the modes of transportation at that point in history or the particular ends of a railroad system that caused it, and those conditions have changed. Yet the Government goes about funding social programs to add to the density. Then we ask ourselves why rural America is drying up.

People follow jobs. People follow jobs and density into the big cities. Jobs are created by the private sector looking at the job market. So we have to reverse that process and take a good look at why they are moving, and not force, but entice—not hit people on the head, but offer a legitimate alternative to young people, so they can make a choice: little or big city, with equal opportunity, not to have to make a choice that "We can get a job only in the big city," so he does not have to make the choice that, "Either I live in poverty in the little town or move to the big city and seek economic prosperity."

I say that only in respect of the Senator's comments on the bill, but I do have some serious concern that there may be a misinterpretation of the bill in some of its provisions and that we will dictate to the local level from one big office. I understand that is not the goal.

In fact, we are saying to the States and local communities, "We want you to exercise initiative in good planning. We are offering a kind of action-prodding law so that you will get on with the responsibility that is yours."

I will ask, in a broad and general way, am I correct that that is our goal and objective?

Mr. JACKSON. Mr. President, I commend the distinguished Senator from New Mexico for his comments. There are two points I wish to cover. One is that we are trying to prod the State to do what, I think, the State wants done—better planning. I think that we could have done a better job in the past rather than to leave it to chance where we do have the congestion which the Senator from New Mexico deplores and I deplore.

This is an effort to say, "In the next decade, let us do better than we did in the last decade."

As I said on the floor the other day, between now and the end of this century we will literally have to rebuild America. We will soon celebrate the 200th anniversary of our country, in 1976. And between the present time and the year 2000, we will have to do all over again what we have been able to do in the first 200 years, and that is a short period.

I want to avoid this mish-mash, this jamming together without planning and without proper judgment or discretion having been exercised in advance.

I agree with the Senator that in the past cities have been built around transportation modes. They have been built around the development of an industry. I think that in the future we will have to have both inducements and restrictions on industry. We will have to say that in a certain sized area that is already jammed up, there will be certain tax disadvantages if an industry goes in there. However, if an industry goes into an area in which they will establish a new community, there will then be a tax incentive to do that job. I am merely throwing this out as one possible means of doing it.

We all want to avoid being arbitrary and capricious by having local officials tell people that they cannot do this or they cannot do that.

I am convinced that at some point in time we will have to have a limitation on the number of people that can live in a given area. With our density of population, we have troubles of all kinds.

I think that that is the thrust of the Senator's comments.

Mr. DOMENICI. Mr. President, I have a couple more observations I would like to share with the Senator concerning State and regional planning.

First, I do not know that I agree with anything except the last remark of the distinguished Senator, that we might have to have a limitation on numbers. If the Senator means that should be the objective, then I agree.

Mr. JACKSON. For example, today one cannot build a new building in most areas unless he provides adequate parking. I do not think that we ought to have a family high rise where you have a number of children which will exceed the capacity of the playground facilities or open-air facilities. This is what I have in mind.

Mr. DOMENICI. Mr. President, this brings me to an observation based upon my own experience which in terms of local government is somewhat more recent than that of the distinguished Senator from Washington. So I want to share it with him.

First of all, as we talk about planning and zoning, I hope that no one thinks that this is a science or that it is perfect or that even with a good local planning mechanism, we will not have some inconsistencies. That will happen anyway. I hope that no one thinks that we will not have some bad planning even with good planning machinery and people of good faith and local input.

I raise this point because I know from experience that even though one tries to plan a good city, he ends up with some things that are not quite right. The rate of growth, history, and individualism have to enter into it. We do the best that we can. And I offer this to the Senator and to all Senators because I hope that those who in the future look at the efforts of cities, counties, regions, or States do not conclude from an ivory tower that is located far away. "Well, we have the mechanism. So, it should be rather perfect with consistent planning and zoning and no bad faith."

That cannot happen. The Senator knows that even if one starts with a clean piece of real estate to build a perfect city and a perfect city legislatively, there are many who will say that it is not right. We will end up in 5 years with many saying that we should have done it differently or should have put something in a different place.

I only offer this for the RECORD so that those in the future who look at this legislation do not say that this could have been a lot better. We are going to make mistakes. And we ought not to judge it on that basis.

Mr. JACKSON. The whole thrust of this legislation is to activate people to start at the local level to get involved in planning. What worries me in connection with many people is that they will not participate unless something bothers them. They stay away and then they wonder later on why something bad is happening to them.

Organization alone will not do the job. Good people are necessary. Good people can survive a bad organization. But on the contrary, bad people can wreck a good organization.

I am talking now about participation in zoning and planning decisions. So a couple of factors are necessary. We need people with good judgment and sense.

Mr. President, I want to finally state that there is no desire to create any kind of bureaucratic monstrosity where decisions will come from on high out of Washington. I am concerned over getting people involved and willing to take part when it involves something that does not directly affect them. The trouble today is that we cannot get people interested in an important matter well in advance so that we can avoid trouble.

We do in the bill provide the kind of action forcing procedure that should encourage people from the community level right on up to the State capital to participate and make contributions.

Mr. DOMENICI. Mr. President, I have one final comment that is in a way a question. We all know that planning frequently is larger than the normal governmental unit of a State or county and frequently is of an interstate nature. I understand—and this is by way of inquiry—that this bill will permit States to make an interstate application for planning between States. Is that correct?

Mr. JACKSON. The Senator is correct.

Mr. DOMENICI. Mr. President, I would gather that in that regard the Governors of those States would have the final choice as to which applications they might approve. Is that correct?

Mr. JACKSON. The Governors are involved. The concept is that the governors are to work together on a voluntary basis. We do provide, of course, that the States have to look at the problems that go beyond State boundaries. That is where the Secretary of the Interior and the ad hoc committee get into the proposition, when the States are involved in something that has an adverse effect on another State or affects the whole region or even the whole country conceivably, depending upon what it is.

Mr. DOMENICI. The Senator is confident then that as far as duplication and effort by way of regional planning, there is adequate provision to eliminate that and fund only by way of a grant in aid to a State or regional commission in the opinion of the distinguished Senator?

Mr. JACKSON. Yes, I am confident. We have covered that pretty well, that if there should be a situation—and there will be a lot of amendments to this particular bill over the years, obviously—we will take it up, and I would be the first to see that corrective steps are taken to avoid what the Senator has mentioned.

Mr. DOMENICI. I thank the distinguished Senator.

Mr. FANNIN. Mr. President, I send to the desk an amendment which is offered by request, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Page 129, line 22, through page 130, line 14—Strike.

Mr. FANNIN. Mr. President, this amendment deletes section 609 in its entirety. Subsection 609(a) requires that all funds appropriated under the pending bill and the Coastal Zone Management Act of 1972 be fully apportioned for obligation by the Secretary of the Interior and the Secretary of Commerce, respectively. It appears from the language of the subsection, that its operation would in effect amend the Anti-Deficiency Act (31 U.S.C. 665), by rendering the apportionment provisions of the act meaningless as to the provisions of the land use bill and the coastal act. In my judgment any alteration of the Anti-De-

ficiency Act within the context of land use legislation is unwise.

Subsection 609(b) requires that the appropriations under these two measures be combined and be available to be drawn upon for obligation by the Secretaries of Commerce and Interior in the same ratio as they are appropriated. This subsection appears to be unnecessary and serves no useful purpose. Any legislative provisions dealing with the right of Congress to appropriate and the obligation of the executive branch to spend such appropriations, should be considered within the context of those bills pending before the Congress dealing directly with this issue preceded by the development of a complete legislative record. Such record is absent from the hearings on this bill.

In this subsection (b) of section 609, it is provided that—

All funds appropriated each fiscal year for grants to the States pursuant to part A of title II of this Act and sections 305 and 306 of the Coastal Zone Management Act of 1972 shall be combined and shall be available to be drawn upon for obligation by the Secretary and the Secretary of Commerce, respectively, in the same ratio as the funds appropriated that fiscal year pursuant to the authorization provided in section 608(a) of this Act bear to funds appropriated that fiscal year pursuant to the authorization provided in section 315(a)(1) and (2) of the Coastal Zone Management Act of 1972.

Mr. President, I realize that this is an impoundment issue, and I think it is improper to have it in this legislation.

Mr. MAGNUSON. Mr. President, I feel very strongly about this issue. The Committee on Commerce and the Committee on Interior and Insular Affairs were very deliberate in the drafting of language in section 609 and section 610. Our concern was to persuade the administration of our determination that both of these programs be funded and to prevent the Secretary of the Interior from using the power of his financial granting apparatus under this bill to extend his authority into States' coastal zones. We felt equally on the matter of the Secretary of Commerce allowing grant funds from the coastal zone program to be spent on projects outside the designated coastal zone.

The record we have made in the debate on this bill is clear. Congress will not tolerate the administration funding and implementing one program and refusing to fund or give only "benign neglect" to another; namely, the coastal zone program.

The report on this legislation is to the point. I might only add that we hope the administration will heed the voice of Congress, as reaffirmed in the debate on S. 268, and immediately seek appropriations so as to carry out the Coastal Zone Management Act.

Mr. HOLLINGS. Mr. President, it is proposed, by the amendment, to strike section 609 of S. 268 in its entirety—line 22, page 129 through line 14, page 130.

This is one of the provisions discussed generally in the Interior Committee report at pages 58 and 59 as being necessary to prevent the executive branch's intended contravention of declared congressional intent in passing the Coastal Zone Management Act of 1972, several months ago. This provision is more specifically discussed on pages 132–133 of the committee report.

As noted in the report, section 609 requires that all funds appropriated each fiscal year for grants to States for land use planning and management under S. 268 and under the Coastal Zone Management Act of 1972 be fully apportioned for obligation under the respective acts.

Section 609 further provides, if at the time of appropriation the administration is able to impound funds, that if Coastal Zone funds are impounded, the land use funds must also be impounded in an appropriate ratio. The ratio takes into account the different amounts authorized by the two acts as well as the amounts actually appropriated.

Therefore, in the first instance Congress would direct all funds appropriated for each program to be made available—not impounded—by the administration.

If, for some reason, this mandate is not followed, the executive branch is still prohibited from ignoring the Coastal Zone Management Act of 1972 because of the required coastal zone funds which must be spent if land use funds are spent.

Section 609 only seeks to insure the fulfillment of congressional intent both in enacting each of these authorizing laws and subsequently in enacting appropriation laws.

It is also proposed by the amendment to strike section 610 of S. 268 in its entirety—line 15, page 130 through line 13, page 131.

This is one of the provisions discussed generally in the Interior Committee report at pages 58 and 59 as being necessary to prevent the executive branch's intended contravention of declared congressional intent in passing the Coastal Zone Management Act of 1972, several months ago. This provision is more specifically discussed on page 133 of the committee report.

Section 610 prohibits the administration from extending the land use bill's provisions to the coastal areas to which the Coastal Zone Management Act is applicable. Without this provision, the administration in order to carry out its declared intent to ignore congressional will, could declare a State ineligible for coastal zone management program grants—OMB has the final say-so in the administration on all agency decisions—and thereafter require the State to implement a land use program for the entire State before it could receive funds for its critical coastal zone.

Therefore, Mr. President, I urge the defeat of the amendment.

Mr. JACKSON. Mr. President, we have worked this matter out, I think, in a very satisfactory way in the Senate. We do have the Coastal Zone Management Act. The funding of that act is important. It seems to me, after the consultations that we have had with the Commerce Committee and with members on both sides of the aisle, that the pending provisions found on page 130 in subsection (b) make sense, and I hope that the amendment will be voted down.

Mr. President, I am prepared to vote.

Mr. FANNIN. I am ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona.

The amendment was rejected.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed a bill (H.R. 8760) making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1974, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 8760) making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1974, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

QUORUM CALL

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

LAND USE POLICY AND PLANNING ASSISTANCE ACT

The Senate continued with the consideration of the bill (S. 268) to establish a national land use policy, to authorize the Secretary of the Interior to make grants to assist the States to develop and implement State land use programs, to coordinate Federal programs and policies which have a land use impact, to coordinate planning and management of Federal lands and planning and management of adjacent non-Federal lands, and to establish an Office of Land Use Policy Administration in the Department of the Interior, and for other purposes.

AMENDMENT NO. 245

Mr. BUCKLEY. Mr. President, I call up my amendment No. 245 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 128, line 19, strike out "eight" and insert in lieu thereof "six".

On page 128, line 24, strike out "eight" and insert in lieu thereof "six".

On page 129, line 4, strike out "eight" and insert in lieu thereof "six".

On page 129, line 8, strike out "eight" and insert in lieu thereof "six".

On page 129, immediately after line 21, add the following new subsection:

"(f) Upon the expiration of the five complete fiscal year periods following the date of enactment of this Act, no grant authorized under this section shall be withheld

from any State by virtue of a judgment of any official of the Federal Government, except with respect to section 204(1), as to the adequacy of any land use program adopted by such State in good faith.".

Mr. BUCKLEY. Mr. President, the purpose of my amendment is simple. It was drafted in response or as a reaction, if you will, to some general and, I think, serious concerns that have been expressed during the course of the debate on this legislation.

The concerns to which my amendment is addressed are twofold. First of all, it is generally conceded that we are embarking on landmark legislation that will be most far-reaching in its probable effect. It is generally conceded that the bill will have very significant economic, social, and institutional impact across the country.

Yet, as is so often the case with pioneering legislation of this kind, it is impossible at this moment in time to anticipate with any kind of precision the nature of the impact that it will undoubtedly have once the land use planning and programs to which it will give stimulus become effective.

Second, during the course of the debate on the Land Use Policy and Planning Assistance Act of 1973, concern has been expressed over the fact that despite the care with which the legislation has been framed in terms of having as its objective not to mandate a specific approach to land use planning, but rather to stimulate States to come to grips with the problems we are facing as to land use, and in doing so, by stimulating the planning process, to perhaps influence the States to meet more specifically the constitutional responsibility in this area which is clearly theirs.

Nevertheless, in spite of the language in the report, and in spite of the language in the bill, there is concern over the potential for naked Federal intervention into areas of authority that the Constitution reserves to the States, a potential which is deemed real because of the possibilities for bureaucratic harassment that many consider to be inherent in the present bill.

Who, for example, will be the ultimate judge of the adequacy of a State's land use program?

I believe that these concerns are legitimate. I am personally satisfied that they have been resolved in the language of the act. I believe that if the modifications which my amendment would entail are to be adopted, we would find much more support for the legislation.

My amendment would meet these concerns in two ways and do so in a way which would not in any significant manner modify the objectives of the legislation.

First of all, it would reduce the period covered by the bill from 8 years to 6 years. This would carry the program through the initial 5-year planning period in which each State is required to go through the planning processes, the so-called checkoff list, which the Senate committee deems to be necessary and desirable in order to have a truly comprehensive approach to the development of a State land use program.

The 6-year period would also grant us a full year in which to have actual experience with State programs in actual implementation. This 6-year period would also enable Congress to begin to assess the information and the recommendations that the bill requires be made to Congress.

In the first instance, section 307(a) requires the States to report as they go on, on an annual basis, on what they are doing and what progress they see in coping with the planning process.

Sections 307 (b) and (c) require a report to the Land Use Advisory Board after the first full year following enactment, and the Advisory Board, in turn, is required to report to Congress after the first 3 full years from the date of enactment on recommendations as to what substantive land use policy should be enacted.

In other words, Mr. President, within the scope of the slightly foreshortened period of time, Congress would be getting an input based on actual experience with the practical implications of the legislation on the basis of which to determine what, if anything, needs to be done or changed or amplified in enacting legislation to handle our land use policy programs in the years following the expiration of this legislation.

In this context, the second part of my amendment takes effect, and that is that, as to the adequacy of the land use planning program that is evolved by each State after following through with the planning processes mandated by this legislation, the standards of adequacy would be "good faith."

This would, in other words, preclude the possibility for arbitrary, coercive, bureaucratic interference at the Federal level with the best judgment applied by the States in evolving a land use program best suited to the needs of each State, after having gone through the analytical imperatives of the planning process.

I believe that one of the areas of division between Members of this body is the degree of confidence that we individually have in the willingness and ability of the State, having been exposed to the checklist we provide in the bill, to come up with a meaningful program designed in realistic terms to cope with potential abuses, given today's technology, which can have such enormously important implications.

Now, for those of us who repose our faith in the States in coming up with a meaningful program, it seems to me very little will be lost by applying the standard of "good faith" to the program evolved over the first 5-year period. These are the opportunities for that first year. We would also have the experience to judge whether, in fact, the views and policies incorporated by the States in their individual programs may not be better than those that might have been evolved or dictated by people cloistered here on the banks of the Potomac.

I suggest, in short, Mr. President, that nothing substantive is sacrificed by adoption of this amendment but, by the same token, we will be moving forward in a more prudent way. We will be gathering broader support within this body and we will be allaying the fears expressed not only here but also by the Governors and others across the country. We will be positioning ourselves so that the followup legislation will be far more intelligent, far more finely focused and tuned to our actual needs than is possible at this point in time, given the fact that we simply do not have the experience available to us, really, to anticipate the problems that might evolve.

Mr. JACKSON. Mr. President, the 8-year time limitation in the act was set so as to give the States 3 years of experience in implementing their programs. Congress and the States both need to observe the implementation of the State land use programs in order to judge the effectiveness of S. 268, and to make any necessary alterations in the law. There is a lot of trial and error involved here. We concede that. There is congressional review of the act already provided for in the act in section 608(e).

Let me read from line 13 on page 129 of the bill:

For each of the five full fiscal years following the enactment of this Act, there are authorized to be appropriated $10,000,000 to the Secretary to be used exclusively for the administration of this Act. After the end of the fourth fiscal year after the enactment of this Act, the Secretary shall review the programs established by this Act and shall submit to Congress his assessment thereof and such recommendations for amendments to the Act as he deems proper and appropriate.

Here we cut off the funds to administer the act at the fifth year, and require the Secretary of the Interior to do a full-fledged review of the act, and the performance under it, and report to Congress any recommendations for amendments to the act. We are assured that the Secretary will make a good report and that Congress will give careful oversight to the act because further funding for the administration of the bill would have to be authorized.

Mr. President, this 8-year grant funding—5-year administration funding compromise was reached last year in committee between the ranking minority member and the chairman.

Mr. President, may I just finally say—and I have great respect for my good friend from New York and I understand his concern—having said what I have, I would point out that, of course, each year this program will have to go through the appropriate funding process; namely, Congress will be appropriating the funds. What we have done here is to provide the overall limits. Congress will be able to engage in an annual audit as well as the authority of Congress at any time to make whatever legislative revisions may be in order.

In the meantime, it seems to me that we have set some guidelines here that give assurances to the States that this is a serious problem and that we intend to do something about it.

Mr. FANNIN. Mr. President, I commend the distinguished Senator from New York. I agree with his amendment. It is a very appropriate amendment.

We are building bridges. We are starting a program that is vital to this Na-

tion from the standpoint of having it succeed. Under his proposal, we are talking about expending $600 million to the States and $90 million for the regional purposes, and right on down the line.

I think we should have a formula whereby we will have guidelines. Not only will we be following this procedure all the way through, but also, we insure that the States, in fact, will be utilizing their own judgment during the first year the program is in effect. So this is a challenge to the States.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. FANNIN. I yield.

Mr. BUCKLEY. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. BUCKLEY. I thank the Senator for interrupting his remarks so that we could obtain the yeas and nays.

Mr. FANNIN. I feel that when we talk about spending $1.66 billion, as this bill would, we should be greatly concerned. The Senator has provided that during the 3-year period that is described, the States would have certain obligations following the enactment of this act, and the procedures are provided for the statewide land use planning process. Then we go on to the 5-year period.

So I think this is a very good amendment—in fact, an essential amendment—to the bill and will provide the protection that I know the Senator from New York is desirous of giving through this legislation. I commend him for this amendment. If we do not have this guideline then it is akin to building a rocket without any guidance system that will blast off into space and go in any direction that nature takes it. We want the provisions of this bill to be guided.

Mr. BUCKLEY. I thank the Senator from Arizona for his remarks.

I should like to address myself to one or two of the arguments offered by the distinguished chairman of the committee in opposition to my amendment. He states that we do have a cutoff after 4 years, at which point the Secretary will make his recommendations. Of course, these recommendations will be coming solely from one source, the Federal source.

Second, he points out that the fact that the funds need to be appropriated to meet the authorizations contained in this bill offers Congress the opportunity to revise and reconsider at any point. This is fine in theory; but does this really hold water in application? We know how busy this body is. We know the preoccupation we all have with legislation that is in front of us, legislation that needs to be enacted because authorizations have been terminated or because we find new needs that require Federal action. Programs have their own momentum.

If we have 8 years of authorization, we will have pro forma appropriations to keep the program going until the natural termination of the legislation.

I suggest that the appropriate time for Congress to reassess the program, to determine how, in fact, it is working, is early after the completion of the planning process and not as late as 3 years. I think this is vitally important because the interests that will be affected by the various State plans are so far-reaching.

I also believe that the shorter period not only is inherently desirable but also will bring support to the current legislation. I believe that if Congress is going to mandate this whole planning approach across the Nation, the larger the support in Congress, the better it will be in terms of signaling a national will.

I should like to address a question to the Senator from Washington. As the great compromiser around here, I would be happy to accede to his concern about a one-year period being too short for a true testing of a program, if he would accept the remainder of my amendment.

Mr. JACKSON. Is the Senator referring to the remainder of the entire amendment?

Mr. BUCKLEY. Yes.

Mr. JACKSON. I am concerned about the good-faith provision that starts on line 7, page 2. It would be necessary above and beyond the area of critical environmental concern, starting on line 4, through line 15.

Mr. BUCKLEY. I had exempted the findings of areas of critical environmental concern of more than statewide significance.

Mr. JACKSON. But the good faith concept that the Senator has suggested would apply to all the other areas as well.

Mr. HASKELL. Mr. President, will the Senator yield for a comment on this point?

Mr. JACKSON. I yield.

Mr. HASKELL. I should like to mention to the Senator from New York that I felt that the language of review which the Senator from New York inserted in the bill, which is section 306(g)—and the Senator worked it out extremely carefully—provides for different types of review, depending upon the different circumstances. It provides for one level of review requiring merely good faith by the State and another level requiring reasonableness of the determination, and there was a third which escapes my mind at the moment. These were really tailoring the situation exactly to the circumstances.

The Senator now proposes that after the State land use program is adopted, so long as it is adopted in good faith, then, except for a section 204(1) situation, there would be no further Federal review. I submit to the Senator from New York that planning is a continuing process, that we do not adopt a plan and set it in concrete.

As a matter of fact, the bill asks the States to continue to address themselves to the process and modify the plans as circumstances arise; and for that reason I believe that the standards of review, put in the bill by the Senator from New York originally, continue to meet the circumstances after the 5-year period.

This concludes my comments on the subject to the distinguished Senator.

Mr. BUCKLEY. I appreciate the comments of my friend from Colorado. I do believe, in my judgment, that the continuing planning process would be taking effect; that the States will be addressing this process with responsibility; and that we in Congress will be satisfied with what we see. But it seems to me the arguments the Senator advanced suggest I stay with my 6 years rather than 8 years, which will provide Congress with this opportunity without disturbing what the States, in good faith, have arrived at after going through the 5-year process; that without disturbing the possibility of bureaucratic leveraging pressure, the States can go on while we review how it operates. I do not think we are all that far apart.

It seems to me that the good faith approach—we are talking about the program and not to the planning process—is so consistent with the basic philosophy of this legislation; namely, that the Federal role is to stimulate a State reaction, but it is not the role of the State to second-guess the merits of one approach or another, except where Federal responsibility is involved, namely, in protection of areas of critical environmental importance, ecosystems, and so forth, that go beyond State geographical lines.

Mr. HASKELL. If I may respond briefly, I prefer the 8 years because I like to see the States get a helping hand beyond the time that aids their original plan. I prefer the standards of review that apply to the original plan. I think perhaps we have stated our different viewpoints as much as we can.

Mr. BUCKLEY. I thank the Senator. I think that the alternative viewpoints have been clearly expressed and I am ready to vote, unless the chairman has something to add.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. METCALF), the Senator from Alaska (Mr. GRAVEL), and the Senator from Iowa Mr. HUGHES) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Delaware (Mr. BIDEN), the Senator from South Dakota (Mr. ABOUREZK), and the Senator from Kentucky (Mr. HUDDLESTON) are absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Iowa (Mr. HUGHES) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The Senator from New Jersey (Mr. CASE), the Senator from Idaho (Mr. MCCLURE), the Senator from Ohio (Mr. SAXBE), and the Senator from Alaska (Mr. STEVENS) are absent on official business.

The Senator from Oregon (Mr. HAT-

FIELD), and the Senator from Maryland (Mr. MATHIAS) are detained on official business.

The result was announced—yeas 34, nays 50, as follows:

[No. 212 Leg.[

YEAS—34

Allen	Dole	Nunn
Baker	Domenici	Proxmire
Bartlett	Dominick	Roth
Beall	Ervin	Scott, Pa.
Bennett	Fannin	Scott, Va.
Brock	Fong	Taft
Buckley	Griffin	Talmadge
Byrd, Harry F., Jr.	Gurney	Thurmond
	Hansen	Tower
Cook	Helms	Weicker
Cotton	Hruska	Young
Curtis	McClellan	

NAYS—50

Aiken	Haskell	Muskie
Bayh	Hathaway	Nelson
Bellmon	Hollings	Packwood
Bentsen	Inouye	Pastore
Bible	Jackson	Pearson
Brooke	Javits	Pell
Burdick	Johnston	Percy
Byrd, Robert C.	Kennedy	Randolph
Cannon	Long	Ribicoff
Chiles	McGee	Schweiker
Church	McGovern	Sparkman
Clark	McIntyre	Stafford
Cranston	Magnuson	Stevenson
Eagleton	Mansfield	Symington
Fulbright	Mondale	Tunney
Hart	Montoya	Williams
Hartke	Moss	

NOT VOTING—16

Abourezk	Hatfield	Metcalf
Biden	Huddleston	Saxbe
Case	Hughes	Stennis
Eastland	Humphrey	Stevens
Goldwater	McClure	
Gravel	Mathias	

Mr. BUCKLEY's amendment was rejected.

Mr. JACKSON. Mr. President, I believe that the distinguished Senator from Maine desires to propound some questions.

Mr. MUSKIE. Mr. President, for the purpose of recognition in this colloquy, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The clerk will state amendment.

The ASSISTANT LEGISLATIVE CLERK. The Senator from Maine proposes amendment No. 242.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 76, insert between lines 8 and 9 the following new clause:

"(K) exercising control over proposed large-scale development and the use of land within areas which are or may be impacted by key facilities which shall insure compliance with the conditions specified in clause (2)(D) of subsection 202(d) of this Act."

On page 123, strike lines 10 through 16 and insert in lieu thereof the following: "(1) Land sales or development projects", "projects", or "project" means any of the activities set forth in clauses (1) through (3) below which occur beyond the boundaries of any general purpose local government certified by the Governor as possessing comparable capability and authority to regulate such activities."

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. MUSKIE. I yield.

Mr. ROBERT C. BYRD. I wonder if it would be possible to vote on the final passage of the bill at 1 o'clock today. It is my understanding that several Senators may miss the vote, if the vote should not come by 1 o'clock.

Mr. MUSKIE. I would have no objection.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the final passage of the pending measure come at no later than 1 o'clock today and that rule XII be waived.

Mr. SPARKMAN. Mr. President, I have a couple of amendments that I may wish to offer. I would not want to be precluded from offering them.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from Alabama may be assured of at least 3 minutes.

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

Is there objection to the unanimous consent request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. MUSKIE. It should not take longer than 10 minutes to cover this item. I do not intend to ask for a yea-and-nay vote. I intend to withdraw the amendment, but it is my purpose to make a record in connection with it.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on the final passage of the bill.

The yeas and nays were ordered.

LARGE-SCALE DEVELOPMENT AND KEY FACILITIES CRITERIA AMENDMENT

Mr. MUSKIE. Mr. President, the purpose of this amendment is to broaden the application of the criteria provisions which the Committee on Interior and Insular Affairs has already included in its reported bill. My amendment would accomplish this objective by doing the following:

First, amend the definition of "land sales or development" so that it applies to all areas within a State and applies within the boundaries of general purpose local governments except when the latter have been certified by the Governor as having comparable capability as the State to regulate such land sale or development projects, and

Second, make the criteria in the bill—which as proposed only applies to "land sales or development"—apply to proposed large-scale development and uses of land within areas which are or may be impacted by key facilities at such time as the latter must be subject to State land use programs—5 years after enactment.

I fully recognize and applaud the purposes for which the committee adopted the criteria provisions relating to "land sales or development projects." But I do not believe that there is justification for limiting regulation to those projects located 10 miles or more outside the Standard Metropolitan Statistical Area. Standard Metropolitan Statistical Areas include whole counties of which only a small portion may be within the presently developed urbanized area. We have an excellent example in the Washington metropolitan area. Rural Loudoun County is included in the Washington, D.C., Standard Metropolitan Statistical Area but, under the bill, any "land sales or development projects" in that rural area would not be subject to the criteria set forth in section 202(d).

This rural area is subject to precisely the pressures that the provisions of the committee bill relating to "land sale or development projects" are intended to address the arbitrary and artificial boundaries of the Standard Metropolitan Statistical Area are not relevant to their consideration should not prevent their being addressed.

Further, the addition of the 10-mile limit beyond the SMSA is arbitrary. It is these areas, the outer fringes of the SMSA and the areas immediately beyond, which are subject to the greatest development pressures. It is these areas in which development is most haphazard and most often unrelated to available public facilities. It is these areas over which regulation of land use is perhaps most urgent. The portion of my amendment revising the definition of "land sales or development projects" to end these artificial and arbitrary boundary definition restrictions would mandate State or local regulation for these key growth areas.

Under my amendment, local authority would not be excluded. A local government that has the capability and authority to develop a land-use program of comparable quality to, and subject to the same criteria as, that of the State could continue to regulate projects within its boundaries. But where such capability or responsibility does not exist, State regulation in accordance with Federal policy criteria specified in the bill is essential.

Within 3 years these controls imposed by S. 268 on land-sale or development projects will begin to establish a basis for the State and Federal cooperation in implementing the policy criteria established under subsection 202(d). The State will have 2 years during which the criteria must apply to such projects. This will be an experimentation period. At the end of 5 years, when State programs are to be implemented, my amendment would make the criteria applicable to all large scale development and land affected by key facilities in all areas of each State.

Certainly if the concept of application of Federal criteria is appropriate for one type of development with a severe impact of land use, it is equally if not more appropriate for other types of development, key facilities and large-scale developments which may have an even greater impact on land use.

Further, application of such criteria is essential to protect the prerogatives of the Congress in establishing Federal policy and to assure that State and local governments are not subject to bureaucratic whims. This is necessarily a complicated piece of legislation. Many portions of it will be subject to different interpretations.

I am concerned that, if the Congress does not specify what land-use policies are intended, as have been specified for "land sales and development projects," we may have other differing criteria im-

posed by executive fiat resulting from the State program review process. Matters could be further complicated by having criteria which change in direction or emphasis as personnel change within the executive branch. By setting criteria here in Congress, we reserve to the Congress the right to establish the policies which guide the States in these critical land-use programs, and we protect the States and local governments from changing policies which may be imposed without congressional guidance by the executive department.

Let me quote from a section of the committee report.

Today, the Nation as a whole is beginning to experience the pressures once felt only in its major population centers. In all parts of the country, conflicting demands over limited land resources are placing severe strains upon economic, social, and political institutions and processes and upon the natural environment—farmers' groups oppose real estate developers; environmentalists fight the electric power industry; homeowners collide with highway planners; the mining and timber industries struggle with conservationists; shoreline and water recreation interests are pitted against oil companies; cities oppose the states; and suburbs oppose the cities.

This is a clear call for national policy direction, and the committee bill makes a start by enunciating described policies with the conditions specified in subsection 202(d). But to avoid the policy collisions which the committee report recognizes, broader application of Federal policy guidance to such major impact projects as key facilities and large scale development is necessary. The policy criteria established in subsection 202(b) are only beginning. They are, however, an essential element of the legislation of conflicts in implementing a rational and enlightened land use policy are to be avoided.

Thus, the bill reported from the committee already provides certain land use planning criteria for second home or recreational developments located outside a specified area. But does it make any difference in terms of the adverse impact on the land whether such an unregulated development occurs inside or outside a 10 mile line?

Is it any difference in terms of impact on the environment whether a development contains 50 homes which would be regulated or 50 stores which would not?

Can it be argued that it is more important to regulate the environment around people's second homes where they live part of the time, than it is to assure adequate regulation of the environment around people's first homes where they must live the better part of their lives?

Are rural homes and recreation developments more likely to have a significant impact on available water supply, sewers and educational systems than their urban counter part.

Is a large industrial facility less likely to impact available environmental, transportation and public safety systems than summer homes or new resorts? I think not. I think the opposite is true.

It is these large developments—these key facilities—these suburban tracts that must be regulated. These are the critical activities with which State and local land use controls must deal.

If we mean to articulate a national land use policy which is in fact "enabling legislation" for a good faith State and local effort we must assure them that they have adequate guidance to do the job.

I understand, of course, that what the committee undertook to do is to achieve a pragmatic compromise designed to make the bill viable, to establish principles which obviously could be expanded as they are created and tested.

What concerns me is the language in the bill appearing on page 71 which reads:

(D) a method of implementation of the program which shall insure that—

(ii) the project will not exceed the capacity of existing systems for water and power supply, waste water collection and treatment, and waste disposal, unless expansion of the relevant systems to meet the requirements of the proposed development is planned and approved, and sufficient financing for the construction of the expanded systems is available;

My point is that the areas excluded from the provisions of the bill by the language to which I have referred are projects which generate the very kind of pressures and ramifications about which we are concerned.

Mr. President, I wish that the bill were broad enough to eliminate those exclusions. However, I understand the committee objectives. I will not press my amendment at this point.

I would like to use this opportunity to express the hope that as the programs are developed, as the Council on Environmental Quality and the Interagency Advisory Board address themselves to the experience of the States in the development of guidelines and programs, this point will be borne in mind, because I think that if we were to permanently exclude these major projects from the policy of land use planning, what we will have done is to ignore the pressures generated by unregulated population and activity concentrations. That is the reason why I asked the distinguished Senator from Washington to engage in this brief colloquy so as to get his feelings on this point.

Obviously his reassurance that he shares with me the general objectives and the hope that as our policies are developed under this bill, we will cover those omissions, would be helpful.

Mr. JACKSON. Mr. President, we do share that hope. I want to say that I do not believe that the criteria the Senator referred to should be permanently excluded from application to other areas. I think it is a question of timing as to whether we should move now or later.

As the Senator pointed out, we have come to a practical, pragmatic compromise and we have done this through section 307. However, we are not moving away from the problem. The problem is there.

I believe that the type of criteria in the land sales and development projects part of the bill might very appropriately be extended to many other types of activities. But it was our judgment that we ought to postpone such a wide application pending the study which has been authorized. The Senator from Maine strengthened the study provision of the bill in an amendment yesterday. I believe that this is the most realistic course to follow at this time.

I feel very deeply that the development of proper national land use policies should not be a matter of benign neglect and that we must move forward and face up to it as the programs continue.

I compliment the Senator from Maine for his strengthening of that aspect of the bill by reason of his earlier amendment.

Mr. MUSKIE. Mr. President, I thank the distinguished Senator. I would hope that this colloquy as part of the legislative record would have a good effect. I believe that this is a move in the direction of wise land use in this country. Like all beginnings, it cannot do the whole job.

I do not want to jeopardize what the bill already does by pressing for more at this moment. Therefore, I withdraw my amendment and express my appreciation to the Senator from Washington for what he has said and compliment him once again—because I doubt that I will speak again on this bill—on the forward-looking legislation that this bill represents.

Mr. JACKSON. Mr. President, I again thank the Senator from Maine for the constructive help he has given in the formulation of the bill.

Several amendments of the Senator that we agreed to yesterday, I think, speak for themselves. I thank the Senator for his invaluable contribution.

The PRESIDING OFFICER (Mr. MONDALE). The amendment is withdrawn.

Mr. FANNIN. Mr. President, I would like to direct a few questions to the distinguished Senator from Washington.

The United States still owes Arizona 180,000 acres of land throughout the State of Arizona. If the State wants some unreserved public land, it is almost equivalent to a demand that must be honored. Will this bill change this obligation?

Mr. JACKSON. There is no provision in the bill that would in anywise change that, as it does not affect it directly or indirectly.

Mr. FANNIN. Mr. President, does this bill amend the U.S. Enabling Act which created Arizona and gave Arizona most of its lands, and in regard to which lands, that enabling act said, in effect:

The State may not encumber these lands.

If the pending bill does not do so, then a plan which considers anything less than highest long-term money value would violate the Arizona Constitution.

Mr. JACKSON. In my judgment, the pending bill does not in any manner affect the Enabling Act that the Senator referred to.

Mr. FANNIN. Mr. President, I thank the distinguished Senator.

Mr. SPARKMAN. Mr. President, I send

an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

On page 64, line 19, after "transportation;" add the word "housing;"

Mr. SPARKMAN. Mr. President, the purpose of this amendment is to require States, in developing a statewide land use planning process, to make projections of the nature, quantity, and compatibility of land needed for housing. In its present form, subsection 202(a) makes no provision for States to give specific consideration of housing needs. Although this section is specific in its reference to planning for such items as recreation, parks and open spaces, planning for housing can only be inferred from the requirement that projections be made of urban development, revitalization of existing communities, and development of new towns. Housing is and should be an essential element in planning for land uses and should be focused on specifically.

Mr. President, I have had a conversation with the chairman on this matter. I believe that there is no objection to the amendment. It is in the last year's bill.

Mr. JACKSON. The Senator is correct.

Mr. SPARKMAN. It simply adds "housing."

Mr. JACKSON. Mr. President, I am very pleased to accept the amendment. There is no objection to it. I have conferred with the minority side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. SPARKMAN. Mr. President, I send to the desk another amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 74, at line 16, between "facilities" and "or," insert ", housing,".

Mr. JACKSON. Mr. President, this is clearly a conforming amendment. I am very pleased to accept the amendment.

Mr. SPARKMAN. Mr. President, it was in last year's bill.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. SPARKMAN. Mr. President, I send to the desk another amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

On page 79, line 19, after "participating" add the words "on its own behalf".

Mr. SPARKMAN. The purpose of the amendment is to require States to participate in planning consistent with the provisions of section 701 of the Housing Act of 1954. Mere participation by a political subdivision of the State would not be sufficient.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. JACKSON. Mr. President, I have some reservations about this particular amendment, but I will be very pleased to accept it and take it to conference with that understanding.

Mr. SPARKMAN. That is all I ask.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. JACKSON. Mr. President, I believe that the Senator from Wyoming has an amendment, which is the final amendment.

Mr. HANSEN. Mr. President, my final amendment is at the desk. Actually, it is in two parts, part one and part two. I understand that it has been examined by the distinguished manager of the bill, and I believe he has agreed to accept it.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. JACKSON. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

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

The amendments are as follows:

On page 124, line 16, add the following two subsections (o) and (p):

(o) "Adjacent non-federal lands" means all non-federal lands which are in the immediate geographic proximity of and border federal lands;"

(p) "Adjacent federal lands" means all federal lands which are in the immediate geographic proximity of and border non-federal lands."

On page 106, line 6-7, strike the following: "in the same immediate geographical region;" and insert in lieu thereof: "on adjacent non-Federal lands;".

Mr. HANSEN. Mr. President, what this amendment is intended to do is to clarify that section of the bill which deals with the adjacency issue to clarify that "adjacent non-Federal lands" means all non-Federal lands which are in the immediate geographic proximity of and border Federal lands; and "adjacent Federal lands" means all Federal lands which are in the immediate adjacent proximity of and border non-Federal lands.

Mr. JACKSON. Mr. President, this is the same amendment which appears in the RECORD of June 20 on page 20401.?

Mr. HANSEN. Yes, it is. It was discussed yesterday on the Senate floor.

Mr. JACKSON. So that the standard would apply both ways; as to Federal lands, it would apply in relation to State, and State lands in relation to Federal.

I think the key problem here has to do with the question of what is meant by, for example, "border Federal lands" and "border non-Federal lands."

What I want to make sure of, and make the RECORD clear, is that we are not talking about precisely immediately adjacent lands only, but that we have some appreciation for the fact that it covers lands in the general proximity, because otherwise, if you have an intermediate strip directly adjacent to it, you can create a very difficult situation.

Mr. HASKELL. Mr. President, will the Senator yield?

Mr. HANSEN. I yield.

Mr. HASKELL. I assume that the Senator from Wyoming, in trying to make a more precise definition, recognizes that what borders and is in the immediate geographic vicinity, considered in the context of S. 268, might be one thing under one situation and another thing under another situation. In other words, I assume the Senator is not attempting to set any rigid standard, but recognizes that it must be interpreted under the particular situation being examined.

Mr. JACKSON. In other words, that it would not be so rigid that there would be no flexibility to deal with a problem that might come within the context of a special situation.

Mr. HANSEN. Mr. President, may I say that the second part of my amendment reads:

On page 106, line 6-7, strike the following: "in the same immediate geographical region;" and insert in lieu thereof: "on adjacent non-federal lands;"

Just to clarify, and by way of response to my good friend, let me say that I quite agree that I think we have to consider this language in the context of precise situations. What we are trying to do, I will say to my good friend from Colorado and my good friend the chairman of the full committee, is lend a little clarity to what was meant by "adjacent lands" which was previously undefined.

In the West, where we have a checkerboard pattern of land ownership, I think it is called for, and certainly the word "adjacent" in and of itself could be capable of interpretation in different ways by different people.

We feel that this language, which I understand will be accepted, more clearly defines and sharpens what is meant by the term "adjacent lands." I do agree that you cannot necessarily say it is so many feet, so many yards, so many rods, or even so many miles.

What I would hope is that this language will permit a more precise interpretation that will fit specific situations which would otherwise not obtain without it.

Mr. HASKELL. I thank the Senator. With that background, I think it is a helpful amendment to the bill.

Mr. JACKSON. Mr. President, I am prepared, on the same stipulation as suggested by the Senator from Colorado, to accept the amendment. What we want to avoid is total rigidity here, so that they cannot deal with situations that may differ slightly one from another.

Mr. HANSEN. That is exactly right; and I would say to my good friend the manager of the bill that the word "adjacent" in and of itself might be construed by some to mean that if you own land in a valley that might be 5 or 10 miles long, it might be considered adjacent to Federal lands when it might not actually border Federal lands at all.

This situation, I think, can be clarified by the courts.

RATIONALE FOR TWO NEW DEFINITIONS—SECTION 601

Mr. FANNIN. Mr. President, the intent of these amendments is to make explicitly clear that adjacent lands are strictly limited to a geographic area actually

bordering on and is, in fact, the border of lands which titles are vested in public, private or Indian hands. It is imperative that we restrict the extension of control by one property owner, be it private, Federal or State, over adjacent lands which border that titleholder's land.

For an example, a private citizen holding title to lands adjacent to a national park has absolutely no authority to dictate any use of the land outside of his own restricted border. He has absolutely no say how the Federal Government, as adjacent land owner, utilizes that adjacent land. Likewise, in reverse, the Federal Government should have no right to dictate to the private property owner how the private property owner must utilize his private land. If we were to allow the Federal Government to dictate the use of adjacent non-Federal lands, then certainly we would be allowing the Federal Government to usurp that private property for its own use. As we all know, that can only be done under the Constitution by following eminent domain proceedings, which insure compensation for the landowner.

It is essential that we realize that by enacting this piece of legislation we are not acquiescing or condoning the authority over lands by any entity. The Federal Government will control and dictate the uses on Federal lands, and likewise respective property rights are recognized and protected for State, private, and Indian lands.

The PRESIDING OFFICER. The question is on agreeing, en bloc, to the amendments of the Senator from Wyoming.

The amendments were agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. FANNIN. Mr. President, S. 268 is an ingenious scheme to deny the States of their right to plan for land uses. This elaborate and complicated bill is drafted so that under the guise of "assistance" the Federal Government will take from the States one of the last vestiges of State police power.

S. 268 tells the States they will receive Federal dollars if they will but take advantage of the opportunity to plan under the provisions of S. 268. Such an invitation seems innocuous, but once that first Federal dollar is accepted the Dr. Jeckle become Mr. Hyde and before the State knows it—it has become the slave of Washington, D.C.

Listen to this shrewd method—the Federal Government will tell the States they must first have a "process" for land use planning. Then within that process the States must include specific things such as "protection of areas of critical environmental concern."—but we are not through with that "process"—next the Secretary of Interior will judge that "process" as to its "adequacy" by looking to see that the State has included a State planning agency that has the authority under the laws of the State to implement all the provisions of the bill. That same so-called "process" must include a "program" to regulate land sales or development projects which goes so far as to require the State to "determine whether there is a need for the proposed project" and whether it should proceed.

Now the bill finally calls for that State "process" to be implemented according to the methods spelled out in Washington, D.C.

We have been talking about the State process and nothing else, but we see already that that process is really substantive in nature and not procedural as the author of this bill stated in his opening remarks. Does this seem to you that "the procedures for, and nature of, State involvement in land use decisions are left to the determination of the individual States"? I do not think so either but the above is an exact quote from the RECORD of Friday, June 15, 1973—S. 11271. Does that kind of a dictated process and result seem like an affirmation of States rights" as the author has couched S. 268?

To add insult to injury, the States are finally dictated the full terms of what they must include in a State "program" and how they must implement it and how they will be judged on the adequacy of that implementation.

Washington is actually exercising State constitutional rights. The States will be the puppet and Congress will construct the strings which the Secretary of the Interior will pull.

We cannot allow such a scheme to succeed and this is why I am compelled to vote against final passage of S. 268.

Mr. ROTH. Mr. President, I support the basic concepts and philosophy embodied in the National Land Use Policy and Planning Assistance Act as it was reported by the Interior Committee. I feel strongly that this legislation is essential to assist the States in formulating rational policies for the future use and development of our land use resources.

I am particularly interested in this bill in relation to its potential for protecting coastal areas and the siting of energy facilities in coastal areas. Mr. President, Delaware's coastal areas are under extreme pressure and our State government has taken great strides in recent years to find some way to prevent this very finite resource from being polluted, dredged and scarred. In 1971 the Delaware Legislature passed a landmark piece of legislation regulating the siting of heavy industry in coastal areas; legislation is now being considered to extend that regulation to other types of development.

In spite of these initiatives, the Delaware coast is still threatened by the proposed development of a superport in its nearby waters. I believe, Mr. President, that I speak for the majority of the people of my State when I say that if the decision was left to Delaware alone, we would not want a superport nor all of the accompanying environmental and developmental problems that would be generated by its construction and operation. When the benefits of such a facility are weighed against the environmental costs of such a project, it does not appear to be a decision that stands to be in the best interest of Delaware.

It is my understanding that an amendment to S. 268 to provide for the Federal override of State and local decisions relating to the siting of key facilities was considered in committee last month and was rejected. That amendment would have a new subsection (b) under section 204 of the bill, requiring, as a condition of continued eligibility of a State for grants after a 5-year period, that the State land use program provide "for adequate consideration of the national interest involved in siting key facilities."

Mr. President, if such an amendment should be proposed here on the floor of the Senate during debate over this bill, I would firmly oppose its passage. Without a doubt, the proposed superport would fall under the definition of key facilities as defined in section 601(j)(2). Federal preemption of a siting decision of such enormous consequence for the future growth of Delaware would be intolerable, and, in my estimation, would violate the basic philosophy of this act, which is to increase. State control, not Federal control, over land use decisions within State boundaries.

Let me say further, Mr. President, that it was the potential for Federal preemption of Delaware's decision to deny a permit to construct a superport that led me to cast my vote against the Jackson amendment yesterday. The economic sanctions, proposed by that amendment, coupled with a Federal override of energy siting decisions, could have the effect of forcing a superport or any other major energy facility upon the people of the State of Delaware against their wishes. This would not only undermine one of the most effective coastal zone statutes of any State to date, but more importantly, it would deny the right of the people of Delaware to determine the direction and the intensity of the State's growth in future years.

Delaware is a small State, Mr. President; we cannot afford to be extravagant with the few square miles we call home. Statewide land use planning is not only essential to us, it is a must. S. 268 will be invaluable in providing the financial support to accomplish the task. I support the bill and commend the committee for moving swiftly in presenting us with this legislation.

Mr. HELMS. Mr. President, I must oppose this bill, S. 268, for very fundamental reasons. It is my conclusion, after studying this bill and listening to the debate in this body, that the bill is unnecessary in the first instance and in the second instance, the potential for abuse which pervades the theory underlying this bill that the Federal Government must induce States to exercise their sovereign powers far outweighs the potential benefits which may accrue by the resulting exercise of those powers by the States.

Nowhere during the consideration of this bill has any Senator suggested that the powers which the States are called upon to use in defining their land-use policy and in implementing their land-use program would in any way be enlarged by the passage of this Federal law. The exercise of land-use controls in the broad sense, and zoning in the narrow sense, are derived from the police power vested in States through their capacity as sovereign.

In order for land-use controls to be a valid exercise of that police power, there must be causal connection—some visible link—between the controls being imposed on the use of land and the benefits to the public in terms of their health, safety and welfare. These benefits must be proximate to the controls. They cannot be remote. The less proximate the benefits, the more arbitrary the control, and at that point, the constitutional question concerning the taking of private property for public use without just compensation springs into being. Next to the right to life and the right to liberty, the right to own property is fundamental to the freedoms guaranteed by our Constitution and to our concept of Government. This right should not be taken lightly. When the Government limits the things that a man can do with his property, that man is left with less property after the Government controls than he had before them, and consequently, some of his freedom has been lost.

The State does have police power. It should exercise these powers legitimately. It should protect and preserve the health, safety, and welfare of its citizens. Each man should and does have the freedom to use his property in any way that he sees fit, except when that use deprives another of the right to freely use and enjoy his land or the citizens as a whole to use and enjoy public land.

In 1926 the Supreme Court ruled in the case of Village of Euclid against Ambler Realty Co. that State and local governments could enact and enforce through a valid exercise of the police power. Since that time, the Court has been hesitant to reopen the broad question of the constitutionality of zoning laws insofar as these laws have been challenged as a taking of private property without just compensation. The great body of law concerning land-use control has developed through our State courts where it properly belongs.

I am concerned over the constitutionality of this bill because I believe that Congress is attempting to define what elements of land-use control are a valid exercise of the police power and in this way, broaden the current law that exists in various States which expresses the limits of land-use control.

Proponents of this bill have acknowledged the legitimate role and capacity of the States to regulate the use of land. That being the case, I come back to my original premise: that this bill is not needed. Nothing substantively can be done within our constitutional framework to enlarge or perfect the authority and capacity of the States to exercise their police power. This leads me to my second major point. Since the Federal Government cannot improve upon the States right to control their land, I believe that the fact of the Federal Government's involvement will detract from the States legitimate function to protect the health, safety, and welfare of their citizens.

Simply put, if I possess the exclusive right to exercise some power or perform some beneficial function and I share that right with another, I have diminished the value of the right which I previously had.

Your Government is supposedly encouraging States to exercise their powers in this area by providing large sums of money to pay for the State's land-use planning and land-use program. But we find this bill setting up a review capacity in the Department of Interior to determine if the States are satisfying Federal criteria required for an eligible land-use program.

I am firmly convinced that this Federal review will evolve into Federal control. When the bureaucrats in the Interior Department get their hands on this legislation, volumes of regulations will pour forth defining every aspect of a land-use plan and a land-use program. Then, the States will benignly comply, because the State employees charged with developing a program acceptable to the Interior Department will be the same individuals who stand to lose their funding if the program does not satisfy Federal review.

The Governors and other representatives of State government have been induced to support this bill, because of the prospects of receiving large amounts of Federal funds. I believe that they have made a serious miscalculation and that their States will come to regret that support.

The States are trading away their birthright in the form of sovereign powers for a very cheap price. Those who want to centralize power in big Government here in Washington are indeed getting a bargain in this bill at the expense of our States, our constitutional form of government, and ultimately at the expense of all the American people.

I urge my fellow Senators to take a hard second look at this bill before they willingly and knowingly vote to deprive their States of a substantial part of their sovereignty.

Mr. TUNNEY. Mr. President, a Federal policy of land-use planning assistance could not be more timely.

The days have passed when our supplies of air, water, and land could be regarded as infinite resources. In our push for prosperity, we have made much of our air unbreathable, much of our water undrinkable, and we are on the way toward making much of our land unlivable.

But there are some hopeful signs. Only last week, June 11, 1973, the Supreme Court held that the Environmental Protection Agency could not permit the deterioration of air quality in some areas—such as the countryside—to alleviate pollution in our cities by means of relocating industry.

In the last session, the Congress inaugurated a 10-year program of high national priority to reclaim our water resources.

And today Congress is considering the first major piece of legislation to recognize the vital need for land-use planning.

My own position can be stated very simply: land-use planning is urgent—and necessary. It is the only way to control future development and keep environmental degradation at a minimum.

Making those decisions will not be easy. Sticking to them will be even harder.

We must face the fact that we are not only making new laws; we are attempting to achieve a fundamental change in national attitudes.

The frontier land ethic was based primarily on the theory that land is a commodity to be bought, sold, and exploited rather than conserved as a national resource. They saw the land as something to settle, tame, and cultivate. They were even encouraged by means of a national policy embodied in the Homestead Act. Which actually gave land away as an incentive to develop the country.

In its time, there was much to be said for the ethic. It played a major role in our remarkably rapid westward expansion. But it no longer serves us well in today's complex and technical world.

It is imperative that we begin the task of reshaping our attitudes about land. We must come to grips with the fact that uncontrolled and unlimited growth will lead inexorably to a lower quality of life.

Since 1926, when the Supreme Court gave its blessings to the concept of zoning, virtually all land-use decisions have been made by multiplicities of local governments. Unfortunately, these decisions have too often been based on shortsighted economic considerations with little or no thought of secondary impact.

Today we are about to embark upon a revolution in the way we manage our land. It is a quiet revolution, predicated on the growing need for a more integrated, more comprehensive approach toward land planning and development.

The thrust of this revolution does not attack the integrity of local zoning. It is simply a recognition that no level of Government—acting alone—has the capacity to cope with statewide or regionwide problems in a coordinated way.

The tools of the revolution are new and innovative laws which provide for greater degrees of local, State, and Federal cooperation in dealing with the protection of our increasingly limited supply of unused land and shoreline.

This Congress is looking at land use as an environmental issue of the highest priority since it is perhaps the single most important element which affects the quality of our environment which has remained substantially untouched by national policy.

The National Land Use Policy and Assistance Act, which has taken 3½ years to develop, is the first major piece of legislation to address the problem.

The bill, by establishing a system of grants-in-aid, will encourage the States to exercise more effectively their constitutional responsibilities with respect to land use.

Most States lack the capacity to undertake a statewide planning effort for their total land base. The Federal money will help encourage greater coordination in making decisions which have impact on citizens, the environment, and the econ-

omy far beyond the scope of the local authority.

I want to emphasize that the legislation does not provide for a Federal zoning mechanism—as some have charged.

On the contrary, it is meant to strengthen State control over their land areas. The State may, in fact, choose to leave a major part of deciosionmaking with the local governments so long as the State formally agrees with their decisions for the five major categories.

It is an emotional and tedious business to begin statewide planning. The expertise and experience of local governments will be critically important to that planning process at all stages. Local governments already have experienced firsthand many difficulties, problems and rewards of long-range planning.

Many of our past problems have resulted from a failure to anticipate what our needs would be and what demands would be made on shrinking open space.

In today's world, the traditional common law remedies such as the doctrines of nuisance and tresspass are inadequate to protect property interests, to assure quality living conditions, and to provide optimum use of a finite land base.

By identifying our resources and making plans now about how to use them, we will have come a long way.

This process is not only desirable, it is essential.

In the last analysis, coordinated efforts by local governments—cities and counties—will determine how the Federal law will work.

Some tough decisions will have to be made in finding the proper balance between esthetics and economics. But, I believe these questions can be resolved in a way that preserves the unsurpassed beauty of our Nation while permitting legitimate economic growth.

Commonsense and hard work can foster both.

Mr. JACKSON. Mr. President, before we vote at 1 o'clock, I want to take this opportunity to express my appreciation to my colleagues on the committee for their tireless help and energy. I owe a special debt to the distinguished junior Senator from Colorado (Mr. HASKELL), who has worked long and hard. Thanks to his great legal expertise, he has helped to make this, I think, a very good bill, and I express my special appreciation for his help on the floor as well as in the committee, and his counsel and advice.

I express my appreciation also to Mr. Steven Quarles, special counsel to the committee, who has worked almost exclusively on this particular job. He has worked very ably in cooperation with Mr. William Van Ness, general counsel of the committee.

On the minority side, I wish to express my appreciation to the Senator from Arizona (Mr. FANNIN), the Senator from Wyoming (Mr. HANSEN), the Senator from New York (Mr. BUCKLEY), and all the others on that side, as well as to the staff who have supported them in connection with the pending measure.

Mr. FANNIN. Mr. President, I would like to express my great appreciation to the chairman of our committee, the floor manager of the bill, for the great courtesy that he has extended to the minority members, and I very much appreciate that at all times he was willing to give us every consideration, and that where we did have disagreements, he was very kind about it, to give us every opportunity to express ourselves, and we are very appreciative of his management of the bill.

I express my thanks also to the distinguished Senator from Colorado (Mr. HASKELL) for his courtesy and for his general ability. Certainly both of these gentlemen have assisted greatly in the consideration of this bill from every standpoint and in the proper handling of the bill.

I express my appreciation to the minority members of our committee. Senatar HANSEN has done nobly in working on this legislation, and I appreciate also the assistance of Brent Kunz, legislative assistant to Senator HANSEN and Fred Craft, Jr., deputy minority counsel for the Interior Committee, and Harrison Loesch, minority counsel, who have been so helpful in this work. We have benefited greatly by having this experience and having the opportunity to work on this legislation.

I very much appreciate, as I say, the many courtesies of the chairman of the committee and the manager of the bill, the Senator from Washington (Mr. JACKSON).

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. Under the unanimous-consent agreement, was the vote on passage to be at 1 o'clock?

The PRESIDING OFFICER. Not later than 1 o'clock.

Mr. JACKSON. We are ready to vote.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The question is, shall the bill (S. 268) pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. COTTON (when his name was called). On this vote I have a pair with the distinguished Senator from Idaho (Mr. MCCLURE). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. CANNON. (after having voted in the affirmative). On this vote I have a pair with the distinguished Senator from Mississippi (Mr. EASTLAND). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. LONG. (after having voted in the negative). On this vote I have a pair with the distinguished Senator from South Dakota (Mr. ABOUREZK). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND) and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Delaware (Mr. BIDEN), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Minnesota (Mr. HUMPHREY) are absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting the Senator from Minnesota (Mr. HUMPHREY), the Senator from Montana (Mr. METCALF), and the Senator from Delaware (Mr. BIDEN) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The Senator from New Jersey (Mr. CASE), the Senator from Idaho (Mr. MCCLURE), the Senator from Ohio (Mr. SAXBE), and the Senator from Alaska (Mr. STEVENS) are absent on official business.

The pair of the Senator from Idaho (Mr. MCCLURE) has been previously announced.

The result was announced—yeas 64, nays 21, as follows:

[No. 213 Leg.]

YEAS—64

Aiken	Gurney	Muskie
Baker	Hart	Nelson
Bayh	Hartke	Nunn
Beall	Haskell	Packwood
Bellmon	Hatfield	Pastore
Bible	Hathaway	Pearson
Brooke	Hollings	Pell
Buckley	Hughes	Percy
Burdick	Inouye	Randolph
Byrd, Robert C.	Jackson	Ribicoff
Chiles	Javits	Roth
Church	Johnston	Schweiker
Clark	Kennedy	Sparkman
Cook	Magnuson	Stafford
Cranston	Mansfield	Stevenson
Dole	Mathias	Symington
Domenici	McGee	Taft
Dominick	McGovern	Tunney
Eagleton	McIntyre	Williams
Fulbright	Mondale	Young
Gravel	Montoya	
Griffin	Moss	

NAYS—21

Allen	Ervin	Scott, Pa.
Bartlett	Fannin	Scott, Va.
Bennett	Fong	Talmadge
Bentsen	Hansen	Thurmond
Brock	Helms	Tower
Byrd, Harry F., Jr.	Hruska	Weicker
Curtis	McClellan	
	Proxmire	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—3

Cannon, for	Cotton, against	Long, against

NOT VOTING—12

Abourezk	Goldwater	Metcalf
Biden	Huddleston	Saxbe
Case	Humphrey	Stennis
Eastland	McClure	Stevens

So the bill (S. 268) was passed, as follows:

S. 268

An Act to authorize the Secretary of the Interior, pursuant to guidelines established by the Executive Office of the President, to make grants to assist the States to develop and implement State land use programs and to coordinate land use planning in interstate areas; to coordinate Federal programs and policies which have land use impacts; to coordinate planning and management of Federal lands and planning and management of adjacent non-Federal lands; to make grants to Indian tribes to assist them to develop and implement land use programs for reservation and other tribal lands; to encourage research on and training in land use planning and management; and for other purposes

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 "Land Use Policy and Planning Assistance Act".

TITLE I—FINDINGS, POLICY, AND PURPOSE

FINDINGS

SEC. 101. (a) The Congress hereby finds that there is a national interest in a more efficient system of land use planning and decisionmaking and that the rapid and continued growth of the Nation's population, expanding urban development, proliferating transportation systems, large-scale industrial and economic growth, conflicts in patterns of land use, fragmentation of governmental entities exercising land use planning powers, and the increased size, scale, and impact of private actions have created a situation in which land use management decisions of wide public concern often are being made on the basis of expediency, tradition, short-term economic considerations, and other factors which too frequently are unrelated or contradictory to sound environmental, economic and social land use considerations.

(b) The Congress finds that the task of land use planning and management is made more difficult by the lack of understanding of, and the failure to assess, the land use impacts inherent in most public and private programs and activities.

(c) The Congress finds that adequate data and information on land use and systematic methods of collection, classification, and utilization thereof are either lacking or not readily available to public and private land use decisionmakers.

(d) The Congress finds that a failure to conduct competent land use planning has, on occasion, resulted in delay, litigation, and cancellation of proposed significant development, thereby too often wasting human and economic resources, creating a threat to public services, and invoking decisions to locate activities in areas of least public and political resistance, but without regard to sound environmental, economic, and social land use considerations.

(e) The Congress finds that significant land use decisions are being made without adequate opportunity for property owners, users of the land, and the public to be informed about the alternatives to such decisions or to meaningfully participate in such decisions.

(f) The Congress finds that many Federal agencies conduct or assist activities which have a substantial impact on the use of land, location of population and economic growth, and the quality of the environment, and which, because of the lack of consistent land use policies, often result in needless, undesirable, and costly conflicts between Federal agencies and among Federal, State, and local governments, thereby subsidizing undesirable and costly patterns of development.

(g) The Congress finds that, while the primary responsibility and constitutional authority for land use planning and management of non-Federal lands rests with State and local government, the manner in which this responsibility is exercised has a tremendous influence upon the utility, the value, and the future of the public domain, the national parks, forests, seashores, lakeshores, recreation and wilderness areas, wildlife refuges, and other Federal lands; and that the failure to plan or, in some cases, the existence of poor or ineffective planning at the State and local levels poses serious problems.

(h) The Congress finds that intelligent land use planning and management can and should be a singularly important process for preserving and enhancing the environment, encouraging beneficial economic development, and maintaining conditions capable of improving the quality of life.

STATEMENT OF POLICY AND PURPOSE

SEC. 102. (a) To promote the general welfare and to provide full and wise application of the resources of the Federal Government in strengthening the environmental, recreational, economic, and social well-being of the people of the United States, the Congress, recognizing that the Nation's land is its most valuable national resource and that the maximum benefit to all from this resource can be achieved only with the development and implementation of sound and coordinated land use policies, declares that it is the continuing policy of the Federal Government to cooperate with and render assistance to State and local governments in the development and implementation of the policies which will govern the wise and balanced use of the Nation's land resource.

(b) It is the purpose of this Act to—

(1) encourage and assist the several States to more effectively exercise their constitutional responsibilities for the planning and management of their land base through the development and implementation of State land use programs;

(2) establish a grant-in-aid program to assist State and local governments and agencies to hire and train the personnel, collect and analyze the data, and establish the institutions and procedures necessary to develop and implement State land use programs;

(3) establish a grant-in-aid program to encourage cooperation among the States concerning land use planning and management in interstate regions;

(4) establish a grant-in-aid program to assist Indian tribes to develop land use programs for reservation and other tribal lands and to coordinate such programs with the planning and management of Federal and non-Federal lands adjacent to reservation and other tribal lands;

(5) establish the authority and responsibility of the Executive Office of the President to issue guidelines to implement this Act and of the Secretary of the Interior to administer the grant-in-aid and other programs established under this Act, to review, with the heads of other Federal agencies, statewide land use planning processes and State land use programs for conformity to the provisions of this Act, and to assist in the coordination of activities of Federal agencies with State land use programs;

(6) develop and maintain sound policies and coordination procedures with respect to federally conducted and federally assisted projects on non-Federal lands having land use implications;

(7) facilitate increased coordination in the administration of Federal programs and in planning and management of Federal lands and adjacent non-Federal lands;

(8) provide for meaningful participation of property owners, users of the land, and the public in land use planning and management;

(9) provide for research on and training in land use planning and management;

(10) promote the development of systematic methods for the exchange of data and information pertinent to land use decisionmaking among all levels of government and the public; and

(11) study the feasibility and possible substance of national land use policies which might be enacted by Congress.

TITLE II—PROGRAMS OR ASSISTANCE TO THE STATES

PART A—STATEWIDE LAND USE PLANNING PROCESSES AND STATE LAND USE PROGRAMS GRANTS TO STATES

SEC. 201. (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to make annual grants to each State to assist each State in developing and administering a State land use program meeting the requirements set forth in this Act.

(b) Prior to making the first grant to each State during the three complete fiscal year period following the enactment of this Act, it shall be determined in accordance with the procedures provided in section 306 that such grant will be used in a manner to meet satisfactorily the requirements for a statewide land use planning process set forth in section 202. Prior to making any further grants during such period, it shall be determined in accordance with the procedures provided in section 306 that the State is adequately and expeditiously proceeding to meet the requirements of section 202.

(c) Prior to making any further grants after the three complete fiscal year period following the enactment of this Act and before the end of the five complete fiscal year period following the enactment of this Act, it shall be determined in accordance with the procedures provided in section 306 that the State has met and continues to meet the requirements of section 202 and is adequately and expeditiously proceeding to develop a State land use program to meet the requirements of sections 203, 204, 402, and 505.

(d) Prior to making any further grants after the five complete fiscal year period following the enactment of this Act, it shall be determined in accordance with the procedures provided in section 306 that the State has met and continues to meet the requirements of sections 203, 204, 402, and 505.

(e) Each State receiving grants pursuant to this part A during the five complete fiscal year period following enactment of this Act shall submit, not later than one year after the date of award of each grant, a report on work completed and scheduled toward the development of a State land use program to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this part A in accordance with the procedures provided in section 306. For grants made after such period, the State shall submit its State land use program not later than one year after the date of award of each grant to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this part A in accordance with the procedures provided in section 306: Provided, That if no grant is requested by or active in any State after five fiscal years from the date of enactment of this Act, such State shall submit its State land use program within ninety days thereafter to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this part A in accordance with the procedures provided in section 306: And provided further, That, should no grant be requested by or active in any State during any two complete fiscal year periods after five fiscal years from the date of enactment of this Act, such State shall submit its State land use program within ninety days from completion of such period to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this part A in accordance with the procedures provided in section 306.

STATEWIDE LAND USE PLANNING PROCESSES

SEC. 202. (a) As a condition of continued eligibility of any State for grants pursuant to this part A after the three complete fiscal year period following the enactment of this Act, it shall be determined in accordance with the procedures provided in section 306 that the State has developed an adequate statewide land use planning process, which process shall include—

(1) the preparation and continuing revision of a statewide inventory of the land and natural resources of the State;

(2) the compilation and continuing revision of data, on a statewide basis, related to population densities and trends, economic

characteristics and projections, environmental conditions and trends, and directions and extent of urban and rural growth;

(3) projections of the nature, quantity, and compatibility of land needed and suitable for recreation, parks, and open space; scientific and educational purposes; protection of areas of critical environmental concern; conservation and preservation of natural resources; agriculture, mineral development, and forestry; industry and commerce, including the exploration, development, production, mining, generation, and transmission of energy; solid waste management and resource recovery; transportation; housing; urban development, including the revitalization of existing communities, the development of new towns, and the economic diversification of existing communities which possess a narrow economic base; rural development, taking into consideration future demands for and limitations upon products of the land; and health, education, and other State and local governmental services; such projections to include consideration of multiple-use siting of facilities and activities;

(4) the preparation and continuing revision of an inventory of environmental, geological, and physical conditions (including soil types) which influence the desirability of various uses of land;

(5) the monitoring of land use data periodically to determine changes in land usage, the comparison of such changes to State and local land use plans, programs, and projections, and the reporting of the findings to the affected local governments, State agencies, and Federal agencies by request;

(6) the preparation and continuing revision of an inventory of State, local government, and private needs and priorities concerning the use of Federal lands within the State;

(7) the preparation and continuing revision of an inventory of public and private institutional and financial resources, including citizen public interest organizations, available for land use planning and management within the State and of State and local programs and activities which have a land use impact of more than local concern;

(8) the establishment of methods for identifying large-scale development and development of public facilities or utilities of regional benefit, and inventorying and designating areas of critical environmental concern, areas which are suitable for key facilities, and areas which are, or may be, impacted by key facilities, which methods shall provide for an appeals process for any interested party as defined by State law or regulation concerning the designation or deletion of any land or facility in or from such areas when such areas are designated other than by State law;

(9) the provision, where appropriate, of technical assistance for, and training programs for State and local agency personnel concerned with, the development and implementation of State and local land use programs;

(10) the establishment of arrangements for the exchange of land use planning information and data among State agencies and local governments, with the Federal Government, among the several States and interstate agencies, and with the public;

(11) the establishment of a process for public education concerning land use planning and management and other land use related activities;

(12) the participation of the public, property owners, users of the land, and the appropriate officials or representatives of local governments in the statewide planning process and in the formulation of definitions, guidelines, rules, and regulations for the administration of the statewide planning process, such participation, except in any proceedings of the State legislature, to include public hearings with adequate public notice;

(13) the consideration of, and consultation with the relevant States on, the interstate aspects of land use issues of more than local concern; and

(14) the consideration of the impacts of State programs and activities, land use policies, and the State land use program to be developed pursuant to this Act on the local property tax base and revenues and on rights of private property owners.

(b) In the determination of an adequate statewide land use process of any State, it shall be confirmed in accordance with the procedures provided in section 306 that the State has an eligible State land use planning agency established by the Governor of such State or by law, which agency shall—

(1) have primary authority and responsibility for the development and administration of a State land use program provided for in section 203, 204, 402, and 505;

(2) have a competent and adequate interdisciplinary professional and technical staff and, whenever appropriate, engage the services of special consultants;

(3) give priority to the development of an adequate data base for a statewide land use planning process using data available from existing sources wherever feasible;

(4) coordinate its activities with the planning activities of all State agencies undertaking federally financed or assisted planning programs insofar as such programs relate to land use; the regulatory and planning activities of all State agencies enforcing air, water, noise, or other pollution standards; all other relevant planning activities of State agencies; flood plain zoning plans approved by the Secretary of the Army pursuant to the Flood Control Act of 1960 (74 Stat. 488), as amended; in a coastal State as defined by the Coastal Zone Management Act of 1972 (86 Stat. 1280), the State planning activities pursuant to such Act; the planning activities of areawide agencies designed pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1262–3), as amended; the planning activities of local governments; the planning activities of Federal agencies; and the planning activities of Indian tribes pursuant to title V;

(5) have authority to make available to the public promptly upon request land use data and information, studies, reports, and records of hearings; and

(6) be advised by an intergovernmental advisory council which shall be composed of a representative number of chief elected officials of general purpose local governments in urban and nonurban areas selected by the statewide association or associations representing such governments. One member, by majority vote of the members, shall be chosen chairman. The advisory council shall, among other things, comment on all State guidelines, rules, and regulations to be promulgated pursuant to this Act, participate in the development of the statewide land use planning process and State land use program, and may make formal comments on annual reports which the agency may prepare and submit to it, which reports may detail all activities within the State conducted by the State government and local governments pursuant to or in conformity with this Act.

(c) To minimize administrative inefficiencies, each State may designate the planning agency participating in programs pursuant to section 701 of the Housing Act of 1954, as amended, and, where such State is a coastal State, the planning agency participating in programs pursuant to the Coastal Zone Management Act of 1972, as the eligible State land use planning agency required by subsection (b) of this section. Where such a designation cannot be made within the three fiscal year period following the enactment of this Act, early consolidation of the responsibilities of the two or three agencies in a single planning agency is encouragaed.

(d)(1) In the determination of an adequate statewide land use planning process of any State, it shall be determined in accordance with the procedures provided in section 306 that the State has established a program to regulate land sales or development projects (hereinafter referred to as "projects" or "project") as defined in subsection 601(1).

(2) Such program shall include:

(A) a procedure for identification of projects subject to such program;

(B) a procedure for consideration of each proposed project which procedure affords adequate notice to all affected State and local governments and assures that the developer provides to such governments the following—

(i) a map of the project setting forth the proposed lot lines and the improvements which the developer proposes to make, and a schedule of completion of all such improvements and sales of such lots;

(ii) a showing of financial capability of the developer, or the posting of a performance bond by the developer, sufficient to insure that such schedule and the requirements of this subsection will be met; and

(iii) a statement of the potential effects of the proposed project in sufficient detail to establish whether the development meets the criteria in clause (2)(D) of his subsection;

(C) State review of the proposed project including (i) an evaluation of the consistency of the proposed project with the statewide land use planning process and the State land use program, once approved pursuant to this Act; (ii) an analysis of the proposed project as it relates to the criteria in clauses (2)(D) of this section; (iii) comments in the local and regional need for the proposed project; and (iv) specific recommendations concerning whether the proposed project should or should not proceed;

(D) a method of implementation of the program which shall insure that—

(i) the financial capability of the developer is estabilshed as provided for in clause (2)(B)(ii) of this subsection;

(ii) the project will not exceed the capacity of existing systems for water and power supply, waste water collection and treatment, and waste disposal, unless expansion of the relevant systems to meet the requirements of the proposed development is planned and approved, and sufficient financing for the construction of the expanded systems is available;

(iii) the project will not cause unreasonable soil erosion;

(iv) the project is not located in areas which constitute an undue risk to public health and safety, which may include flood plains and areas of high seismicity and unstable soils, all such areas as defined by the State;

(v) the effects on the scenic or natural beauty or the natural environment are taken into consideration;

(vi) open space possessing valuable potential for public recreation is taken into consideration, such open space may include beaches, shorelines, and wild areas;

(vii) the project will not place an unreasonable burden on the ability of the State and local governments to provide municipal or other public services, including transportation, education, and police and fire protection;

(viii) the project will be developed within the time schedule submitted by the developer or within an alternative schedule necessary to insure that the project will meet the other criteria above; and

(ix) the project is consistent with local land use plans, regulations, and controls and

with the State land use program once approved pursuant to this Act.

(3) The method of implementation of clause (2)(D) of this subsection shall meet the requirements of section 203(c) and shall include procedures for issuance of cease and desist orders and other appropriate remedies for violations of this subsection or the provisions of State law or regulations enacted or promulgated pursuant to this subsection.

STATE LAND USE PROGRAMS

SEC. 203. (a) As a condition of continued eligibility of any State for grants pursuant to this Act after the five complete fiscal year period following the enactment of this Act, it shall be determined in accordance with the procedures provided for in section 306 that the State has developed an adequate State land use program, which program shall include—

(1) an adequate statewide land use planning process as provided in section 202 of this Act;

(2) a statement of State land use policies and objectives;

(3) methods of implementation for—

(A) exercising control over the use and development of land in areas of critical environmental concern to assure that such use and development will not substantially impair the historic, cultural, scientific, or esthetic values or natural systems or processes within fragile or historic lands; that loss or reduction of long range continuity and the concomitant endangering of future water, food, and fiber requirements within renewable resource lands are minimized or eliminated; and that unreasonable dangers to life and property within natural hazard lands are minimized or eliminated;

(B) exercising control over the use of land within areas which are or may be impacted by key facilities, including the site location and the location of major improvement and major access features of key facilities;

(C) assuring that local regulations do not arbitrarily or capriciously restrict or exclude development of public facilities, housing, or utilities of regional benefit;

(D) influencing the location of new communities and controlling the use of land around new communities;

(E) controlling proposed large-scale development of more than local significance in its impact upon the environment;

(F) assuring that (i) any source of air, water, noise, or other pollution pertaining to the areas and developmental activities listed in this clause (3) will not be located where it will result in a violation of any applicable air, water, noise, or other pollution standard or implementation plan, (ii) any developmental activities in combination with pollution sources will not cause such violations to occur, and (iii) the program is consistent with the goals, policies, objectives, standards and other requirements of the Federal Water Pollution Control Act, the Clean Air Act, and other Federal laws controlling pollution;

(G) assuring that all State and local agency programs and services which significantly affect land use are not inconsistent with the State land use program,

(H) periodically revising and updating the State land use program to meet changing conditions;

(I) assuring, except in any proceedings of the State legislature, the participation of appropriate officials or representatives of local governments, property owners, users of the land, and the public in the development of, subsequent revisions in, the implementation of, and the formulation of guidelines, rules, and regulations concerning, the State land use program; and

(J) including, with respect to coastal States to which the Coastal Zone Management Act of 1972 (86 Stat. 1280) is applicable, an adequate method for the coordination of the State land use program with the State's management program approved pursuant to such Act. Such method shall include the consolidation of the State's management program and the State land use program into a single program for the purposes of annual submission to the Secretary of the Interior for determination of eligibility for grants pursuant to part A of title II of this Act and to the Secretary of Commerce for determination of eligibility for grants pursuant to section 306 of the Coastal Zone Management Act of 1972.

(b) Wherever possible, selection of methods of implementation of clause (3) of subsection (a) shall be made so as to encourage the employment of land use controls by general purpose local governments.

(c) The methods of implementation of clause (3) of subsection (a) shall include either one or a combination of the two following general techniques—

(1) implementation by general purpose local governments pursuant to criteria and standards established by the State, such implementation to be subject to State administrative review with State authority to disapprove such implementation wherever it fails to meet such criteria and guidelines; and

(2) direct State land use planning and regulation.

(d) Any method of implementation employed by the State shall include the authority of the State to prevent arbitrary and capricious restriction or prohibition of development of public facilities or utilities of regional benefit, and to prohibit the use of land within areas which, under the State land use program, have been designated as areas of critical environment concern, areas which are or may be impacted by key facilities, or areas which are presently or potentially subject to large-scale development, large-scale subdivisions, and land sales or development projects, which use is inconsistent with the requirements of the State land use program as they pertain to areas of critical environmental concern, key facilities, large-scale development, large-scale subdivisions, and land sales or development projects.

(e) Any method of implementation employed by the State shall include an appeals process for the resolution of, among other matters, conflicts over any decision or action of a local government for any area or use under the State land use program and over any decision or action by the Governor of State land use planning agency in the development of, or pursuant to, the State land use program.

(f) Nothing in this Act shall be construed as enhancing or diminishing the rights of owners of property as provided by the Constitution of the United States or the constitution of the State in which the property is located.

SEC. 204. As a further condition of continued eligibility of a State for grants pursuant to this Act after the five complete fiscal year period following the enactment of this Act, in accordance with the procedures provided in section 306, it shall be determined, upon review of the State land use program, that—

(1) in designating areas of critical environmental concern, the State has not excluded any areas of critical environmental concern which are of more than statewide significance. Within three years from the date of enactment of this Act, and thereafter as he deems appropriate, the Secretary shall, after affording opportunity for public comment, submit to each State a description of areas within such State which are of more than statewide concern: *Provided*, That any new areas included in any new submission after the first submission made by the Secretary shall not be subject to review pursuant to this clause (1) until two years from the date of such new submission.

(2) the State is demonstrating good faith efforts to implement, and, in the case of successive grants, the State is continuing to demonstrate good faith efforts to implement the purposes, policies, and requirements of the State land use program. For the purposes of this subsection, the inability of a State to take any State action the purpose of which is to implement its State land use program, or any portion thereof, because such action is enjoined by the issuance of an injunction by any court of competent jurisdiction shall not be construed as failure by the State to demonstrate good faith efforts to implement the purposes, policies, and requirements of its State land use program;

(3) State laws, regulations, and criteria affecting the State land use program and the areas, uses, and activities listed in section 203 are in accordance with the requirements of this Act;

(4) the State land use program has been reviewed and approved by the Governor;

(5) the State has coordinated its State land use program with the planning activities and programs of its State agencies, the Federal Government, and local governments as provided for in this Act, with the land use programs for reservation and other tribal lands as provided in title V, and with the planning processes and land use programs of other States and local governments within such States with respect to lands and waters in interstate areas; and

(6) the State is participating on its own behalf in the programs established pursuant to section 701 of the Housing Act of 1954 (68 Stat. 590, 640), as amended, and, where such State is a coastal State as defined in section 304 of the Coastal Zone Management Act of 1972 (86 Stat. 1280), the programs established pursuant to that Act.

PART B—INTERSTATE COORDINATION

GRANTS TO STATES

SEC. 205. (a) The States are authorized and encouraged to coordinate State and local land use planning, policies, and programs concerning, to study land use in, to conduct land use planning for, or to implement land use policies in, interstate areas. The States may conduct such coordination, study, planning, or implementation through existing interstate entities where the authority of such entities permits; or, subject to the approval of Congress by the adoption of an appropriate Act, Congress hereby authorizes two or more States to negotiate interstate compacts, with such terms and conditions, including the establishment of such public entities, as to such States seem reasonable or appropriate, for the purpose of such coordination, study, planning, or implementation: *Provided*, That such entities or compacts shall provide for an opportunity for participation for coordination purposes of Federal and local governments and agencies as well as property owners, users of the land, and the public.

(b) The Secretary is authorized to make annual grants to the States for the purpose of such coordination, study, planning, or implementation.

STUDY OF INTERSTATE AGENCIES

SEC. 206. The Advisory Commission on Intergovernmental Relations shall conduct a review of federally established or authorized interstate agencies, including, but not limited to, river basin commissions, regional development agencies, and interstate compact commissions, and prepare recommendations for revision of organizational structures and improvement of procedures for the purpose of improving land use planning, policies, and programs and the implementation thereof in interstate areas. The Advisory Commission on Intergovernmental Relations shall report to the Congress the results of its review conducted under this section, together with its recommendations, not later than two fiscal years after the date of enactment of this Act. Such recommendations may include proposals for either the establishment of new entities or the use of existing entities composed of representatives of two or more

States: Provided, however, That such entities and the procedures thereof so recommended, provide for an opportunity for participation in the coordination process by Federal, State, and local governments and agencies as well as property owners, users of the land, and the public.

PART C—FEDERAL ACTIONS IN STATES FOUND ELIGIBLE OR INELIGIBLE FOR GRANTS

CONSISTENCY OF FEDERAL ACTIONS WITH STATE LAND USE PROGRAMS

SEC. 207. (a) Federal program, projects, and activities on non-Federal lands significantly affecting land use, including but not limited to grant, loan, or guarantee programs, such as mortgage and rent subsidy programs and water and sewer facility construction programs, shall be consistent with State land use programs which conform to the provisions of this Act, except in cases of overriding national interest, as determined by the President. Procedures provided for in subsection (b) of this section and regulations issued by the Office of Management and Budget pursuant to the criteria specified in section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1262–3), as amended, and title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 1103–4), together with such additional procedures as the Office of Management and Budget may determine are necessary and appropriate to carry out the purposes of this Act, shall be utilized in the determination of whether such Federal programs, projects, and activities are consistent with the State land use programs.

(b) Any State or local government submitting an application for Federal assistance for any program, project, or activity having significant land use implications in an area or for a use subject to a State land use program in a State found eligible for grants pursuant to this Act shall transmit to the relevant Federal agency the views of the State land use planning agency and/or the Governor and, in the case of an application of a local goverment, the views of such local government and the relevant areawide planning agency designated pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1968 and/or title IV of the Intergovernmental Cooperation Act of 1968, as to the consistency of such activity with the State land use program: *Provided*, That, if a local government certifies that a plan or description of an activity for which application is made by the local government has lain before the State land use planning agency and/or the Governor for a period of sixty days without indication of the views of the State land use planning agency and/or the Governor, the application need not be accompanied by such views.

(c) Federal agencies conducting or assisting public works activities in areas not subject to a State land use program in a State found eligible for grants pursuant to part A of title II shall, to the extent practicable, conduct such activities in such a manner as to minimize any adverse impact on the environment resulting from decisions concerning land use.

FEDERAL ACTIONS IN THE ABSENCE OF STATE ELIGIBILITY

SEC. 208. (a) The Secretary shall have authority to terminate any financial assistance extended to a State under part A of title II and part E of title III and withdraw his determination of grant eligibility whenever, in accordance with section 306, the statewide land use planning process or the State land use program of such State is determined not to meet the requirements of this Act.

(b) Where any major Federal action significantly affecting the use of non-Federal lands is proposed after five fiscal years from the date of enactment of this Act in a State which has not been found eligible for grants pursuant to part A of title II, the responsible Federal agency shall hold a public hearing, with adequate public notice, in such State at least one hundred and eighty days in advance of the proposed action, concerning the effect of the action on land use, taking into account the relevant considerations set out in sections 202, 203, 204, 402, and 505 of this Act, and shall make findings which shall be submitted for review and comment by the Secretary, and, where appropriate, by the Secretary of Housing and Urban Deveopment. Such findings of the responsible Federal agency and comments of the Secretary and, where appropriate, the Secretary of Housing and Urban Development shall be made part of the detailed statement required by section 102(2)(C) of the National Environmental Policy Act of 1969 (83 Stat. 852, 853). This subsection shall be subject to exception where the President determines that the interests of the United States so require.

TITLE III—ADMINISTRATION OF LAND USE POLICY

PART A—GUIDELINES, RULES, AND REGULATIONS

GUIDELINES

SEC. 301. The Executive Office of the President shall issue guidelines to the Federal agencies and the States to assist them in carrying out the requirements of this Act. The Executive Office shall submit proposed guidelines or any subsequent revisions therein to the Secretary, the Interagency Advisory Board on Land Use Policy established pursuant to section 305, the heads of agencies represented on the Board, and representatives of State and local governments, and shall consider their comments prior to formal issuance of such guidelines.

ADMINISTRATIVE RULES AND REGULATIONS

SEC. 302. The Secretary, after appropriate consultation with representatives of the States and, where appropriate, representatives of local governments, and upon the advice of the Board and the heads of Federal agencies represented on the Board, shall promulgate rules and regulations, and make any subsequent revisions thereto, to implement the guidelines formulated pursuant to section 301 and to administer this Act, except with respect to subsection (f) of section 306 of this Act.

PUBLIC PARTICIPATION

SEC. 303. An opportunity shall be afforded to the public for public hearings, with adequate public notice, on guidelines proposed pursuant to section 301 and rules and regulations proposed pursuant to section 302 prior to their final promulgation or subsequent revision.

PART B—ADMINISTRATION OF PROGRAMS

OFFICE OF LAND USE POLICY ADMINISTRATION

SEC. 304. (a) There is hereby established in the Department of the Interior the Office of Land Use Policy Administration (hereinafter referred to as the "Office").

(b) The Office shall have a director who shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5315), and such other officers and employees as may be required. The Director shall have such duties and responsibilities as the Secretary may assign.

(c) The Secretary, acting through the Office, shall—

(1) maintain a continuing study and analysis of the land resources of the United States and their use;

(2) maintain a continuing study and analysis of the methods adopted by the State and local governments to implement the requirements of this Act;

(3) cooperate with the States in the development of standard methods and classifications for the collection of land use data and in the establishment of effective procedures for the exchange and dissemination of land use data;

(4) develop and maintain a Federal Land Use Information and Data Center, with such regional branches as the Secretary may deem appropriate, which shall have available to it in a form which will enable the dissemination thereof to users of the Center—

(A) the results of the studies required in clauses (a) and (b) of this section and clauses (5) through (9) of section 305(c);

(B) plans for federally initiated and federally assisted activities which directly and significantly affect or have an impact upon land use patterns;

(C) to the extent practicable and appropriate, the plans and programs of State and local governments and private enterprises which have more than local significance for land use planning and management;

(D) statistical data and information on past, present, and projected land use patterns which are of more than local significance;

(E) studies pertaining to techniques and methods for the procurement, analysis, and evaluation of data and information relating to land use planning and management; and

(F) such other information pertaining to land use planning and management as the Director deems appropriate;

(5) make the information available to the Data Center accessible to Federal, regional, State, and local agencies conducting or concerned with land use planning and management and to the public;

(6) consult with other officials of the Federal Government responsible for the administration of Federal land use planning assistance programs to States, local governments, and other eligible public entities in order to coordinate such programs;

(7) administer the grant-in-aid and other programs established pursuant to this Act; and

(8) provide administrative support for the Interagency Advisory Board on Land Use policy established under section 305 of this Act.

INTERAGENCY ADVISORY BOARD ON LAND USE POLICY

SEC. 305. (a) The Secretary is authorized and directed to establish an Interagency Advisory Board on Land Use Policy (hereinafter referred to as the "Board").

(b) The Board shall be composed of:

(1) The Director of the Office of Land Use Policy Administration, who shall serve as Chairman;

(2) representatives of the Department of Agriculture; Commerce; Defense; Health, Education, and Welfare; Housing and Urban Development; Transportation; and Treasury; the Atomic Energy Commission; the Environmental Protection Agency; the Council on Environmental Quality; the Council of Economic Advisers; and the Office of Management and Budget, appointed by the respective heads thereof;

(3) representatives of such other Federal agencies, appointed by the respective heads thereof, as the Secretary may request to participate when matters affecting their responsibilities are under consideration.

(c) The Board shall meet regularly at such times as the Chairman may direct and—

(1) shall provide the Secretary with information and advice concerning the relationship of policies, programs, and activities established or performed pursuant to this Act to the programs of the agencies represented on the Board;

(2) shall render advice, pursuant to sections 301 and 302, to the Executive Office of the President and the Secretary concerning proposed guidelines, rules, and regulations for the implementation of the provisions of this Act;

(3) shall assist the Secretary and the agencies represented on the Board in the coordination of the review of statewide land use planning processes and State land use programs;

(4) shall provide advice on such land use policy matters as the Secretary may refer to the Board for its consideration;

(5) shall maintain a continuing study of the impact on land use of Federal programs including, but not limited to, land management activities; construction programs; grant, loan, and guarantee programs; and tax policies;

(6) shall conduct a study, and report within two years to the President and the Congress the results thereof, of means to reduce the number of, delays in obtaining, and conflicting requirements for, permits, licenses, and other governmental decisions, which serve as prerequisites to proposed development activities, with particular emphasis on such permits, licenses, and decisions as are associated with Federal programs;

(7) may conduct, or make a grant or contract, pursuant to section 308, for, a study to determine the feasibility of developing a raw land price index comparable to the Consumer Price Index;

(8) shall conduct, or make a grant or contract, pursuant to section 308, for, a study of environmental, social, and economic impacts, and the forecasting of such impacts, of public actions, including construction activities; grant, loan, or subsidy programs; zoning and other land management activities; and tax policies. Particular emphasis should be given to the impacts of various local assessment practices and other Federal, State, and local tax policies, and the effects of land use controls on the rights of private property owners;

(9) shall conduct, or make a grant or contract, pursuant to section 308, for, a study of the impact of current land and construction financing processes on land use patterns; and

(10) shall provide reports on land use policy matters which may be referred to the Board by the heads of Federal agencies through their respective representatives on the Board.

(d) Each agency representative on the Board shall have a career position within his agency of not lower than GS–15 and shall not be assigned any duties which are unrelated to the administration of land use planning and policy, except temporary housekeeping or training duties. Each representative shall—

(1) represent his agency on the Board;

(2) assist in the coordination and preparation within his agency of comments on (i) guidelines, rules and regulations proposed for promulgation pursuant to sections 301 and 302, and (ii) statewide land use planning processes and State land use programs;

(3) assist in the dissemination of land use planning and policy information and in the implementation within his agency of policies and procedures developed pursuant to this Act; and

(4) perform such other duties regarding the administration of land use planning and policy as the head of his agency may direct.

(e) The Board shall have as advisory members two representatives each from State governments and local governments and one representative each from regional interstate and intrastate public entities which have land use planning and management responsibilities. Such advisory members shall be selected by a majority vote of the Board and shall each serve for a two-year period.

PART C—FEDERAL REVIEW AND DETERMINATION OF GRANT ELIGIBILITY

SEC. 306. (a) During the five complete fiscal year period following the enactment of this Act, the Secretary, before making a grant to any State pursuant to this Act, shall consult with the heads of all Federal agencies represented on the Board and with the Board pursuant to subsection (c) of section 305 of this Act, and shall consider their views and recommendations.

(b) After the five complete fiscal year period following the enactment of this Act—

(1) the Secretary, before making a grant to any State pursuant to part A of title II, shall submit the State land use program of such State to the heads of all Federal agencies represented on the Board and to the Board pursuant to subsection (c) of section 305 of this Act. The Secretary shall review the comments of each agency head which are submitted to him by such agency head no later than thirty days after submission of the State land use program to such agency head by the Secretary; and

(2) the Secretary shall not make a grant to any State pursuant to part A of title II until he has ascertained that the Administrator of the Environmental Protection Agency is satisfied that the State land use program of such State is not incompatible with the Federal Water Pollution Control Act, the Clean Air Act, and other Federal laws controlling pollution which fall within the jurisdiction of the Administrator, and that those portions of the State land use program which will effect any change in land use within the next annual review period are in compliance with and will not cause violation of the standards, criteria, emission or effluent limitations, monitoring requirements, or implementation plans required by such laws. The Administrator shall be deemed to be satisfied if he does not communicate his views to the Secretary within sixty days of submission of the State land use program to him by the Secretary: *Provided, however,* That for the first full fiscal year following initial submission of State land use programs to the Administrator, he shall have one hundred and eighty days in which to communicate his views to the Secretary.

(c) The Secretary may not make any grant to any State pursuant to part A of title II unless he has been informed by the Secretary of Housing and Urban Development that he is satisfied that (1) the statewide land use planning process or State land use program of such State with respect to which the grant is to be made meets the requirements of this Act insofar as they pertain to large-scale development, large-scale subdivisions, and the urban development of lands impacted by key facilities, and (2), pursuant to section 204(6), the State is participating in programs established pursuant to section 701 of the Housing Act of 1954, as amended. The Secretary of Housing and Urban Development shall be deemed to be satisfied if he does not communicate his views to the Secretary within sixty days after the statewide wide land use planning process or State land program has been submitted to him by the Secretary.

(d) The Secretary, in accordance with the procedures provided in subsections (a), (b), and (c) of this section, shall determine a State eligible or ineligible for a grant pursuant to this Act not later than six months following receipt for review of the application of the State for its first grant, a report of the State on its previous grant, or the State land use program of the State as provided in section 201.

(e) A State may revise at any time its State land use program: Provided, That such revision does not render the State land use program inconsistent with the requirements of this Act: *Provided further,* That any significant revision shall be made only following a public hearing with adequate public notice: *And provided further,* The Secretary shall make a temporary determination, prior to the full review of the State land use program pursuant to this section, of whether such revision would render the State land use program inadequate for purposes of complying with the requirements of this Act, and shall inform the State, in writing, of his determination.

(f)(1) In the event the Secretary, in accordance with the procedures provided in this section, determines that a State is ineligible for grants pursuant to part A of title II or, having found a State eligible for such grants, subsequently determines that grounds exist for withdrawal of such eligibility, he shall notify the President, who shall order the establishment of an ad hoc hearing board (hereinafter referred to as "hearing board"), the membership of which shall consist of:

(A) one knowledgeable, impartial Federal offical who is not an official of an agency listed in clauses (1) through (3) of subsection 306, selected by the President within thirty days after notification by the Secretary;

(B) the Governor of a State, which is not the State for which grant eligibility is in question and which does not have a particular interest in whether grant eligibility or ineligibility is determined, selected by the National Governors' Conference within thirty days after notification by the Secretary, or, within ten days thereafter, such alternate person as the Governor may designate; and

(C) one knowledgeable, impartial private citizen, selected by the other two members; *Provided,* That if the other two members cannot agree upon a third member within twenty days after the appointment of the second member to be appointed, the third member shall be selected by the National Center for Dispute Settlement within twenty days thereafter.

(2) The Secretary shall specify in detail, in writing, to the hearing board the reasons for which a State should be considered ineligible, or for which the eligibility of a State for grants should be withdrawn pursuant to this Act. The hearing board shall hold such hearings and receive such evidence as it deems necessary. The hearing board shall then determine whether a finding of ineligibility would be reasonable, and set forth in detail, in writing, the reasons for its determination. If the hearing board determines that ineligibility would be unreasonable, the Secretary shall find the State eligible for grants pursuant to this Act. If the hearing board concurs in the finding of ineligibility or withdrawal of eligibility, the Secretary shall find the State ineligible for grants pursuant to this Act. The Board shall make a determination of eligibility or ineligibility within ninety days of its appointment.

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

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

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

(g) In the consideration of eligibility or ineligibility before the Board, the Secretary shall carry the burden of proof to establish ineligibility under the following standards:

(1) in the case of ineligibility based upon the requirements of sections 402, 505, and 601 (i), (j), (k), and (l), the State has failed to make a good faith effort to comply with the requirements of, and reasonable regulations established pursuant to, this Act;

(2) in the case of ineligibility based upon the requirements of subsections 204(1), the Secretary's determination of the national interest is reasonable and the State has failed to comply with the requirements of this Act;

(3) in the case of ineligibility based upon any other grounds, the State has failed to

comply with the requirements of, and reasonable regulations established pursuant to, this Act.

(h) As a condition of continued eligibility for grants pursuant to this Act, nothing in this Act shall be construed to require a State to take, or prohibit a State from taking, any action or adopting any law, rule, or regulation the implementation of which would require compensation from the State to a private property owner under the terms of the fourteenth amendment to the United States Constitution. The standard of review concerning any question arising under this subsection shall be that contained in subsection (g)(3) of this section.

PART D—STUDY, RECOMMENDATION, AND CONGRESSIONAL CONSIDERATION OF LAND USE POLICIES

SEC. 307. Pursuant to section 102(a), the following procedures concerning the study, recommendation, and congressional consideration of land use policies shall be followed:

(a) Each State submitting an annual report under section 201(e) during the period of three complete fiscal years following the enactment of this Act shall include in such report—

(1) comments in regard to the desirability of establishing national land use policies pertaining to any of the subjects listed in subsection (b) of this section, and suggestions concerning the substance of such policies as might be established;

(2) comments in regard to any proposed national land use policies which have been recommended by the Council on Environmental Quality pursuant to subsection (c) of this section;

(3) such additional suggestions for national land use policies as it deems appropriate; and

(4) such separate comments on the matters described in this subsection as may be made by its intergovernmental advisory council established pursuant to section 202(b)(6).

(b) As part of the process of determining the desirability of developing national land use policies and the substance of such policies, if appropriate, consideration shall be given to the need for policies which—

(1) insure that all demands upon the land—economic, social, and environmental—are fully considered in land use planning;

(2) give preference to long-term interests of the people of the State and Nation and insure public participation as the best means to ascertain such interests;

(3) insure the protection of the quality of the environment and provide access to a wide range of environmental amenities for all persons;

(4) encourage the preservation of a diversity of environments, including manmade, working and living environments, and natural environments with diverse forms of wildlife and flora;

(5) protect open space for public use or appreciation and as a means of shaping and guiding urban growth;

(6) give preference to development which is most consistent with control of air, water, noise, and other pollution and prevention of damage to the natural environment;

(7) insure that development is consistent with the provision of urban services, including education; water, sewer, and solid waste facilities; transportation; and police and fire protection;

(8) insure the timely siting of development, including key facilities as defined in section 601, necessary to meet national or regional social or economic requirements;

(9) encourage the conservation and wise use of energy and other natural resources and insure the supply of such resources to meet demonstrable demand based upon such conservation and use;

(10) preserve the sustained yield quality of renewable resource lands as defined in section 601;

(11) preserve and protect fragile and historic lands as defined in section 601; and

(12) protect life and property in natural hazard lands as defined in section 601.

(c) The Council on Environmental Quality shall review the desirability of national land use policies in regard to the items listed in subsection (b) and in regard to such other subjects as it deems appropriate. At the end of the first full fiscal year following the enactment of this Act, the Council shall submit to the Board a Land Use Policy Report containing such specific recommendations as it may deem appropriate for the establishment of national land use policies. The Board shall review the Land Use Policy Report, the reports of the States under section 201(e), the suggestions of Board members and the public, through public hearings with adequate public notice. Before the end of the third full fiscal year following the enactment of this Act, the Board shall recommend to the Congress such legislation as it may deem appropirate or necessary to establish national land use policies, and any requirements or procedures necessary to assure that the national land use policies are implemented.

PART E—TRAINING AND RESEARCH GRANTS AND CONTRACTS

SEC. 308. (a) The Secretary is authorized to make grants to public and private nonprofit institutions of higher education to assist in establishing or carrying out comprehensive research on and training in land use planning and management. Such grants shall be used to conduct or encourage research and investigations into the theoretical and practical problems of land use planning and management, and to provide for the training of persons to carry on further research or to obtain employment in private or public organizations which are concerned with land use planning and management. Such research and investigations may include, but are not limited to, methodologies for State land use planning, land use impact forecasting methodologies, the design of statewide land resource information systems, and land use data handling methodologies. In making such grants, the Secretary shall give preference to institutions of higher education which—

(1) have a nucleus of administrative, professional, scientific, technical, and other personnel capable of carrying out such research and training;

(2) have authority to employ additional personnel or make contracts and other financial arrangements with other research and training facilities; and

(3) make available to the public all data, publications, studies, reports, and other information which result from such research and training, except information relating to matters described in section 552(b)(4) of title 5, United States Code.

(b) The Secretary is authorized to contract with public nonprofit institutions or private firms to conduct applied research on problems of land use planning and management.

(c) The Secretary is authorized to conduct or contract for the provision of training programs for personnel employed in land use planning and management agencies. Such training programs may consist of support for conferences, short courses, and fellowships for advanced training in public or private nonprofit institutions of higher education offering graduate study in fields having application to land use planning and management.

TITLE IV—FEDERAL-STATE COORDINATION AND COOPERATION IN THE PLANNING AND MANAGEMENT OF FEDERAL AND ADJACENT NON-FEDERAL LANDS

PLANNING AND MANAGEMENT OF FEDERAL LANDS

SEC. 401. (a) All agencies of the Federal Government charged with responsibility for the management of Federal lands shall consider State land use programs prepared pursuant to this Act and State, local government, and private needs and requirements as related to the Federal lands, and shall coordinate the land use inventory, planning, and management activities on or for Federal lands with State and local land use inventory, planning, and management activities on or for adjacent non-Federal lands to the extent such coordination is not inconsistent with paramount national policies, programs, and interests.

(b) For the purposes of this section, any agency proposing any new program, policy, rule, or regulation relating to Federal lands shall publish a draft statement and a final statement concerning the consistency of the program, policy, rule, or regulation with State and local land use planning and management, and where inconsistent, the reasons for such inconsistency, forty-five days and fifteen days, respectively, prior to the establishment of such program or policy or the promulgation of such rule or regulation, and, except where otherwise provided by law, shall conduct a public hearing, with adequate public notice, on such program, policy, rule, or regulation prior to the publication of the final statement.

STATE LAND USE PROGRAMS

SEC. 402. (a) As a condition of continued eligibility of any State for grants pursuant to this Act, after the five complete fiscal year period following the enactment of this Act, the Secretary shall have determined that—

(1) the State land use program developed pursuant to sections 203 and 204 of this Act includes methods for insuring that Federal lands within the State, including, but not limited to, units of the national park system, wilderness areas, and game and wildlife refuges, are not significantly damaged or degraded as a result of inconsistent land use patterns on adjacent non-Federal lands; and

(2) the State has demonstrated good faith efforts to implement such methods in accordance with clause (2) of section 204.

(b) The procedures for determination of grant eligibility provided for in section 306 shall apply in this section.

AD HOC FEDERAL-STATE JOINT COMMITTEES

SEC. 403. (a) The Secretary, at his discretion or upon the request of the Governor of any State involved, shall establish an Ad Hoc Federal-State Joint Committee or Committees (hereinafter referred to as "joint committee" or "committees") to review and make recommendations concerning general and specific problems relating to jurisdictional conflicts and inconsistencies resulting from the various policies and legal requirements governing the planning and management of Federal lands and of adjacent non-Federal lands. Each joint committee shall include representatives of the Federal agencies having jurisdiction over the Federal lands involved, representatives of the private landowners involved, representatives of affected user groups, including recreation and conservation interests, and officials of affected State agencies and units of local government. Prior to appointing representatives of private landowners and user groups and officials of local governments, the Secretary shall consult with the Governor or Governors of the affected State or States and with other appropriate officials of the affected State or States and local governments. The Governor of each State shall appoint the officials of the affected agencies of his State who shall serve on the joint committee.

(b) Each joint committee shall terminate at the end of two years from the date of its establishment: *Provided, however,* That each such committee shall be continued for one additional two-year term at the direction of the Secretary or upon the request of the Governor of any State involved.

(c) Each member of a joint committee may be compensated at the rate of $100 for each

days he is engaged in the actual performance of duties vested in his joint committee. Each member 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: *Provided, however,* That no compensation except travel and expenses in addition to regular salary shall be paid to any full-time Federal or State officials.

(d) Each joint committee shall have available to it the services of an executive secretary, professional staff, and such clerical assistance as the Secretary determines is necessary. The executive secretary shall serve as staff to the joint committee or committees and shall be responsible for carrying out the administrative work of the joint committee or committees.

(e) The specific duties of any joint committee shall be assigned by the Secretary, in his discretion or upon the request of the Governor of any State involved, and may include—

(1) conducting a study of, and making recommendations to the Secretary concerning methods for resolving, general problems with and conflicts between land use inventory, planning, and management activities on or for Federal lands and State and local land use inventory, planning, and management activities on or for adjacent non-Federal lands, including, where relevant, the State land use programs developed pursuant to this Act;

(2) investigating specific conflicts between the planning and management of Federal lands and of adjacent non-Federal lands and making recommendations to the Secretary concerning their resolution;

(3) assisting the States and the Office of Land Use Policy Administration in the development of systematic and uniform methods among the States and between the States and the Federal Government for collecting, compiling, exchanging, and utilizing land use data and information; and

(4) advising the Secretary, during his review of State land use programs, of opportunities for reducing potential conflicts and improving coordination in the planning and management of Federal lands and of adjacent non-Federal lands.

(f) Upon receipt of the recommendations of a joint committee upon a problem or conflict pursuant to subsection (e) of this section, the Secretary shall—

(1) where he has legal authority, take any appropriate and necessary action to resolve such problem or conflict; or

(2) where he does not have jurisdiction over or authority concerning the Federal lands which are involved in the problem or conflict, work with the appropriate Federal agency or agencies to develop a proposal designed to resolve the problem or conflict and to enhance cooperation and coordination in the planning and management of Federal lands and of adjacent non-Federal lands; or

(3) if he determines that the legal authority to resolve such problems or conflicts is lacking in the executive branch, recommend enactment of appropriate legislation to the Congress.

(g) In taking or recommending action pursuant to the recommendations of a joint committee, the Secretary shall give careful consideration to the purposes of this Act and not resolve any problem with or conflict between the planning and management of Federal lands and of adjacent non-Federal lands in a manner contrary to the requirements of the laws governing the Federal lands involved.

BIENNIAL REPORT ON FEDERAL-STATE COORDINATION

SEC. 404. The Secretary shall report biennially to the President and the Congress concerning—

(a) problems in and methods for coordination of planning and management of Federal lands and planning and management of adjacent non-Federal lands, together with recommendations to improve such coordination;

(b) the resolution of specific conflicts between the planning and management of Federal lands and of adjacent non-Federal lands; and

(c) at the request of the Governor of any State involved, any unresolved problem with or conflict between the planning and management of Federal lands and of adjacent non-Federal lands, together with any recommendations the Secretary and the Governor or Governors may have for resolution of such problem or conflict.

PUBLIC PARTICIPATION

SEC. 405. (a) Prior to the making of recommendations on any problem or conflict pursuant to subsection (e) of section 403, each joint committee shall conduct a public hearing or provide an opportunity for such a hearing in the State on such problem or conflict, with adequate public notice, allowing full participation of representatives of Federal, State, and local governments and members of the public. Should no hearing be held, the joint committee shall solicit, with adequate public notice, the views of all affected parties and the public and submit a summary of such views, together with its recommendations, to the Secretary.

(b) Prior to the making of recommendations or the taking of actions pursuant to subsection (f) of section 403, the Secretary shall review in full the relevant hearing record or, where none exists, the summary of views of affected parties prepared pursuant to subsection (a) of this section, and may, in his discretion, hold further public hearings with adequate public notice.

AGENCY ASSISTANCE

SEC. 406. Upon request of a joint committee, the head of any Federal department or agency or federally established or authorized interstate agency is authorized: (i) to furnish to the joint committee, to the extent permitted by law and within the limits of available funds, such information as may be necessary for carrying out the functions of the joint committee and as may be available to or procurable by such department, agency, or interstate agency; and (ii) to detail to temporary duty with the joint committee, on a reimbursable basis, such personnel within his administrative jurisdiction as the joint committee may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

TITLE V—LAND USE PROGRAMS FOR RESERVATION AND OTHER TRIBAL LANDS

GRANTS TO INDIAN TRIBES

SEC. 501. The Secretary is authorized to make annual grants to any Indian tribe to assist such tribe in developing and administering a land use program for reservation and other tribal lands of such tribe.

LAND USE PLANNING PROCESSES FOR RESERVATION AND OTHER TRIBAL LANDS

SEC. 502. (a) Prior to making any grant pursuant to this title to any Indian tribe, the Secretary shall first be satisfied that the tribe intends to expend such funds for the development of a land use planning process for the reservation and other tribal lands of such tribe.

(b) The land use planning processes shall include—

(1) the preparation of an inventory of the reservation and other tribal lands and their natural resources and the nature, quantity, and compatibility of such land and resources required to meet economic, social, and environmental needs;

(2) the establishment of methods for identifying areas of critical environmental concern; areas which are, or may be, impacted by key facilities; and any areas suitable for potential large scale development;

(3) the establishment of arrangements for the exchange of data and information pertinent to land use planning with the Federal Government, the State agencies in the State or States in which the reservation and other tribal lands involved are situated, and neighboring local governments;

(4) the dissemination of information to and the assurance of participation of reservation residents and tribal members in the development of the land use planning process; and

(5) the hiring of competent professional and technical personnel and, whenever appropriate, the use of special consultants.

LAND USE PROGRAMS FOR RESERVATION AND OTHER TRIBAL LANDS

SEC. 503. (a) Prior to making any grant pursuant to this title to any Indian tribe after the five complete fiscal year period following the first grant to such tribe, the Secretary shall first be satisfied that—

(1) the tribe has established an adequate land use planning process as provided for in section 502 hereof;

(2) has developed, or is in the course of developing, a land use program for the reservation and other tribal lands of such tribe, which program shall include methods for—

(A) assuring control over large-scale development, development of public facilities or utilities of regional benefit, land sales or development projects, and use and development in areas of critical environmental concern and areas impacted by key facilities;

(B) assuring dissemination of information to and participation of reservation residents and tribal members in the development and implementation of the land use program; and

(C) coordinating, pursuant to section 505, the land use program with any State land use program approved pursuant to this Act and with the use of Federal lands adjacent to the reservation and other tribal lands;

(3) in designating areas of critical environmental concern, the Indian tribe has not excluded any areas of critical environmental concern which are of more than tribal and statewide concern; and

(4) the Indian tribe is demonstrating good faith efforts to complete the land use program, and, upon completion thereof, is demonstrating good faith efforts to implement the purposes, policies, and provisions of such program. For the purposes of this clause (4), the inability of an Indian tribe to take any action the purpose of which is to implement the land use program, or any portion thereof, because such action is enjoined by the issuance of an injunction by any court of competent jurisdiction shall not be construed as failure by the tribe to demonstrate good faith efforts to implement the purposes, policies, and provisions of the land use program.

(b) In the implementation of its land use program, the governing body of each Indian tribe is hereby authorized to enact zoning ordinances or otherwise to regulate the use of the reservation and other tribal lands of such tribe, subject to the approval of the Secretary.

DEFINITIONS

SEC. 504. The definitions of "areas of critical environmental concern", "key facilities", and "large scale development" provided in section 601 shall be applicable to the same terms contained in sections 502(b)(2) and 503(a)(2)(A), except that, for the purposes of sections 502(b)(2) and 503(a)(2)(A) the following substitution of words shall be made within such definitions: (i) "reservation and other tribal lands" for "non-Federal lands", and (ii) "Indian tribe" or "tribal", whichever is appropriate, for "State".

COORDINATION WITH STATE LAND USE PROGRAMS AND FEDERAL LANDS PLANNING

SEC. 505. (a) To the extent that the laws

governing the management of the Federal lands permit, all agencies of the Federal Government charged with responsibility for the management of Federal lands adjacent to reservation and other tribal lands subject to a land use program of a tribe which is eligible for financial assistance pursuant to this title shall control the use of such Federal lands so as to insure that such use is consistent with such land use program.

(b) All State and local government agencies with authority to control the use of non-Federal lands adjacent to reservation and other tribal lands subject to a land use program of a tribe which is eligible for financial assistance pursuant to this title shall control the use of such non-Federal lands so as to insure that such use is consistent with such land use program. The requirement of this subsection shall serve as a further condition of eligibility of any State for grants pursuant to part A of title II after the five complete fiscal year period following the enactment of this Act.

(c) The land use program prepared by any Indian tribe pursuant to this title shall provide for control of the use of that portion of the reservation and other tribal lands which is adjacent to the exterior boundaries of the reservation and other tribal lands so as to insure that such use is consistent with the use of Federal lands adjacent to the reservation and other tribal lands and the use of any non-Federal lands which are subject to a State land use program approved pursuant to this Act and are adjacent to the reservation and other tribal lands. If no land use program is prepared after the five complete fiscal year period following the first grant to any such Indian tribe, the tribe shall assume interim control of that portion of the reservation and other tribal lands which is adjacent to the exterior boundaries of the reservation and other tribal lands so as to fulfill requirement of this subsection. The requirement of this subsection shall serve as a further condition of eligibility of any Indian tribe for grants pursuant to this title after the five complete fiscal year period following the first grant to such tribe.

CONFLICTS RESOLUTION

SEC. 506. Any State, Indian tribe or the Secretary at the direction of any Indian tribe, or Federal agency with Federal land management responsibilities, which believes that the requirements of section 505 have not been met and has jurisdiction over any portion of the particular lands involved may institute a civil action in the district court of the United States in the jurisdiction of which the lands involved are located for a restraining order or injunction or other appropriate remedy to enforce the provisions of section 505.

TRIBAL REPORTING REQUIREMENTS

SEC. 507. (a) Any Indian tribe which is receiving or has received a grant pursuant to this title shall report at the end of each fiscal year to the Secretary, in a manner prescribed by him, on activities undertaken by the tribe pursuant to or under this title.

(b) Upon completion of a land use program, the relevant Indian tribe shall submit such program annually with the report required in subsection (a) hereof.

REPORT OF THE SECRETARY

SEC. 508. The Secretary shall report annually to the President and the Congress on all actions taken in furtherance of this title and on the impacts of all other programs or services to or on behalf of Indians on the ability of Indian tribes to fulfill the requirements of this title.

ANNOUNCEMENT OF PROGRAM

SEC. 509. Within one year of the enactment of this Act, the Secretary shall make known the benefits of this title to all Indian tribes. The Secretary shall make every effort to insure that the provisions of this title are fully understood by such tribes. The Secretary may fulfill the requirements of this section by contract with any non-profit educational or service organization. On entering into such contract or contracts, the Secretary shall give preference to such organizations the primary responsibility of which is service to Indians or education on subjects of Indian concern.

FEDERAL REVIEW

SEC. 510. The standards for review to determine eligibility of Indian tribes for grants pursuant to this title shall be the same as those provided for determination for eligibility of States for grants under this Act. The review shall be conducted entirely by the Secretary of the Interior and the review procedures provided in section 306 (a) through (f) shall be inapplicable to this title.

TITLE VI—GENERAL

DEFINITIONS

SEC. 601. For the purposes of this Act—

(a) "Secretary" means the Secretary of the Interior.

(b) "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(c) "General purpose local government" means any general purpose unit of local government as defined by the Bureau of Census and any regional, intergovernmental, or other public entity which is deemed by the Governor to have authority to conduct land use planning on a general rather than a strictly functional basis.

(d) "Local government" means any "general purpose local government" as defined in subsection (c) hereof or any regional combination thereof, or, where appropriate, any other public agency which has land use planning authority.

(e) "Federal lands" means any land owned by the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof, except reservation and other tribal lands as defined in subsection (g) hereof.

(f) "Non-Federal lands" means all lands which are not "Federal lands" as defined in subsection (e) hereof, reservation and other tribal lands as defined in subsection (g) hereof of this section and are not held by the Federal Government in trust for the benefits of Indians, Aleuts, and Eskimos.

(g) "Reservation and other tribal lands" means all lands within the exterior boundaries of any Indian reservation, notwithstanding the issuance of any patent, and including rights-of-way, and all lands held in trust for or supervised by any Indian tribe as defined in subsection (h) hereof.

(h) "Indian tribe" means any Indian tribe, band, group, or community having a governing body recognized by the Secretary.

(i) "Areas of critical environmental concern" means areas as defined and designated by the State on non-Federal lands where uncontrolled or incompatible development could result in damage to the environment, life or property, or the long term public interest which is of more than local significance. Such areas, subject to State definition of their extent, shall include—

(1) "Fragile or historic lands" where uncontrolled or incompatible development could result in irreversible damage to important historic, cultural, scientific, or esthetic values or natural systems which are of more than local significance, such lands to include shorelands of rivers, lakes, and streams; rare or valuable ecosystems and geological formations; significant wildlife habitats; and unique scenic or historic areas;

(2) "Natural hazard lands" where uncontrolled or incompatible development could unreasonably endanger life and property, such lands to include flood plains and areas frequently subject to weather disasters, areas of unstable geological, ice, or snow formations, and areas with high seismic or volcanic activity;

(3) "Renewable resource lands" where uncontrolled or incompatible development which results in the loss or reduction of continued long-range productivity could endanger future water, food, and fiber requirements of more than local concern, such lands to include watershed lands, aquifers and aquifer recharge areas, significant agricultural and grazing lands, and forest lands; and

(4) such additional areas as the State determines to be of critical environmental concern.

(j) "Key facilities" means—

(1) public facilities, as determined by the State, on non-Federal lands which tend to induce development and urbanization of more than local impact, including but not limited to—

(A) any major airport designed to serve as a terminal for regularly scheduled air passenger service or one of State concern;

(B) major interchanges between the Interstate Highway System and frontage access streets or highways; major interchanges between other limited access highways and frontage access streets or highways;

(C) major frontage access streets and highways, both of State concern; and

(D) major recreational lands and facilities;

(2) major facilities on non-Federal lands for the development, generation, and transmission of energy.

(k) "Large scale development" means private development on non-Federal lands which, because of its magnitude or the magnitude of its effect on the surrounding environment, is likely to present issues of more than local significance in the judgment of the State. In determining what constitutes "large scale development" the State should consider, among other things, the amount of pedestrian or vehicular traffic likely to be generated; the number of persons likely to be present; the potential for creating environmental problems such as air, water, or noise pollution; the size of the site to be occupied; and the likelihood that additional or subsidiary development will be generated.

(l) "Land sales or development projects", "projects", or "project" means any of the activities set forth in clauses (1) through (3) below which occur ten miles or more beyond the boundaries of any standard metropolitan statistical area or of any other general purpose local government certified by the Governor as possessing the capability and authority to regulate such activities:

(1) the partitioning or dividing into fifty or more lots for sale or resale primarily for housing purposes within a period of ten years of any tract of land, or tracts of land in the same vicinity, owned or controlled by any developer;

(2) the construction or improvement primarily for housing purposes of fifty or more units within a period of ten years on any tract of land, or tracts of land in the same vicinity, owned or controlled by any developer, including the construction of detached dwellings, town houses, apartments, and trailer parks, and adjacent uses and facilities, whatever their form of ownership or occupancy; and

(3) such other projects as may be designated by the State.

(m) "Developer" means any person or persons who directly or indirectly, through any formal or informal combination or aggregation, own or control a tract or tracts of land for which such person or persons propose a "project" as defined in subsection (l) hereof.

(n) "Person" includes any individual, partnership, corporation, association, unincorporated organization, trust, estate, or any other legal or commercial entity, except Federal, State, or local government agencies.

(o) "Adjacent non-Federal lands" means all non-Federal lands which are in the im-

mediate geographic proximity of and border Federal lands.

(p) "Adjacent Federal lands" means all Federal lands which are in the immediate geographic proximity of and border non-Federal lands.

BIENNIAL REPORT OF THE SECRETARY

SEC. 602. The Secretary, with the assistance of the Office and the Board, shall report biennially to the President and the Congress on land resources, uses of land, and current and emerging problems of land use. Such report shall also contain the results of the studies required pursuant to clauses (1) and (2) of section 304(c) and clauses (5) through (9) of section 305(c), and an evaluation of the effectiveness of each State program in meeting the purposes of this Act.

UTILIZATION OF PERSONNEL

SEC. 603. Upon the request of the Secretary, the head of any Federal agency is authorized: (i) to furnish to the Office such information as may be necessary for carrying out the functions of the Office and as may be available to or procurable by such agency, and (ii) to detail to temporary duty with the Office, on a reimbursable basis, such personnel within his administrative jurisdiction as the Office may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

TECHNICAL ASSISTANCE

SEC. 604. The Office may provide, directly or through contracts, grants, or other arrangements, technical assistance to any State or Indian tribe found eligible for grants pursuant to this Act to assist such State or tribe in the performance of its functions under this Act.

HEARINGS AND RECORDS

SEC. 605. (a) For the purposes of carrying out the provisions of this Act, the Director, with the concurrence of the Secretary, may hold such hearings, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of the proceedings and reports thereon as he deems advisable.

(b) The Director is authorized to administer oaths when he determines that testimony shall be taken or evidence received under oath.

(c) To the extent permitted by law, all appropriate records and papers of the Office shall be made available for public inspection during ordinary office hours.

ALLOTMENTS

SEC. 606. (a) Annual grants, pursuant to part A of title II, to States found eligible for financial assistance pursuant to this Act shall be made in amounts not to exceed 90 per centum of the estimated cost of developing the State land use programs for the five complete fiscal year period following the enactment of this Act and amounts not to exceed 66⅔ per centum of the estimated cost of administering the State land use programs for the next three fiscal years.

(b) Annual grants pursuant to part B of title II shall be made in amounts not to exceed 90 per centum of the cost of coordinating State and local land use planning, policies, and programs concerning, studying land use in, conducting land use planning for, or implementing land use policies in, interstate areas.

(c) Grants pursuant to title II shall be allocated to the States on the basis of regulations of the Secretary, which regulations shall take into account the amount and nature of each State's land resource base, population, pressures resulting from growth, land ownership patterns, particularly those pressures resulting from use of national parks, national seashore and lakeshores, wild and scenic rivers, wilderness areas, and other Federal lands, extent of areas of critical environmental concern, financial need, and other relevant factors.

(d) Any grant pursuant to title II shall increase, and not replace, State funds presently available for State land use planning and management activities. Any grant made pursuant to this Act shall be in addition to and may be used jointly with, grants or other funds available for land use planning, programs, surveys, data collection, or management under other federally assisted programs.

(e) Annual grants to Indian tribes pursuant to title V shall be made in amounts of not to exceed 100 per centum of the estimated cost of developing and implementing land use programs for reservation and other tribal lands.

(f) When a State possesses a State land use program approved pursuant to this Act and utilizes general purpose local governments for implementation of such program pursuant to section 203(b) and (c)(1), the State shall allocate a portion of its grant funds pursuant to part A of title II to the general purpose local governments in proportion to the degree of implementation responsibility which they possess.

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

FINANCIAL RECORDS

SEC. 607. (a) Each recipient of a grant pursuant to this Act shall make reports and evaluations in such form, at such times, and containing such information concerning the status, disposition, and application of Federal funds and the operation of the statewide land use planning process or State land use program as the Secretary may require by regulations published in the Federal Register, and shall keep and make available such records as may be required by the Secretary for the verification of such reports and evaluations.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of a recipient of a grant pursuant to this Act which are pertinent to the determination that funds granted pursuant to this Act are used in accordance with this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 608. (a) For the eight complete fiscal year period following the enactment of this Act, there are authorized to be appropriated to the Secretary for grants to the States not more than $100,000,000 each fiscal year to carry out the purposes of this Act.

(b) For the eight complete fiscal year period following the enactment of this Act, there are authorized to be appropriated to the Secretary for grants to the States not more than $15,000,000 each fiscal year to carry out the purposes of section 205 of this Act.

(c) For the eight complete fiscal year period following the enactment of this Act, there are authorized to be appropriated to the Secretary $2,000,000 each fiscal year to carry out the purposes of section 308 of this Act.

(d) For the eight complete fiscal year period following the enactment of this Act, there are authorized to be appropriated to the Secretary for grants to Indian tribes not more than $10,000,000 each fiscal year to carry out the purposes of title V of this Act.

(e) For each of the five full fiscal years following the enactment of this Act, there are authorized to be appropriated $10,000,000 to the Secretary to be used exclusively for the administration of this Act. After the end of the fourth fiscal year after the enactment of this Act, the Secretary shall review the programs established by this Act and shall submit to Congress his assessment thereof and such recommendations for amendments to the Act as he deems proper and appropriate.

FUNDING FORMULA: COASTAL ZONE MANAGEMENT ACT AND THIS ACT

SEC. 609. (a) All funds appropriated each fiscal year pursuant to the Coastal Zone Management Act of 1972 (86 Stat. 1280) and this Act shall be fully apportioned for obligation by the Secretary of Commerce and the Secretary of the Interior, respectively.

(b) All funds appropriated each fiscal year for grants to the States pursuant to part A of title II of this Act and sections 305 and 306 of the Coastal Zone Management Act of 1972 shall be combined and shall be available to be drawn upon for obligation by the Secretary and the Secretary of Commerce, respectively, in the same ratio as the funds appropriated that fiscal year pursuant to the authorization provided in section 608(a) of this Act bear to funds appropriated that fiscal year pursuant to the authorization provided in section 315(a)(1) and (2) of the Coastal Zone Management Act of 1972.

EXPENDITURE OF FUNDS: COASTAL ZONE MANAGEMENT ACT AND THIS ACT

SEC. 610. (a) Any State which is a coastal State as defined in section 304 of the Coastal Zone Management Act of 1972 (86 Stat. 1280) and which has been found ineligible for grants pursuant to section 305 or 306 of that Act shall not expend any funds received under grants pursuant to part A of title II of this Act for land use planning and management in, or administration of the State's management program for, the coastal zone as defined in section 304 of that Act.

(b) The Coastal Zone Management Act of 1972 (86 Stat. 1280) is hereby amended by—

(1) adding, at the end of section 315, a new section 316, as follows:

"SEC. 316. Any coastal State which has been found ineligible for grants pursuant to part A of title II of the Land Use Policy and Planning Assistance Act shall not expend any funds received under grants pursuant to section 305 or 306 of this Act for land use planning and management in, or implementation of a State land use program as provided for in that Act for, areas other than those defined by such coastal State as within its coastal zone."; and

(2) striking subsection (g) of section 307.

EFFECT ON EXISTING LAWS

SEC. 611. Nothing in this Act shall be construed—

(a) to expand or diminish Federal, interstate or State jurisdiction, responsibility, or rights in the field of land and water resources planning, development or control; to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States, or of two or more States, a State, or a region and the Federal Government; to limit the authority of Congress to authorize and fund projects;

(b) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as new authority or responsibilities have been added by the provisions of this Act;

(c) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of land and water resources or to exercise licensing or regulatory functions in relation thereto; or to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, on the International Boundary and Water Commission, United States and Mexico;

(d) as superseding, repealing, or conflicting with the Coastal Zone Management Act of 1972 (86 Stat. 1280);

(e) as granting to the Federal Government any of the constitutional or statutory authority now possessed by State and local governments to zone non-Federal lands;

(f) as authorizing or requiring the termination of any existing trust responsibility of the United States with respect to the Indian people;

(g) to delay or otherwise limit the adoption and vigorous enforcement by any State of standards, criteria, emission or effluent limitations, monitoring requirements, or implementation plans which are no less stringent than the standards, criteria, emission or effluent limitations, monitoring requirements, or implementation plans required by the Federal Water Pollution Control Act, the Clean Air Act, or other Federal laws controlling pollution;

(h) to adopt any Federal policy or requirement which would prohibit or delay States or local governments from adopting or enforcing any law or regulation which results in control to a degree greater than required by this Act of land use in any area over which the State or local government exercises jurisdiction; and

(i) to affect in any way the jurisdiction, authority, duties, or activities of the Joint Federal-State Land Use Planning Commission established pursuant to section 17 of the Alaska Native Claims Settlement Act (85 Stat. 688). Nor may an Ad Hoc Federal-State Joint Committee be established in Alaska during the existence of the Joint Federal-State Land Use Planning Commission.

The title was amended, so as to read: "A bill to authorize the Secretary of the Interior, pursuant to guidelines established by the Executive Office of the President, to make grants to assist the States to develop and implement State land use programs and to coordinate land use planning in interstate areas; to coordinate Federal programs and policies which have land use impacts; to coordinate planning and management of Federal lands and planning and management of adjacent non-Federal lands; to make grants to Indian tribes to assist them to develop and implement land use programs for reservation and other tribal lands; to encourage research on and training in land use planning and management; and for other purposes."

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Washington (Mr. JACKSON), I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 268, and that the bill be printed as passed.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H.R. 7357) to amend section 5(l)(1) of the Railroad Retirement Act of 1937 to simplify administration of the act; and to amend section 226(e) of the Social Security Act to extend kidney disease medicare coverage to railroad employees, their spouses, and their dependent children; and for other purposes.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 7528) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. TEAGUE of Texas, Mr. HECHLER of West Virginia, Mr. FUQUA, Mr. SYMINGTON, Mr. MOSHER, Mr. BELL, and Mr. WYDLER were appointed managers on the part of the House at the conference.

CONTINUANCE OF CIVIL GOVERNMENT FOR THE TRUST TERRITORY OF THE PACIFIC ISLANDS

Mr. JOHNSTON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1385.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.) laid before the Senate the amendment of the House of Representatives to the bill (S. 1385) to amend section 2 of the act of June 30, 1954, as amended, providing for the continuance of civil government for the Trust Territory of the Pacific Islands which was to strike out all after the enacting clause, and insert:

That section 2 of the Act of June 30, 1954 (68 Stat. 330), as amended, is amended by deleting "for each of the fiscal years 1971, 1972, and 1973, $60,000,000", and inserting in lieu thereof: "and for each of the fiscal years 1974, 1975, and 1976, $60,000,000 plus such sums as are necessary, but not to exceed $10,000,000, for each of such fiscal years, to offset reductions in, or the termination of, Federal grant-in-aid programs or other funds made available to the Trust Territory of the Pacific Islands by other Federal agencies".

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

ORDER OF BUSINESS—PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that immediately following the disposition of the message from the House, which the distinguished Senator from Louisiana has asked to have laid before the Senate, the Senate then proceed to the consideration of S. 1435, the District of Columbia home rule bill; that upon the disposition of that bill, the Senate proceed to the consideration of S. 1125, a bill to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act; that upon the disposition of that bill, the Senate proceed to the consideration——

Mr. GRIFFIN. Mr. President——

The PRESIDING OFFICER. The Chair did not hear the last bill to which the Senator referred.

Mr. ROBERT C. BYRD. I yield to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, reserving the right to object, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the message from the House, which the Senator from Louisiana has asked to have laid before the Senate, the Senate proceed to the consideration of S. 1125, a bill to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act; that upon the disposition of that bill, the Senate proceed to the consideration of S. 1435, a bill to provide an elected Mayor and City Council for the District of Columbia; that upon the disposition of that bill, the Senate proceed to the consideration of S. 1994, a bill to authorize appropriations to the Atomic Energy Commission.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object—and I shall not object—I wonder whether the distinguished majority whip would outline the time agreements on particularly the first two measures. I know there are time agreements.

Mr. ROBERT C. BYRD. I may not be able to recall correctly, but I believe the time limitation on the bill to be managed by Senator HUGHES is an hour and a half on the bill and 40 minutes on any amendment. On the District of Columbia bill, I believe the agreement provides for an hour on the bill and a half hour on amendments.

Mr. GRIFFIN. I thank the Senator.

Mr. ROBERT C. BYRD. Then, may I say to the Senator, I believe the time limitation on the atomic energy bill is 1 hour on the bill and one-half hour on any amendments. May I ask the Chair if that is correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. GRIFFIN. I withdraw the reservation.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

CONTINUANCE OF CIVIL GOVERNMENT FOR THE TRUST TERRITORY OF THE PACIFIC ISLANDS

The Senate continued with the consideration of the message from the House of Representatives on S. 1385, to amend section 2 of the act of June 30, 1954, as amended, providing for the continuance of civil government for the Trust Territory of the Pacific Islands.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, on May 22, the Senate passed S. 1385, a bill relating to the Trust Territory of the Pacific Islands.

The House of Representatives has amended the Senate bill by striking all

after the enacting clause and substituting the language of H.R. 6129. The original Senate language provided for an authorization of $60 million for fiscal year 1974 for operations in the territory. The House has provided for a 3-year authorization of $60 million annually for the territory for fiscal years 1974, 1975, and 1976. The House has also provided for an additional sum not to exceed $10 million annually to be authorized and used if necessary to offset reduction in or termination of Federal grant-in-aid programs or other funds made available to the territory by other Federal agencies. The Senate version did not have a similar provision.

The House also struck from S. 1385 all of section 2 which authorized and directed the Federal comptroller for Guam to conduct both performance and expenditure auditing in the trust territory.

Mr. President, it is my understanding that the differences between the Senate language and the House language can be reconciled without the need for a formal conference.

Mr. President, I intend to move that the Senate concur in the House amendment with amendments which I send to the desk.

The amendments which I am proposing would limit the authorization for the trust territory to fiscal year 1974 only, which will afford the Committees on Interior and Insular Affairs of both Houses additional time in which to review operations within the territory and to better judge the capital improvements and administrative needs during the fiscal years to come. Moreover, it would afford an opportunity for the Federal comptroller in Guam to make an audit and advise the Congress on steps that should be taken to improve administration of the territory.

In view of the uncertainty of the continuation of grant-in-aid programs, I do not think there should be any objection to the retention of language approved by the House to authorize up to $10 million of additional funds if the grants-in-aid are discontinued during the coming fiscal year. However, my amendment would limit that authorization to fiscal year 1974.

The third amendment would reinstate the identical text of section 2 of S. 1385, as passed by the Senate, extending the authority of the Federal comptroller for Guam to the Trust Territory of the Pacific Islands and prescribing his duties and responsibilities.

I believe with the adoption of these amendments we will have reached a very satisfactory compromise of the differences between the Senate and House language and will be providing for the people of Micronesia a level of financial support consistent with that provided by Congress in preceding years.

Mr. President, I have cleared these amendments with the ranking minority member of the Interior Committee (Mr. FANNIN).

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk read the amendments, as follows:

On line 4, strike out words "and for each of the fiscal years 1974, 1975, and 1976, $60,000,000" and insert in lieu thereof "for fiscal year 1974, $64,000,000".

On line 6, delete $10,000,000, for each of such fiscal years," and insert in lieu thereof "$10,000,000 for fiscal year 1974.".

Add a new section 2 as follows:

SEC. 2. The Act of June 30, 1954, as amended is further amended by adding at the end thereof the following new section:

"SEC. 4. (a) The government comptroller for Guam appointed pursuant to the provisions of section 9–A of the Organic Act of Guam shall, in addition to the duties imposed on him by such Act, carry out, on and after the date of the enactment of this section, the duties set forth in this section with respect to the government of the Trust Territory of the Pacific Islands. In carrying out such duties, the comptroller shall be under the general supervision of the Secretary of the Interior and shall not be a part of any executive department in the government of the Trust Territory of the Pacific Islands. The salary and expenses of the comptroller's office shall, notwithstanding the provisions of subsection (a) of section 9–A of the Organic Act of Guam, be apportioned equitably by the Secretary of the Interior between Guam and the Trust Territory of the Pacific Islands from funds available to Guam and the trust territory.

"(b) The government comptroller shall audit all accounts and review and recommend adjudication of claims pertaining to the revenue and receipts of the government of the Trust Territory of the Pacific Islands and of funds derived from bond issues; and he shall audit, in accordance with law and administrative regulations, all expenditures of funds and property pertaining to the government of the Trust Territory of the Pacific Islands including those pertaining to trust funds held by such government.

"(c) It shall be the duty of the government comptroller to bring to the attention of the Secretary of the Interior and the High Commissioner of the Trust Territory of the Pacific Islands all failures to collect amounts due the government, and the expenditures of funds or uses of property which are irregular or not pursuant to law. The audit activities of the government comptroller shall be directed so as to (1) improve the efficiency and economy of programs of the government of the Trust Territory of the Pacific Islands, and (2) discharge the responsibility incumbent upon the Congress to insure that the substantial Federal revenues which are covered into the treasury of such government are properly accounted for and audited.

"(d) The decisions of the government comptroller shall be final except that appeal therefrom may, with the concurrence of the High Commissioner, be taken by the party aggrieved or the head of the department concerned, within one year from the date of the decision, to the Secretary of the Interior, which appeal shall be in writing and shall specifically set forth the particular action of the government comptroller to which exception is taken, with the reasons and the authorities relied upon for reversing such decision.

"(e) If the High Commissioner does not concur in the taking of an appeal to the Secretary, the party aggrieved may seek relief by suit in the District Court of Guam, if the claim is otherwise within its jurisdiction. No later than thirty days following the date of the decision of the Secretary of the Interior, the party aggrieved or the High Commissioner, on behalf of the head of the department concerned, may seek relief by suit in the District Court of Guam, if the claim is otherwise within its jurisdiction.

"(f) The government comptroller is authorized to communicate directly with any person or with any department officer or person having official relation with his office. He may summon witnesses and administer oaths.

"(g) As soon after the close of each fiscal year as the accounts of said fiscal year may be examined and adjusted, the government comptroller shall submit to the High Commissioner and the Secretary of the Interior an annual report of the fiscal condition of the government, showing the receipts and disbursements of the various departments and agencies of the government. The Secretary of the Interior shall submit such report along with his comments and recommendations to the President of the Senate and the Speaker of the House of Representatives.

"(h) The government comptroller shall make such other reports as may be required by the High Commissioner, the Comptroller General of the United States, or the Secretary of the Interior.

"(i) The office and activities of the government comptroller pursuant to this section shall be subject to review by the Comptroller General of the United States, and reports thereon shall be made by him to the High Commissioner, the Secretary of the Interior, the President of the Senate and the Speaker of of the House of Representatives.

"(j) All departments, agencies, and establishments shall furnish to the government comptroller such information regarding the powers, duties, activities, organization, financial transactions, and methods of business of their respective offices as he may from time to time require of them; and the government comptroller, or any of his assistants or employees, when duly authorized by him, shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of any such department, agency, or establishment."

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. JOHNSTON. Mr. President, I move that the Senate concur in the House amendment with the amendments I have offered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

The motion was agreed to.

COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION ACT AMENDMENTS OF 1973

The PRESIDING OFFICER. Under the previous order the Chair lays before the Senate S. 1125, which the clerk will state.

The bill was stated by title as follows:

A bill (S. 1125) to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act, and other related Acts to concentrate the resources of the Nation against the problem of alcohol abuse and alcoholism.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Public Welfare with a substitute amendment.

Mr. HUGHES. Mr. President, I ask unanimous consent that Miss Mary Ellen Miller, staff director of the Subcommittee on Alcoholism and Narcotics be allowed the privilege of the floor during consideration of the bill.

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

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield briefly?

Mr. HUGHES. I yield.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

UNANIMOUS-CONSENT AGREEMENT ON INTERNATIONAL ECONOMIC POLICY ACT OF 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—having cleared the matter with the distinguished assistant Republican leader, and the Senator from Texas (Mr. TOWER), the Senator from Alabama (Mr. SPARKMAN), the ranking minority member and the chairman of the committee, respectively—that at such time as S. 1636, a bill to amend the International Economic Policy Act of 1972, is made the pending business before the Senate, there be a time limitation of 1 hour on the bill, to be equally divided between the Senator from Alabama (Mr. SPARKMAN) and the Senator from Texas (Mr. TOWER), with time on any amendment, including an amendment of the Senator from South Dakota (Mr. MCGOVERN), to be limited to ½ hour, the time to be equally divided, and that the agreement be in the usual form.

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

The text of the unanimous consent agreement is as follows:

Ordered, That, during the consideration of S. 1636, a bill to amend the International Economic Policy Act of 1972, debate on any amendment, debatable motion, or appeal shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, the Senator from Alabama (Mr. Sparkman): *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Alabama (Mr. Sparkman) and the Senator from Texas (Mr. Tower): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion or appeal.

COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION ACT AMENDMENTS OF 1973

The Senate continued with the consideration of the bill (S. 1125) to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act.

Mr. HUGHES. Mr. President, today we consider S. 1125, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1973. The bill was reported without dissent on June 6 by the Committee on Labor and Public Welfare. Our Subcommittee an Alcoholism and Narcotics had held hearings on the bill in Washington on March 13, 14, and 16. Additional testimony was received during hearings held by the distinguished Senator from Pennsylvania (Mr. SCHWEIKER in Philadelphia in April.

At this point I want to express my deep appreciation to the distinguished chairman of the Committee on Labor and Public Welfare, the Senator from New Jersey (Mr. WILLIAMS), to the senior minority Member, the Senator from New York (Mr. JAVITS), to the Senator from Pennsylvania (Mr. SCHWEIKER), and indeed to all the members of the Subcommittee on Alcoholism and Narcotics. They have given strong and unwavering support to the position that these alcoholism programs must be carried forward. It has always been a completely bipartisan effort.

The primary purpose of S. 1125 is to extend for an additional 3 years the grant authorities provided for the first 3 years by the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. In addition, it makes other changes in the Act of 1970 which are designed to improve its administration and to strengthen the national commitment to the battle against alcohol abuse and alcoholism.

Mr. President, I ask unanimous consent to have included at this point in the RECORD a detailed summary of the bill as reported.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF S. 1125

1. The bill extends through fiscal 1976 the State formula grant program originally authorized by the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, Public Law 91-616. The Fiscal 1973 formula grant authorization of $80 million had been extended for one additional year, through Fiscal 1974, by Public Law 92-554, approved October 25, 1972. S. 1125 would extend it for two more years, maintaining the annual authorization level at $80 million.

2. It extends the contract and project grant authority of the Act of 1970 for an additional three years, through Fiscal 1976. Authorized to be appropriated are $90 million in Fiscal 1974, $100 million in Fiscal 1975, and $110 million in Fiscal 1976.

3. It adds a new special grant authority providing an additional allotment of $100,000 plus 10% of its formula allotment for each state which adopts the Uniform Alcoholism and Intoxication Treatment Act, or legislation substantially similar to that Act, which requires intoxication to be treated as a responsibility of the community's public health and social service agencies rather than of its criminal justice system. It would not affect laws against operating vehicles or machinery while intoxicated, or laws regulating the sale or possession of alcoholic beverages.

4. It prohibits public or private general hospitals receiving funds from Federal agency sources from discriminating in their admissions or treatment policies against any person solely because of his alcohol abuse or alcoholism. It does not give alcoholics a preferred position, nor does it preclude agreements among hospitals for the division of responsibility for treatment of alcoholics.

5. It deletes the language of the Act of 1970 placing the National Institute on Alcohol Abuse and Alcoholism within the National Institute of Mental Health and substitutes language placing it within the Department of Health, Education, and Welfare, thereby permitting, not requiring, the Secretary to place the Institute elsewhere within the Department.

6. It authorizes the appointment of a Deputy Director, four Associate Directors, an Executive Officer, and four Division Directors and the hiring of necessary attorneys. The authority is needed in order to attract and hold the highly-qualified scientific technical and medical personnel required to administer the Institute's programs.

The PRESIDING OFFICER. Who yields time?

Mr. HUGHES. Mr. President, I yield myself such time as I may need.

Members will note that in the interest of budget restraint we have cut $80 million from the amounts authorized in the original bill. These cuts will result in holding the fiscal 1974 authorizations for alcoholism programs at approximately the 1973 level. Only $10 million would be added in fiscal 1975 and another $10 million in fiscal 1976. The total amount authorized in this bill over the 3-year period is $460 million.

I agreed only reluctantly to these reductions below the amounts in the original bill. They were especially painful because the administration has not allowed funds to be used for new community alcoholism projects since the end of fiscal 1972, nearly a year ago. Since that time funds for such projects have gone only to those who had been given a commitment prior to June 30, 1972. As a result, a backlog of approved but unfunded projects has accumulated and is now approaching a total of $35 million. In effect, progress on this vital element of our attack on alcoholism came to a standstill a year ago.

To carry on existing commitments, to fund last year's unfunded new projects, and to go forward on new projects in the next 3 years would have justified far greater amounts than we have recommended in this bill.

Mr. President, the administration has opposed this bill, just as it has opposed other health and human resources bills. The Department's witness cited budget priorities and set forth the administration's view that the Federal program was intended only as a "demonstration" effort which should now be picked up by the States and local communities.

Certainly budget priorities are a proper subject for debate. It is my view, however, that this is a modest bill. It calls for no increase in the 1974 authorizations above that for 1973, and it provides for increments of only $10 million in each of the following 2 years. Considered in terms of what we have spent, and are still spending, for the weapons of war, and for that matter, recalling the sums that have been collected to run Presidential campaigns, the total represents only a limited attack on a disease which afflicts at least 9 million Americans and costs the economy at least $15 billion every year.

Regarding the administration's claim that we intended only a "demonstration" effort when we passed the 1970 act, the legislative record offers absolutely no support for this view. The administration's witnesses could point to no pro-

vision in the act of 1970 that suggested that congressional intent was so limited. Our committee report on the 1970 act called it "an adequate first step and appropriate beginning to a solution to the problem." Of course, the obvious question is this: if we were planning nothing more than a short term demonstration, why would the Congress have created an institute on alcohol abuse and alcoholism and directed it to develop and conduct comprehensive programs?

The administration takes the position that further funding for alcoholism treatment programs should come from other sources, such as State and local revenues, possibly revenue-sharing funds, or other third-party payments. I can assure my colleagues that everyone administering an alcoholism program would be delighted to have funds from these other sources. Unfortunately, they are not forthcoming in any substantial amounts. The Department's witness admitted that he knew of no program which had a commitment from any of these alternative sources of funding.

The impact of the administration's policy on local programs was clearly explained in a story that appeared last month in the "Savannah, Ga., Press." It reported that because the Chatham Clinic for Alcoholism had conducted such a successful program during the past year, State funding priorities are now being placed elsewhere. The program was to receive $500 a month less in Federal funds than it had received in the preceding year. Yet, it has been taking in 80 new patients each month and could take in more if its hours could be extended.

Apparently, the reward for success is to be the same as the penalty for failure—withdrawal of Federal financial help.

I am sure that the Georgia Department of Human Resources regretted their decision. But Georgia received less than $690,000 for its allotment under the State formula grant program, and these funds must be stretched over a large State.

Mr. President, without adequate project grant and contract funds, I am convinced that the most innovative and promising of the alcoholism programs would fade away.

There would be no funds for the institute's part of the drinking driver program. The Department of Transportation has been given ample funds for screening and identifying problem drinkers on the highways, but there would still be a shortage of funds for the programs needed to treat these people.

American Indians have for the first time found hope for controlling the epidemic of alcoholism in their midst. Federal agencies directly responsible for helping Indians have shown little interest in alcoholism, and there is no evidence that they would set aside funds to replace those lost if this bill should fail.

The occupational alcoholism program, one of the most promising efforts in terms of saving the employed alcoholic before he loses his job and destroys his family, would come to a halt.

The alcoholism programs begun by OEO and now transferred to the national institute would also disappear. These programs have concentrated on helping whole families by keeping them together and self supporting rather than on public welfare.

Mr. President, there is no doubt in my mind that the very heart of our commitment to a national attack on this major crippling and killing disease lies in the Institute's contract and project grant authority. It is the essential instrument for bringing to bear on the problem the fruits of research, the most highly trained and motivated personnel, the leadership and coordination sought by the States and local communities, and, perhaps most important for the future, guidance based on careful analysis of a wide variety of prevention and treatment approaches.

Federal research, information, and training activities are vital elements, but alone they are inadequate. Only through the project grant mechanism can their benefits be fully translated into effective treatment and rehabilitation.

Furthermore, these grants must be provided with some assurance of reasonable stability. We cannot encourage local governments and private citizens to raise funds and go through the whole process of qualifying for support, only to find that within a year or two we have changed the signals and now say that we really intended to support only a brief "demonstration."

I believe it would be a tragedy and a disaster to dismantle this vital heart of the Federal effort when it has just begun to beat steadily. Our national attack on alcoholism must go forward, under the leadership of an institute whose status and comprehensive resources give it the authority and visibility it must have if we are to make real progress in the battle. To stop now would be to betray the hopes we have deliberately inspired among millions of the Nation's alcoholics and their families.

Mr. President, I yield to the distinguished Senator from Colorado (Mr. DOMINICK) such time as he may need.

Mr. DOMINICK. I thank the Senator.

Mr. President, I just want to take a few minutes for the RECORD to congratulate my friend from Iowa on the hard work, and very successful work, he has put into this bill. I am very happy to be a cosponsor of the bill. I think what we have done in the committee is a reasonable approach to the problem.

There were one or two matters that bothered me. Some of them have been brought out in the individual views on the bill by the distinguished Senator from Ohio. One of them that bothers me most is the fact that we are giving grants under this act to States in order to get them to adopt a uniform law on alcoholism.

The problem with this is twofold: One, it is very difficult for me to see why a State should be given some money in order to adopt a uniform law. This is really up to the State. The other problem is that those States which have already adopted it are necessarily hurt by this approach. In other words, those States which went forward and did it do not get money, and those that refused to do it get money. To me that seems to be putting the horse well behind the cart.

What we are trying to do—and I think the Senator from Iowa will agree with me on this—is to get the States to use as much incentive as they can. When we say, after some of them have gone forward in that way, "That is tough. You went too fast, and you did it before you got any Federal funds," we are in fact penalizing the initiative of those States which have made progress in this field.

However, this is an authorization bill; it is not an appropriation bill. There is no reason in the world why the views which I have should not be expressed to the Appropriations Committee, and perhaps on those special provisions, the Appropriations Committee may see fit to agree with my position.

The other problem, which was worked out, I think, to some extent by the distinguished Senator from Ohio (Mr. TAFT), was in connection with admission of alcoholics to any hospital. There was some pretty strong language in the bill to start with, and I think it has been materially helped in the process of the committee's consideration.

Largely, I want to compliment the unremitting fight which the Senater from Iowa has put forth to try to get some aid in the alcoholism field, a field which has been extremely expensive, not only to society as a whole, but also to those individuals who happen to get caught up in this cycle. It can be a tragic thing, as we know, to have friends and relatives in this situation.

Anything we can do to provide rehabilitation and focus attention on this problem is well worthwhile. I am happy to be a cosponsor of the measure.

I thank the Senator from Iowa for his very courteous acceptance of the suggestions we made and for his thoughtful consideration of them. I hope that the bill will pass.

Mr. HUGHES. Mr. President, I thank the Senator from Colorado.

In the 4½ years that I have been a Member of the Senate and since April of 1969 when we set up the subcommittee, the Senator from Colorado has been a member of that subcommittee.

The Senator from Colorado has spent hours and hours and many days on this matter involving alcoholism and the work of that subcommittee.

I am grateful to the Senator from Colorado for his assistance and help. As the Senator has said, we did discuss the problems he raised concerning this piece of legislation. I did accept the modification relating to hospitals as offered by the distinguished Senator from Ohio and, really, in the discussion of grants to the States to implement the Uniform State Laws Act.

The Senator from Colorado has made a good point. All States are qualified for special assistance in implementing the framework under this law. However, the points he raises are real questions that can be raised, and certainly they will be considered in the appropriations process, I know.

Mr. TAFT. Mr. President, I yield myself such time as I shall require. It is not my purpose to talk at any great length on this legislation.

I commend the distinguished Senator from Iowa for his diligent work and for the progress he has made in this field

concerning the treatment of alcoholism which is something in which I concur. It is very much needed indeed.

Obviously, to be effective, it is best that we do as we do with other effective programs and go step by step with the programs as they get underway.

I am not here to apologize for the cutbacks in the original proposal or in the other changes. I merely say that in my additional views filed in the committee report, I have explained some of the reservations that the Senator from Colorado has already mentioned with regard to the incentive funding of a uniform law approach.

It is an approach that seems to me to be something that ought to be watched very carefully in any future legislation of this kind.

I am also happy that we have been able to work out the request of the priority language in the treatment of alcoholism in the hospitals which has now—as I commented in my additional views—been put on the basis that there should be no discrimination because of the patient or the applicant having been an alcoholic. At the same time, we should avoid interfering with the qualities of a specific institution.

I agree that there should be no discrimination. And I think that to avoid the problem we have made legislative history.

I have a statement that has been delivered to me by the Department of Health, Education, and Welfare, commenting upon the bill and expressing some of the views and backgrounds of the Department in connection with it. I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

COMPREHENSIVE ALCOHOL ABUSE, PREVENTION, TREATMENT AND REHABILITATION AMENDMENT OF 1973—S. 1125

SUMMARY

S. 1125 would amend and extend, through fiscal year 1976, existing authorities under which the Federal Government provides formula and project grants assistance for the alcohol abuse and alcoholism prevention efforts. Specifically, it would:

Authorize appropriations of $540 million for FY 1974–76, not including funds for a new program of incentive grants;

Require an annual report "on the extent to which other Federal programs are supporting and dealing with the problems of alcoholism";

Increase the authority of the Secretary of HEW to coordinate alcoholism activities through NIAAA;

Authorize 11 additional supergrade positions for NIAAA;

Establish new program of incentive grants to States to encourage adoption and implementation of the Uniform Alcoholism and Intoxication Act;

Extend from eight to nine years the period for Federal alcoholism staffing grants; and

Prohibit hospitals receiving Federal funds from excluding persons suffering from medical conditions solely because they are alcoholics.

BASIC PROBLEMS WITH PENDING BILL

Excessive Authorizations

Proposed authorization levels of $620.0 million, excluding the incentive grants, are clearly excessive and represent a level inconsistent with the Federal demonstration effort.

New Categorical Authority

Incentive grant program to States to adopt Uniform Alcoholism and Intoxification Act is unnecessary and ill-advised. Many States are now actively considering such laws, thus the need for such grant has not been established. Moreover, funds through the Federal formula grant program are available to States for use in implementing such a law if they desire.

Supergrade Allocation

Undesirably restricts authority of Civil Service Commission and Secretary to allocate personnel resources to meet needs.

Annual Report Requirement

Expenditure of time and effort to produce report will, if past experience on annual reports is a guide, not contribute to solution of alcoholism problem.

Federal Role

Extension from eight to nine years of period for alcoholism staffing grants is not consistent with Federal developmental and demonstration role. Also, all existing staffing grant commitments will be met.

Administration Program

By the end of fiscal year 1973, all States will have established programs under the formula grant authority and 469 projects across the Nation will have been funded under the project grant authorities. These projects created a substantial new capacity at State and local levels to deal with alcoholism problems in the context of the regular community care system.

The FY 1974 budget requests $171.6 million for alcoholism activities, $133.1 million to be funded through the National Institute of Mental Health, and $38.0 million for rehabilitation services in the budget of the Department's Social and Rehabilitation Services Administration. For NIMH programs: State formula grants are being requested at a level of $30.0 million, project grants at $87.0 million, $40.3 million in FY 1974 and $46.7 million for staffing grants commitments which extend beyond FY 1974. $6.9 million is being requested for research into the causes and effects of alcoholism and $3.8 million for training activities.

NOTE: This fact sheet tracks S. 1125 as introduced.

Mr. TAFT. Mr. President, I have no desire to take any further time. I have no requests for any time on the bill, so I stand ready to yield back my time.

Mr. DOMENICI. Mr. President, will the Senator yield for a question?

Mr. TAFT. I am happy to yield to the Senator from New Mexico.

Mr. DOMENICI. Let me say first that I am in favor of the program. In my State and in my city I was pleased to be a part of the initial program that was funded. Perhaps some Senator has answered my question. If so, I apologize in this case for the redundancy.

One of the things the bill does is to remove this program from NIH and transfer it to HEW. Can the Senator tell me a little more about why that is so and what the beneficial effects are likely to be?

Mr. TAFT. I think I would be bold to presume to answer that question. I am quite certain that the Senator from Iowa (Mr. HUGHES) is far more able to answer it. My own impression is that NIH is still an integral part of HEW, in any event, and the separation out is because there are separate problems involved that relate to the disease aspects rather than to the mental health aspects.

Perhaps the Senator from Iowa would care to answer the question.

Mr. DOMENICI. Did the Senator from Iowa hear my question?

Mr. HUGHES. Yes, I heard the distinguished Senator from New Mexico.

In addition to what the distinguished Senator from Ohio has said, there were numerous hints in the hearing that they would like the Institute freed of the program, so that the Secretary would have a more advantageous position.

That was a point of conflict in the bill that was already proposed. We saw no reason not to draw it up so as to leave it to the Secretary to place this particular institution in whatever position he saw fit.

We should make the record very clear that they no doubt will handle the problem as it has been handled in the past. But we had no legislative intent on our part not to allow the Secretary to have discretion.

Mr. DOMENICI. I take it, then, that the Secretary is saying that because there is not a director of that Institute, he has not asked for the thoughts of the Institute on this point. Is that correct?

Mr. HUGHES. That is correct.

Mr. DOMENICI. But it is still the Senator's opinion that it would be proper, like other functions of one of the Institutes of Health, rather than to be off somewhere else, completely unrelated to that kind of function?

Mr. HUGHES. That is correct. It should be on a parity with the other important disease institutes in the Department.

Mr. DOMENICI. I thank the Senator.

ACTION AGAINST ALCOHOLISM

Mr. DOLE. Mr. President, I am sure almost everyone could relate from his personal experience at least one case of a friend, relative, or acquaintance who has suffered the sad and truly tragic effects of alcoholism. The stories of ruined careers, wrecked families, and individual sorrow are well known to millions of Americans, and they serve as compelling testimony for a strengthened and improved national effort against alcoholism.

CHANGED ATTITUDE

Forunately, recent years have seen a change in attitude toward alcoholism and the alcoholic. No longer is the problem viewed as a shameful blot on a person's character and moral fiber, rather it is now being recognized and responded to as an illness. The bill before us today, S. 1125, is, I believe, a necessary and positive step toward continuing the enlightened progress we have been making in the campaign against this illness. And I am hopeful that it will lead to even more effective remedies for alcoholism and measures to prevent its occurrence.

HEAVY COSTS

Alcoholism is one of the most tragic, destructive, and costly illnesses in the Nation today. Prevention of alcohol problems and alcoholism is a major public health goal. Although success in efforts to combat alcoholism rests ultimately in the private decisions and behavior of individual citizens, society as a whole, has a major interest because of the drain alcoholism places on the resources of the Nation. Not only does this tragic illness take a heavy toll in terms of insurance,

but it results in major losses in individual and business productivity and in the outlay of sizable amounts to treat and rehabilitate alcoholic individuals and provide assistance to their families.

The problems of alcoholism are going to require our continuing commitment as a nation if we are to achieve meaningful progress in solving them. I wish to voice my support for S. 1125, as a major demonstration of that commitment at the Federal level. This measure, for the first time will provide coordination of all Federal alcoholism programs and will make extensive assistance available to State and local programs directed toward effective treatment and rehabilitation of alcoholics.

MAJOR FEATURES

The bill's major features would first, extend the existing State formula grant program through fiscal year 1976; second, extend the 1970 act's project grant authority with $90 million authorized for fiscal year 1974, $100 million grant authority plus a 10-percent formula allotment incentive for States to adopt the Uniform Alcoholism Intoxication Treatment Act; fourth, prohibit hospitals from discriminating against alcoholics in their admissions policies; fifth, transfer the National Institute on Alcohol Abuse and Alcoholism from the National Institutes of Health directly into the Department of Health, Education, and Welfare; sixth, give the Institute additional top-level personnel positions; seventh, centralize the administration of alcoholism and alcohol abuse programs.

I am pleased to support this bill and urge its approval by the Senate.

Mr. MOSS. Mr. President, I rise in support of S. 1125, a bill to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act and other related acts to concentrate the resources of the Nation against the problem of alcohol abuse and alcoholism.

For more than a decade I have recognized the serious consequences of alcohol abuse. When I came to the Senate I resolved that as soon as I could I would begin to work on legislation which would give the States and communities the help they needed to meet this tragic social problem. This has been one of my major fields of endeavor. In 1965, I introduced the Senate's first alcoholism bill to bring the resources of the Federal Government to bear on this health problem. When Senator HUGHES came to the Senate, I readily deferred to his leadership because of his great interest in legislation on alcoholism. I was happy to join him and Senator JAVITS in developing a broad approach to alcoholism and alcohol abuse. The culmination of our work was the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 which passed the Senate on August 10, 1970. This act became Public Law 91–616 on December 31, 1970. As a result, the future became brighter for millions of American families tragically affected by alcoholism.

Now, 3 years later, we are considering legislation to extend the comprehensive and unprecedented landmark legislation passed in 1970. It will be entirely consistent with the Senate's previous position for us to vote favorably on this legislation.

The distinguished chairman of the Alcoholism and Narcotics Subcommittee, Senator HUGHES, and other equally distinguished members of the subcommittee, have put many long, hard hours into this legislation. A very important part of S. 1125 is a declaration of policy regarding alcohol. This declaration recognizes alcohol as "one of the most dangerous drugs and the drug most frequently abused in the United States." Alcohol is consumed by some 95 million Americans. Nine million Americans are alcohol abusers or alcoholics. Alcohol use costs the American citizenry $15 billion annually. Tragically, alcohol abuse is growing among young adolescents.

A breakthrough in understanding the real nature of alcohol abuse was made in 1970. The legislation before us embellishes that breakthrough. This legislation recognizes that—

> Alcoholism is an illness requiring treatment and rehabilitation through the assistance of a broad range of community health and social services, and with the cooperation of law enforcement agencies.

This legislation insures that those individuals who have serious illnesses due to alcohol abuse can receive adequate medical attention. It provides assurance that a method of treatment shall be prescribed for the alcoholic that will not subject him to criminal prosecution for having consumed alcohol. A humane and equitable approach to the serious problem of alcohol abuse will be established through the aid of the National Government.

It is heartwarming to see the growing determination of this country to solve the medical-social-environmental problems of alcohol abuse and alcoholism. We are seeing a new social responsiveness on the part of many segments of society—States and communities, churches, universities and schools, large and small businesses as well as citizens from the private sector and the young and the not-so-young. This new commonality is assurance that we are moving to deal vigorously and humanely with this problem.

The framework was established in 1970 within which, for the first time, the community level of government could utilize its health, rehabilitation, and human resources to bring the alcohol problem under control. For the first time alcoholism was recognized as a widespread illness or disease that required "a major commitment of health and social resources" of the Federal Government if any control was to be achieved. The 1970 legislation contended that—

> Increasing education, treatment, and rehabilitation services, and closer coordination of efforts, offer the best posisbility of reducing alcohol abuse and alcoholism.

The 1970 legislation was a good start. Now we must continue the fight.

The legislation before us will carry on that fight.

In summary, the present legislation recognizes the general public concern over past inadequate and improper handling of alcohol abuse and alcoholism in this country. It treats alcoholism as a disease, not as a crime. It holds that criminal law is not an appropriate device for preventing or controlling health problems. It contends that treating persons who are guilty of no more than public intoxication as criminals, is inhuman as well as essentially ineffective. It provides for the development of modern public health approaches to the medical management of alcohol abuse and alcoholism which will detect problems of alcoholism early and provide effective treatment and rehabilitation when needed.

In voting for the legislation before us, we will take a giant step forward in curbing this Nation's No. 1 drug abuse problem. This does not mean that an easy, quick solution will immediately be forthcoming. The roots of alcoholism go deep into the pressures and failings of our society. But, at least the serious nature of alcoholism will be recognized, and the influence of the Federal Government will be continued and increased in finding adequate solutions to a serious problem.

I ask that the Senate vote favorably on S. 1125.

Mr. CHURCH. Mr. President, As a cosponsor of S. 1125, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1973, I commend my distinguished colleague from Iowa, Senator HUGHES, and the members of the Senate Labor and Public Welfare Committee for their outstanding efforts on the part of this legislation. They have acted both carefully and thoroughly in the extension of a program which has met with a great deal of success in its short period of implementation.

Alcoholism is a problem which affects the lives of millions of people in our country; it is estimated that over 9 million Americans are afflicted personally with drinking and alcoholism problems. The bill we are considering today can mean a new existence for these nine million sufferers, not to mention the hope and promise it holds for their families and loved ones. Now is certainly not the time for Congress to abandon successful rehabilitation and prevention programs—when our goal is the summit, you do not stop climbing the mountain when we reach the first ledge. We must continue the progress that has been made in combating the No. 1 drug problem in the United States.

I am pleased to lend my support to the passage of this legislation and I hope that the long hours spent on this bill by the members of the Senate Labor and Public Welfare Committee will be rewarded by an overwehelming vote of support for their efforts.

ALCOHOLISM: OUR LARGEST UNTREATED, TREATABLE DISEASE

Mr. BAYH. Mr. President, I speak in support of S. 1125, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1973. Senator HUGHES is to be commended for his extensive and effective efforts to provide programs and moneys for treatment and rehabilitation of individuals suffering from alcoholism.

In 1970 I cosponsored S. 3835, the Comprehensive Alcohol Abuse and Al-

coholism Prevention, Treatment, and Rehabilitation Act. This bill was the product of a lengthy and thorough study conducted by Senator HUGHES, including extensive hearings and research. This measure, passed both Houses of Congress creating the National Institute of Alcohol Abuse and Alcoholism and authorizing over a 3-year period, formula grants to the States and contracts and project grants for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of the victims of this disease.

Alcoholism has been called the country's "largest untreated, treatable illness." Alcohol, of course, is a drug with a high potential for addiction. It affects young and old alike. Recent studies, in fact, show that alcoholism is escalating among young people. One study found that 1 teenager out of every 20 has a drinking problem. The National Council on Alcoholism reports that in 1972 the age of the youngest alcoholic who came to their attention dropped from 14 to 12. In its 1971 study, "Alcohol and Health," the Department of Health, Education, and Welfare reported that alcohol abuse is the Nation's greatest single drug problem. This report revealed the following:

1. Of the nation's estimated 95 million drinkers one in 10 is either an alcoholic, physically dependent on the drug or an alcohol abuser, defined as an excessive drinker who is on the road to alcoholism.

2. Alcohol is a major factor in more than half the highway deaths each year, accounting for 28,000 fatalities, with even a higher ratio among young people.

3. Alcohol abuse and alcoholism annually saps $10 billion from the economy in lost work time, $2 billion for health and welfare services, and $3 billion for medical expenses, property damage and other costs. A total economic loss of $15 billion!

4. Alcoholism cuts 10 to 12 years from the drinker's expected life span.

5. Alcohol abuse and alcoholism account for more than one-third of all arrests. Alcohol abuse is often a major factor in crimes of violence.

These are grim and sobering statistics.

Alcoholism and alcohol abuse are of considerable concern in my own State of Indiana. According to a conservative 1972 estimate by the Indiana Department of Mental Health, Alcoholism Division, there were nearly 200,000 alcoholics in Indiana. Indiana authorities report that this estimate is just the tip of the iceberg. In Indiana, alcohol abuse or alcoholism is a major factor in one-fourth of the suicides; approximately 35 percent of all non-motor vehicle accidental fatalities; one-half the motor vehicle deaths and a clear majority of deaths from liver diseases.

The act we passed in 1970 provided $712,000 in fiscal year 1972 and $713,571 in fiscal year 1973 to Indiana under the formula grant program. All Hoosiers will benefit from these moneys in the long-run. In fact, it was the availability of these moneys which provided the catalyst for a new and comprehensive attack on alcohol abuse and alcoholism in Indiana. A recent report of the Indiana Division on Alcoholism said in part:

It was very apparent that the single state agency's access to 100% formula grant money (the 1970 Act) was a major stimulus to both planners and deliverers to cooperate in extending services to alcohol abuse and alcoholism programs.

The 1970 act was a first step—a beginning to a solution to the problem. S. 1125 extends for 2 more years the authorization for the State formula grant programs; it extends the authorization for the contract and project grant programs for 3 years; it prohibits hospitals receiving funds from Federal agency sources from discriminating in their admissions or treatment policies against persons solely because of their alcohol abuse or alcoholism; and it provides encouragement for States to adopt the Uniform Alcoholism and Intoxication Treatment Act. The bill we consider today is a reaffirmation of our original commitment to deal comprehensively with the problems of alcohol abuse and alcoholism.

I am aware of the acute need for budget restraints. However, Federal appropriations and expenditures have been far below the authorizations in the act of 1970, and no new community treatment projects have been permitted to be funded since the end of fiscal year 1972. The total of $540 million authorized in the original bill has been reduced to $460 million. In view of the priority of the need and the funds expended to date, I believe the amounts authorized are soundly justified.

The second report of the National Commission on Marihuana and Drug Abuse, "Drug Use in America: Problem in Perspective," reported earlier this year that:

Alcohol dependence is without question the most serious drug problem in this country today. Alcohol users far outnumber those of all other drugs and are found along the entire continuum of dependence. The reinforcement potential of alcohol and its potential for behavioral disruption are high. Use of the drug is pervasive within the general population, and its ready availability facilitates the development of high degrees of dependence among vulnerable populations.

In 1970 we established a framework within which for the first time, Federal, State, and local governments can effectively utilize their health and rehabilitation resources to bring the problem under control. We must renew our commitment to these goals. As an original sponsor I urge my colleagues to support passage of S. 1125.

Mr. BEALL. Mr. President, as a member of the Labor and Public Welfare Subcommittee on Alcoholism and Narcotics, I rise in support of S. 1125, the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1973".

Alcoholism is a major health problem. The following statistics illustrate the cost of alcoholism to the Nation and the need for an accelerated attack against alcoholism as envisioned in the pending measure.

It is estimated that there are 9 million problem drinkers and alcoholics in the United States and that these individuals affect the lives of at least 50 million people.

Alcoholism plays a major role in approximately one-half of our highway fatalities.

There is considerable evidence connecting excessive drinking and resulting drunkenness with the crime rate. It is estimated by the National Crime Commission that in 1965 one out of three arrests, or a total of 2 million persons, were arrested for misdemeanors on drunkenness.

The total bill for alcoholism and alcohol abuse is estimated at $15 billion annually.

While the cost of alcoholism in terms of dollars is astronomical and the luxury we cannot afford, the cost in terms of human suffering is even greater. We have no way of knowing the number of lives lost, dreams shattered, talents destroyed, families broken, lives ended, and successful careers crushed as a result of alcoholism. There is simply no way we can completely calculate the enormous total costs of alcoholism.

I believe that this measure, which would extend and improve the present efforts, is greatly needed and I urge its enactment.

Mr. JAVITS. Mr. President, the enactment into law of the Comprehensive Alcoholism, Prevention, Treatment and Rehabilitation Act of 1970—Public Law 91–616—which this bill S. 1125, which we are now debating, seeks to extend—marked a critical turning point in the way the American people chose to deal with alcoholism, which former Health, Education, and Welfare Secretary Richardson called one of the most tragic, destructive, and costly illnesses in the Nation today. It also marked the end of a legislative struggle which began in 1966 when I introduced the first alcoholism bill with Senator Moss of Utah.

This historic law established a national commitment to combat alcoholism as an acknowledged illness which needs to be treated on the basis of medical care, research, and rehabilitation, rather than on the revolving-door basis of a police station, which unfortunately was, and too frequently still is, the only form of treatment available.

In order effectively to reduce the incidence of alcoholism throughout the Nation, this historic law coordinated all Federal programs and provided extensive Federal assistance to State and local programs in order to promote effective treatment and rehabilitation programs for alcoholics throughout the country. This bill, S. 1125, will permit us to move forward with a coordinated alcoholism treatment and rehabilitation program.

Having achieved this great milestone in alcoholism prevention, treatment, research and education, we must continue our effort to insure that our endeavors have not been in vain.

The problems of alcohol abuse and alcoholism are going to require our continuing total commitment as a nation. I would urge Senators to support the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1973 (S. 1125). This measure will insure the continuing commitment at the Federal level to maintain the foundation for a new era in alcoholism treatment. We must all

join in shaping the policies, changing the attitudes, and generating the programs that will help to reduce the plight of alcoholics in the United States. These millions of unfortunate victims will benefit from our mutual concern, and all of the American people will be the ultimate beneficiaries.

It is most appropriate that the Senate is considering the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1973 (S. 1125) today when the Third Annual Alcoholism Conference of the National Institute on Alcohol Abuse and Alcoholism is taking place in Washington, D.C.

The conference will focus on two themes: "Alcoholism: A Multilevel Problem" and "Treatment: Planning and Organization." I believe the conference program will be of great value in combating alcoholism at the national level and ask unanimous consent that the program of the Third Annual Alcoholism Conference of the National Institute on Alcohol Abuse and Alcoholism be printed in the RECORD.

There being no objection, the program was ordered to be printed in the RECORD, as follows:

PROGRAM OF THIRD ANNUAL ALCOHOLISM CONFERENCE OF THE NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

(Sponsored by the National Institute on Alcohol Abuse and Alcoholism, National Insitute of Mental Health)

OPENING SESSION—WEDNESDAY, JUNE 20—REGENCY ROOM

8:00–9:15 a.m.: Registration.

9:15–9:45 a.m.: Welcoming and Introductory Remarks.

Kenneth L. Eaton, Deputy Director, National Institute on Alcohol Abuse and Alcoholism.

Bertram S. Brown, M.D., Director, National Institute of Mental Health.

9:45–10:15 a.m.: Special Address.

The Honorable Caspar W. Weinberger, Secretary, Department of Health, Education, and Welfare.

10:15–10:45 a.m.: Director's Address.

Morris E. Chafetz, M.D., Director, National Institute on Alcohol Abuse and Alcoholism.

10:45–11:00 a.m.: Break.

11:00–12:00 Noon: Invited Address—"Is Alcoholism Inherited?"

Donald W. Goodwin, M.D., Associate Professor of Psychiatry, School of Medicine, Washington University, St. Louis, Missouri.

12:00 Noon–1:30 p.m.: Lunch.

AFTERNOON SESSION—WEDNESDAY, 20 JUNE

Theme 1—Ambassador Room

Alcoholism: A Multilevel Problem

1:30–5:30 p.m.: Psychological Aspects.

1:30 to 2:30 p.m.: Coping with Alcoholism.

Warren Breed, Ph.D., Research Sociologist, and Lester Cohen, Ph.D., Research Psychologist, Scientific Analysis Corporation, San Francisco, California.

2:30 to 3:30 p.m.: A Four-Generation Scan of an Alcoholic Family System.

Peter S. Caffentzis, Ph.D., Senior Research Scientist, Albert Einstein College, Bronx, New York.

3:30 to 4:30 p.m.: Retrospective Perceptions by Alcoholic Persons and their Spouses of Mood and Behavior During Sobriety and Intoxication.

John S. Tamerin, M.D., Director of Research, Silver Hill Foundation, New Canaan, Connecticut.

4:30 to 5:30 p.m.: Drinking and Hostility in Driving Records of Young Adults.

Donald C. Pelz, Ph.D., Program Director, Institute for Social Research, and Stanley H. Schuman, M.D., Professor of Epidemiology, University of Michigan, Ann Arbor, Michigan.

Theme 2—Regency Room

Treatment: Organization and Management

1:30–5:30 p.m.: Planning a Treatment Program.

1:30 to 2:30 p.m.: World of the Alcoholic Person.

Melvin P. Sikes, Ph.D., Professor of Educational Psychology, University of Texas, Austin, Texas.

2:30 to 3:30 p.m.: Organizational Approaches to the Delivery of Comprehensive Community-Based Alcoholism Services.

Allan Beigel, M.D., Director, Southern Arizona Mental Health Center, Tucson, Arizona.

3:30 to 4:30 p.m.: Mass Media and the Problem Drinker.

Eileen M. Corrigan, D.S.W., Associate Professor, Graduate School of Social Work, Rutgers University, New Brunswick, N.J.

4:30 to 5:30 p.m.: Planning the Community Service Environment: Rejection, Replacement, or Renewal?

Friedner D. Wittman, Consultant to the National Institute on Alcohol Abuse and Alcoholism, Berkeley, California.

6:30–8:00 p.m.: Social Hour. The Terrace.

MORNING SESSION—THURSDAY, 21 JUNE

Theme 1

9:00–12:00 Noon: Biomedical Aspects.

9:00 to 10:00 a.m.: Cardiac Toxicity of Ethyl Alcohol.

Timothy J. Regan, M.D., Professor and Director, Division of Cardiology, New Jersey College of Medicine, Newark, New Jersey.

10:00 to 11:00 a.m.: Endocrine Function in Long-Abstinence Alcoholic Males.

Joyce C. Shaver, M.D., Assistant Professor of Clinical Medicine, College of Physicians and Surgeons, Columbia University, New York, New York.

11:00 to 12:00 Noon: Evaluation of Lithium Therapy in Chronic Alcoholism.

Nathan S. Kline, M.D., Director, Research Center, Rockland State Hospital, Orangeburg, New York and J. C. Wren, M.D., Veterans Administration Hospital, Togus, Maine.

Theme 2

9:00–12:00 Noon: Treatment Approaches.

9:00–10:30 a.m.: Panel on Industrial Programs.

The Process in Establishing Programs in Industry—William E. Hale, Assistant Director, Occupational Services, Brevard County Mental Health Center, Rockledge, Florida.

Attitudional Implications of Occupational Programs—Wade H. Williams, Jr., Eastern Regional Alcoholism Coordinator, North Carolina Department of Mental Health, Goldsboro, North Carolina.

Discussant.

Paul W. Roman, Ph.D., Associate Professor of Sociology and Epidemiology, Tulane University, New Orleans, Louisiana.

10:30–12:00 Noon: Panel on Treatment Programs.

Community Needs—Jeff Voskans, Director, Northwest Iowa Alcohol and Drug Treatment Unit, Spencer Municipal Hospital, Spencer, Iowa.

Role of a General Hospital in a Community Alcoholism Program—Anthony Reading M.D., Director, Comprehensive Alcoholism Program, The Johns Hopkins Hospital, Baltimore, Maryland.

Discussant.

Allan Beigel, M.D., Director, Southern Arizona Mental Health Center, Tucson, Arizona.

12:00 Noon–1:30 p.m.: Lunch.

AFTERNOON SESSION—THURSDAY, 21 JUNE

Theme 1

1:30–5:30 p.m.: Sociocultural Aspects.

1:30 to 2:30 p.m.: Patterns of Alcoholism in France and America: A Comparative Study.

Thomas F. Babor, Ph.D., Research Associate, McLean Hospital, Belmont, Massachusetts, and Harvard Medical School, Boston, Massachusetts.

2:30 to 3:30 p.m.: Psychosocial Typology of Adolescence Alcohol and Drug Users.

G. Nicholas Braucht, Ph.D., Assistant Professor of Psychology, University of Denver, Denver, Colorado.

3:30 to 4:30 p.m.: Executives and Problem Drinking Employees.

Paul M. Roman, Ph.D., Associate Professor of Sociology and Epidemiology, Tulane University, New Orleans, Louisiana.

4:30 to 5:30 p.m.: Alcoholics Anonymous as a Crisis Cult.

William Madsen, Ph.D., Professor of Anthropology, University of California at Santa Barbara, Santa Barbara, California.

Theme 2

1:30–5:30 p.m.: Specialized Programs and Resources.

1:30 to 2:30 p.m.: Alternative Sources of Funding for Alcoholism Programs.

Stanley C. Silber, Chief, Community Support Programs, National Institute of Mental Health.

2:30 to 3:30 p.m.: Utilization of Self-Help Groups.

Wade H. Williams, Jr., Eastern Regional Alcoholism Coordinator, North Carolina Department of Mental Health, Goldsboro, North Carolina.

Discussant.

S. E. Stout, Consultant to the National Institute on Alcohol Abuse and Alcoholism, Region VI, Department of Health, Education, and Welfare, Dallas, Texas.

3:30 to 4:30 p.m.: A Model for an Alcohol Rehabilitation Unit in a General Military Hospital.

LCMDR George S. Glass, MC, USNR, Alcohol Rehabilitation Unit, Bethesda Navy Hospital, Bethesda, Maryland.

Discussant.

Capt. James A. Baxter, USN, Director, Alcohol Abuse Control Program, Bureau of Naval Personnel, Department of the Navy.

4:30 to 5:30 p.m.: The Interface of Mental Health and Judicial Systems: Early Impressions of an ASAP-Related Treatment Effort.

Robert F. Aiken, M.S. Counseling, Project Director, NIAAA/ASAP Alcoholic Program, Waterbury, Vermont.

CLOSING SESSION—FRIDAY, 22 JUNE

Regency Room

9:00–10:30 a.m.: Invited Address. Treatment: What is Happening?

Lawrence L. Weed, M.D., Professor of Medicine, University of Vermont, Burlington, Vermont.

10:30–11:00 a.m.: NIAAA Sound and Light Show.

Harry C. Bell, Director, Office of Public Affairs, National Institute on Alcohol Abuse and Alcoholism.

11:00–12:00 Noon: Panel Discussion.

NIAAA Staff.

12:00 Noon: Closing Remarks.

Morris E. Chafetz, M.D., Director, National Institute on Alcohol Abuse and Alcoholism.

Mr. HUGHES. Mr. President, I am prepared to yield back the remainder of my time.

Mr. TAFT. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the committee amendment in the nature of a substitute.

The amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question now is on the engrossment and third reading of the bill S. 1125, as amended.

The bill was ordered to be engrossed for third reading, read the third time, and passed, 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 "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1973".

TITLE I—FINDINGS AND DECLARATION OF POLICY

SEC. 101. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4551), is amended by adding after section 1 the following new section:

"FINDINGS AND DECLARATION OF POLICY

"SEC. 2. (a) The Congress finds that—

"(1) alcohol is one of the most dangerous drugs and the drug most frequently abused in the United States, as stated in the final report of the National Commission on Marihuana and Drug Abuse and in the 'Federal Strategy for Drug Abuse and Drug Traffic Prevention';

"(2) of the Nation's estimated ninety-five million drinkers, at least nine million, or 7 per centum of the adult population, are alcohol abusers and alcoholics;

"(3) problem drinking costs the national economy at least $15,000,000,000 annually in lost working time, medical and public assistance expenditures, and police and court costs;

"(4) alcohol abuse is found with increasing frequency among persons who are multiple drug abusers and among former heroin users who are being treated in methadone maintenance programs;

"(5) alcoholism is being discovered among growing numbers of adolescents, and alcohol abuse is reported to be rising among the Nation's youth;

"(6) alcoholism is an illness requiring treatment and rehabilitation through the assistance of a broad range of community health and social service, and with the cooperation of law enforcement agencies; and

"(7) the Federal policy established by the Congress in the Comprehensive Alcohol Abuse and Alcoholism, Prevention, Treatment, and Rehabilitation Act of 1970 must be carried forward, not only through assistance to the States, but through direct Federal assistance to community-based programs meeting the urgent needs of special populations and developing methods for diverting problem drinkers from criminal justice systems into prevention and treatment programs.

"(b)(1) The Congress declares that it is the policy of the United States and the purpose of this Act to approach alcohol abuse and alcoholism from a comprehensive community care standpoint.

"(2) The Congress further declares that, in addition to the funds provided under this Act, other Federal legislation providing for Federal or federally assisted research, prevention, treatment, or rehabilitation programs in the field of health and social services should be appropriately utilized to help eradicate alcohol abuse and alcoholism as a major problem."

TITLE II—COORDINATION AND PERSONNEL

SEC. 201. Section 101(a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended to read as follows:

"SEC. 101. (a) There is established in the Department of Health, Education, and Welfare the National Institute on Alcohol Abuse and Alcoholism (hereafter in this Act referred to as the 'Institute') to administer the programs and authorities assigned to the Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the 'Secretary') by this Act and part C of the Community Mental Health Centers Act. The Secretary, acting through the Institute, shall—

"(1) in carrying out the purposes of section 301 of the Public Health Service Act with respect to alcohol abuse and alcoholism, develop and conduct comprehensive health, education, training, research, and planning programs for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics; and

"(2) in carrying out the purposes of all other Federal health, welfare, rehabilitation, highway safety, law enforcement, and economic opportunity legislation, coordinate efforts to deal with alcohol abuse and alcoholism."

SEC. 202. Section 101 of such Act is further amended by adding at the end thereof the following new subsections:

"(c)(1) The Director may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the programs and authorities under this Act.

"(2) The Director may appoint a Deputy Director, four Associate Directors, an Executive Officer, and four Division Directors."

SEC. 203. (a) Section 102(2) of such Act is amended by inserting "and every three years thereafter" after "Act".

(b) Section 102 of such Act is amended by striking the word "and" at the end of paragraph (3) and by striking the period at the end of paragraph (4) and inserting in lieu thereof "; and" and by adding at the end thereof the following:

"(5) submit to Congress on or before the end of each calendar year, beginning during fiscal year 1974, a report on the extent to which other Federal programs and departments are supporting and dealing with the problems of alcohol abuse and alcoholism."

TITLE III—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

PART A—GRANTS TO STATES

SEC. 301. Title III, part A, formula grants of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act is amended—

(1) by striking out "FORMULA GRANTS" after "PART A—" and inserting in lieu thereof "GRANTS TO STATES"; and

(2) by striking out immediately thereunder "AUTHORIZATION" and inserting in lieu thereof "FORMULA GRANTS".

SEC. 302. Section 301 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act is amended by inserting immediately after "for each of the next two fiscal years" the following: "ending June 30, 1974, $80,000,000 for the fiscal year ending June 30, 1975, and $80,000,000 for the fiscal year ending June 30, 1976.

SEC. 303. Section 302 of such Act is amended by adding at the end thereof the following new subsection:

"(d) On the request of any State, the Secretary is authorized to arrange for the assignment of officers and employees of the Department or provide equipment or supplies in lieu of a portion of the allotment to such State. The allotment may be reduced by the fair market value of any equipment or supplies furnished to such State and by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of an officer or employee to the State. The amount by which such payments are so reduced shall be available for payment of such costs (including the costs of such equipment and supplies) by the Secretary, but shall for purposes of determining the allotment under section 302(a), be deemed to have been paid to the State."

SEC. 304. Section 303(a) of such Act is amended—

(1) by striking out in subparagraph (3) the words "or groups," immediately after the words "nongovernmental organizations" and inserting in lieu thereof the words ", of groups to be served with attention to assuring representation of minority and poverty groups,";

(2) by striking out "and" at the end of subparagraph (9);

(3) by redesignating "(10)" as "(11)"; and

(4) by adding after subparagraph (9) the following new subparagraph (10):

"(10) set forth, in accordance with the criteria and not less than the minimum standards to be set by the Secretary, standards for construction and licensing of public and private treatment facilities, as well as standards for other community services or resources available to assist individuals to meet problems resulting from alcohol abuse. The establishment of such standards and licensing procedures must include enforcement procedures and penalties; and".

SEC. 305. Part A of such Act is amended by adding at the end thereof the following new section:

"SPECIAL GRANTS

"SEC. 304. (a) The Secretary, for each fiscal year, acting through the Institute, is authorized during the period beginning July 1, 1973, and ending June 30, 1976, to make grants to States (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands) for the implementation of the Uniform Alcoholism and Intoxication Treatment Act. The purpose is to help States who have adopted the basic provisions of such Uniform Act to utilize fully the protections of this legal framework in their efforts to approach alcohol abuse and alcoholism from a community care standpoint.

"(b) These grants may be made on application to States whose statutes include at minimum:

"(1) A declaration of policy or the enactment of a statute representing that it is the policy of the State that alcoholics and intoxicated persons may not be subjected to criminal prosecution because of their consumption of alcoholic beverages, but rather should be afforded a continuum of treatment in order that they may lead normal lives as productive members of society. The intent of this declaration and provision must be to prelude the handling of drunkenness under any of a wide variety of petty criminal offense statutes, such as loitering, vagrancy, disturbing the peace, and so forth, and to provide therefore that drunkenness will be handled under the civil provisions and not under the criminal law.

"(2) Specific repeal of all relevant portions of the criminal statutes under which drunkenness is the gravamen of the offense, except that nothing in this repeal affects any law, ordinance, resolution, or rule against drunken driving, driving under the influence of alcohol, or other similar offenses involving the operation of a vehicle, aircraft, boat, machinery, or other equipment, or regarding the sale, purchase, dispensing, possessing, or use of alcoholic beverages at stated times and places or by a particular class of persons.

"(3) Incorporation of the standards of acceptance for treatment contained in section 10 of such Uniform Act as follows:

"(A) If possible a patient shall be treated on a voluntary rather than an involuntary basis;

"(B) a patient shall be initially assigned or transferred to outpatient or intermediate treatment, unless he is found to require inpatient treatment;

"(C) a person shall not be denied treatment solely because he has withdrawn from treatment against medical advice on a prior occasion or because he has relapsed after earlier treatment;

"(D) an individualized treatment plan shall be prepared and maintained on a current basis for each patient; and

"(E) provision shall be made for a continuum of coordinated treatment services, so that a person who leaves a facility or a form of treatment will have available and utilize other appropriate treatment.

"(4) Specific restrictions on the use of involuntary commitment to at least the stand-

ard contained in section 14 of the Uniform Act; and

"(5) Such additional assurances as the Secretary may find necessary to carry out the purposes of this part.

"(c) Organization of the State program must be in accordance with section 303(a) of this Act and shall not require the specific organizational structure contained in such Uniform Act.

"(d) For each fiscal year that a State applies and qualifies under the provisions of this section, a grant may be made available based on a sum of $100,000 plus an amount equal to 10 per centum of said State's formula allotment.

"(e) There are authorized to be appropriated for the fiscal year ending June 30, 1974, and for each of the next two fiscal years such sums as may be necessary to carry out the provisions of this section."

PART B—PROJECT GRANTS AND CONTRACTS

GRANTS AND CONTRACTS FOR THE PREVENTION AND TREATMENT OF ALCOHOL ABUSE AND ALCOHOLISM

SEC. 311. Section 311 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act is amended to read as follows:

"SEC. 311. (a) The Secretary, acting through the National Institute on Alcohol Abuse and Alcoholism, may make grants to public and private nonprofit agencies, organizations, and institutions and may enter into contracts with public and private agencies, organizations, and institutions, and individuals—

"(1) to conduct demonstration, service, and evaluation projects,

"(2) to provide education and training,

"(3) to provide programs and services in cooperation with schools, courts, penal institutions, and other public agencies, and

"(4) to provide counseling and education activities on an individual or community basis,

for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics.

"(b) Projects for which grants and contracts are made under this section shall, whenever possible, be community based, seek to insure care of good quality in general community care facilities and under health insurance plans, and be integrated with, and provide for the active participation of, a wide range of public and nongovernmental agencies, organizations, institutions, and individuals.

"(c)(1) In administering the provisions of this section, the Secretary shall require coordination of all applications for programs in a State.

"(2) Each applicant from within a State, upon filing its application with the Secretary for a grant or contract under this section, shall submit a copy of its application for review by the State agency designated under section 303 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, if such agency exists. Such State agency shall be given not more than thirty days from the date of receipt of the application to submit to the Secretary, in writing, an evaluation of the project set forth in the application. Such evaluation shall include comments on the relationship of the project to other projects pending and approved and to the State comprehensive plan for treatment and prevention of alcohol abuse and alcoholism under such section 303. The State shall furnish the applicant a copy of any such evaluation.

"(3) Approval of any application for a grant or contract by the Secretary, including the earmarking of financial assistance for a program or project, may be granted only if the application substantially meets a set of criteria established by the Secretary that—

"(A) provide that the activities and services for which assistance under this section is sought will be substantially administered by or under the supervision of the applicant;

"(B) provide for such methods of administration as are necessary for the proper and efficient operation of such programs or projects;

"(C) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant; and

"(D) provide reasonable assurance that Federal funds made available under this section for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this section, and will in no event supplant such State, local, and other non-Federal funds.

"(d) To carry out the purposes of this section, there are authorized to be appropriated $90,000,000 for the fiscal year ending June 30, 1974, $100,000,000 for the fiscal year ending June 30, 1975, and $110,000,000 for the fiscal year ending June 30, 1976."

PART C—ADMISSION TO HOSPITALS

ADMISSION OF ALCOHOL ABUSERS AND ALCOHOLICS TO PRIVATE AND PUBLIC HOSPITALS

SEC. 321. Section 321 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act is amended to read as follows:

"SEC. 321. (a) Alcohol abusers and alcoholics who are suffering from medical conditions shall not be discriminated against in admission or treatment, solely because of their alcohol abuse or alcoholism, by any private or public general hospital which receives support in any form from any programs supported in whole or in part by funds appropriated to any Federal department or agency.

"(b) The Secretary is authorized to make regulations for the enforcement of the policy of subsection (a). Such regulations shall include procedures for determining (after opportunity for a hearing if requested) if a violation of subsection (a) has occurred, notification of failure to comply with such subsection, and opportunity for a violator to comply with such subsection. If the Secretary determines that a hospital has violated subsection (a) and such violation continues after an opportunity has been afforded for compliance, the Secretary is authorized to suspend or revoke, after opportunity for a hearing, all or part of any support of any kind received by such hospital from any program administered by the Secretary. The Secretary may consult with the officials responsible for the administration of any other Federal program from which such hospital receives support of any kind, with respect to the suspension or revocation of Federal support for such hospital."

TITLE IV—TECHNICAL AND CONFORMING AMENDMENTS

SEC. 401. Section 5108(c) of title 5, United States Code is amended by adding at the end thereof the following new paragraph:

"(12) the Director of the National Institute on Alcohol Abuse and Alcoholism subject to the standards and procedures prescribed by that chapter may place a total of eleven positions in the National Institute on Alcohol Abuse and Alcoholism."

SEC. 402. Section 247 of the Community Mental Health Centers Act (42 U.S.C. 2681) is repealed.

Mr. JAVITS. Mr. President, I move that the Senate reconsider the vote by which the bill was passed.

Mr. HUGHES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the previous order with respect to the sequence of bills to be called up today be vacated.

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

AMTRAK IMPROVEMENT ACT OF 1973

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 214 (S. 2016), and that there be a time limitation thereon of 10 minutes, the time to be under the control of the distinguished Senator from Kentucky (Mr. COOK), and that rule XII be waived.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2016) to amend the Rail Passenger Service Act of 1970 to provide financial assistance to the National Railroad Passenger Corporation, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration. The Senator from Kentucky is recognized.

Mr. COOK. Mr. President, S. 2016 would amend the Rail Passenger Service Act of 1970 to provide, for the operation of Amtrak, the sum of $185 million.

As Senators know, during the course of the hearings and during the course of the discussions thereafter, it became apparent that what really was required, until such time as we could have additional hearings, was a straight appropriation bill, with a few problems resolved which have arisen as a result of Amtrak's operation and its joint operations with connecting facilities and in the utilization of existing facilities.

At the time of the original introduction of this bill, it became obvious that we were, in effect, attempting to change the entire contractual structure of Amtrak in its relations with the rest of the rail system throughout the United States. As a result of this, and as a result of several discussions relative to the language, it became obvious that if we were to move in that direction at this time, without further extensive hearings, we would be, in effect, putting ourselves in the position of abrogating some 20-odd standing contracts that Amtrak presently has with rail systems throughout the United States.

Also, Mr. President, I want to make it clear that we conceivably could have, by congressional action, obviated several arbitrations which are presently underway before the Interstate Commerce Commission and a number of lawsuits that are presently in court relative to contractual stipulations that require hearings and require extensive reporting for

the purpose of making a determination of cost.

We have decided to hold those things off, Mr. President, until a later date; and, therefore, this, for all intents and purposes, is a very clean bill. It calls for an appropriation which we think is adequate and will handle the situation until such time as we can have extensive hearings and undertake further consideration of the rail systems throughout the United States.

Mr. President, I have no further remarks or comments to make. I believe there are no amendments and, therefore, I yield back the remainder of my time and ask for a third reading.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, 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 "Amtrak Improvement Act of 1973".

SEC. 2. (a) Section 305(a) of the Rail Passenger Service Act (45 U.S.C. 545(a)) is amended by striking the second sentence thereof.

(b) Section 305(b) of such Act (45 U.S.C. 545(b) is amended by deleting the second sentence and inserting in lieu thereof the following: "In order to increase revenues and to better accomplish the purposes of this Act, the Corporation shall modify its services to provide, as a part of the basic passenger services authorized by this Act, auto-ferry service characterized by the carriage of automobiles or other property belonging to passengers. The Corporation is authorized and directed to acquire, modify, or develop the equipment and facilities required for the efficient provision of mail, express, and auto-ferry service.".

(c) Section 305 of such Act (45 U.S.C. 545) is further amended by adding at the end thereof the following three new subsections:

"(c) The Corporation is authorized to take all steps necessary to insure that no elderly or handicapped individual is denied intercity transportation on any passenger train operated by or on behalf of the Corporation, including but not limited to, acquiring special equipment and devices and conducting special training for employees; designing and acquiring new equipment and facilities and eliminating architectural and other barriers in existing equipment and facilities to comply with the highest standards for the design, construction, and alteration of property for the accommodation of elderly and handicapped individuals; and providing special assistance while boarding and alighting and in terminal areas to elderly and handicapped individuals.

"(d)(1) The Corporation is authorized, to the extent financial resources are available, to acquire any right-of-way, land, or other property (except right-of-way, land, or other property of a railroad or property of a State or political subdivision thereof or of any other government agency), which is required for the construction of tracks or other facilities necessary to provide intercity rail passenger service, by the exercise of the right of eminent domain, in accordance with the provisions of this subsection, in the district court of the United States in which such property is located or in any such court if a single piece of property is located in more than one judicial district: *Provided,* That such right may only be exercised when the Corporation cannot acquire such property by contract or is unable to agree with the owner as to the amount of compensation to be paid.

"(2) The Corporation shall file in the district court, with the complaint or at any time prior to judgment, a declaration of taking which shall contain or have annexed thereto—

"(A) a statement of the public use for which the property is taken;

"(B) a description of the property taken sufficient for the identification thereof;

"(C) a statement of the estate or interest in the property taken;

"(D) a plan showing the property taken; and

"(E) a statement of the amount of money which the Corporation reasonably estimates to be just compensation for the property taken.

"(3) Upon the filing of the declaration of taking and the depositing in the court of the amount of money estimated in such declaration to be just compensation for the property, the property shall be deemed to be condemned and taken for the use of the Corporation. Title to such property shall thereupon vest in the Corporation in fee simple absolute or in any lesser estate or interest specified in the declaration of taking, and the right to the money deposited as estimated just compensation shall immediately vest in the persons entitled thereto. The court, after a hearing, shall make a finding as to the amount of money which constitutes just compensation for such property and shall make an award and enter judgment accordingly. Such judgment shall include, as part of the just compensation awarded, interest on the amount finally awarded as the value of the property on the date of taking minus the amount deposited in the court on such date, at the rate of 6 per centum per annum from the date of taking to the date of payment.

"(4) Upon application by the parties in interest, the court may order immediate payment of the money deposited in the court or any part thereof for or on account of the just compensation to be awarded in the proceeding. If the just compensation awarded by the court exceeds the amount deposited, the court shall enter a judgment against the Corporation for the amount of the deficiency.

"(5) Upon the filing of a declaration of taking, the court may fix the time within which and the terms upon which the parties in possession shall surrender possession of the property taken to the Corporation. The court may enter such orders as it deems just and equitable with respect to any encumbrances, liens, taxes, assessments, insurance, or other charges which are applicable to such property.

"(e) The Corporation is authorized to take all steps necessary to—

"(1) establish improved reservations systems and advertising;

"(2) service, maintain, repair, and rehabilitate railroad passenger equipment;

"(3) conduct research and development and demonstration programs respecting new rail passenger services;

"(4) develop and demonstrate improved rolling stock;

"(5) establish and maintain essential fixed facilities for the operation of passenger trains on lines and routes included in the basic system, over which no through passenger trains are being operated at the time of enactment of this Act, including necessary track connections between lines on the same or different railroads;

"(6) purchase or lease railroad rolling stock; and

"(7) develop and operate international intercity rail passenger service between points within the United States and points in Canada and Mexico, including Montreal, Canada; Vancouver, Canada; and Nuevo Laredo, Mexico. For purposes of section 404(b) of this Act, such international rail passenger service is service included within the basic system.".

SEC. 3. Section 306 of the Rail Passenger Service Act (45 U.S.C. 546) is amended by adding at the end thereof the following new subsection:

"(h) The Corporation or any railroad or government agency contracting for the operation of intercity trains shall not be subject to any State or local law interfering with its efficient provision of mail, express, or auto-ferry service.".

SEC. 4. Section 308(b) of the Rail Passenger Service Act (45 U.S.C. 548(b)) is amended by striking out "January 15" and inserting in lieu thereof "March 15".

SEC. 5. Section 402 of the Rail Passenger Service Act (45 U.S.C. 562) is amended by redesignating subsection (c) as subsection (d) and inserting the following new subsection:

"(c) If the Corporation and a railroad or government agency are unable to agree upon the terms and conditions for the sale to the Corporation of property (including interests in property) owned by such railroad or agency and required for the construction of tracks or other facilities necessary to provide intercity rail passenger service, the Corporation may apply to the Commission for an order establishing the need of the Corporation for such property and directing that such railroad or agency convey such property to the Corporation on reasonable terms and conditions, including just compensation. Unless the Commission finds that—

"(1) conveyance of such property to the Corporation would significantly impair the ability of the railroad or agency to carry out its obligations as a common carrier; and

"(2) the Corporation can adequately meet its obligations to provide modern, efficient, and economical rail passenger service by the acquisition of alternative property (including interests in property) which is available for sale on reasonable terms to the Corporation or which is available to the Corporation pursuant to section 305(d) of this Act,

the need of the Corporation for such property shall be found to be established, and the Commission shall order such property to be conveyed to the Corporation on such reasonable terms and conditions as it may prescribe, including just compensation. The Commission shall expedite proceedings under this subsection and shall, in any event, issue its order not less than one hundred and twenty days after receipt of the application from the Corporation. If just compensation has not been determined as of the date of such order, the order shall require, as part of just compensation, payment of interest by the Corporation at the rate of 6 per centum per annum from the date prescribed for conveyance until the date of payment of just compensation."

SEC. 6. Section 403 of the Rail Passenger Service Act (45 U.S.C. 563) is amended by adding at the end thereof the following new subsection:

"(d) The Corporation shall initiate not less than one experimental route each year, such route to be designated by the Secretary, and shall operate such route for not less than two years. After such two-year period, the Secretary shall terminate such route if he finds that it has attracted insufficient patronage to serve the public convenience and necessity, or he may designate such route as a part of the basic system."

SEC. 7. (a) Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended to read as follows:

"AUTHORIZATION FOR APPROPRIATION

"(a) There is authorized to be appropriated to the Secretary for the benefit of the Corporation for the fiscal year ending June 30, 1974, such sums as are necessary, not to exceed $185,000,000. Funds appropriated pursuant to such authorization shall be made available to the Secretary for payment to the Corporation during the fiscal year for which

appropriated and shall remain available until expended. Such sums shall be paid by the Secretary to the Corporation, for expenditure by it in accordance with spending plans approved by Congress at the time of appropriation.

"(b)(1) Whenever the Corporation submits any budget estimate or request to the President, the Department of Transportation, or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress.

"(2) Whenever the Corporation submits any legislative recommendation, proposed testimony, or comments on legislation to the President or the Department of Transportation, or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Corporation to submit its legislative recommendations, proposed testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.".

SEC. 8 (a) Section 602(d) of the Rail Passenger Service Act (45 U.S.C. 602(d)) is amended to read as follows:

"(d) The aggregate unpaid principal amount of securities, obligations, or loans outstanding at any one time, which are guaranteed by the Secretary under this section, may not exceed $500,000,000. The Secretary shall prescribe and collect a reasonable annual guarantee fee.".

(b) Section 602 of such Act (45 U.S.C. 602) is further amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding any other provision of this Act, a guarantee may not be made of a security, obligation, or loan if the income from such security, obligation, or loan which is not includable in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954.".

SEC. 9. Section 801 of the Rail Passenger Service Act of 1970 (45 U.S.C. 641) is amended to read as follows:

"REGULATIONS AND ENFORCEMENT

"(a) The Commission shall promulgate and shall from time to time revise such regulations as it considers necessary to provide adequate service, equipment, tracks, and other facilities for intercity rail passenger service.

"(b) Any person who is found by the Commission, upon its own initiative or through petition of any person, to be in violation of any regulation issued under subsection (a) of this section or any standard established pursuant to section 402(d) of this Act shall be assessed a civil penalty by the Commission or its designated agent. Each day of noncompliance shall constitute a separate violation. The amount of such penalty shall not exceed $5,000 for each such violation. No penalty shall be assessed unless the person is given notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code. Any such penalty may be compromised by the Commission or its designated agent.

"(c) If a person fails to pay any penalty assessed under subsection (b) of this section, the Commission may by its own attorneys institute and prosecute a civil action against such person in the district court of the United States for any district in which such person is found, resides, or transacts business, to collect such penalty, or the Commission may request and the Attorney General shall institute and prosecute such action. Such court shall have jurisdiction to hear and decide such action, regardless of amount in controversy. In hearing an action under this subsection, the court shall sustain the Commission's finding of violation and the amount of civil penalty assessed if such action is supported by substantial evidence.".

MOTION TO RECONSIDER ENTERED

Mr. HARTKE subsequently said. Mr. President, I would like to enter a motion to reconsider S. 2016.

The PRESIDING OFFICER. Does the Senator desire to enter a motion to reconsider the vote on that bill?

Mr. HARTKE. Mr. President, I enter a motion to reconsider the vote by which the bill was passed.

The PRESIDING OFFICER. The motion will be entered and placed on the calendar.

ORDER OF BUSINESS

Mr. COOK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

(The remarks Senator JAVITS made at this point on the introduction of S. 2050, dealing with the Domestic Enterprise Bank, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

QUORUM CALL

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ATOMIC ENERGY COMMISSION AUTHORIZATIONS

Mr. PASTORE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 213, S. 1994.

The PRESIDING OFFICER. The bill will be stated by title.

The bill was read by title as follows:

A bill (S. 1994) to authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Rhode Island?

There being no objection, the Senate proceeded to consider the bill.

Mr. PASTORE. Mr. President, this bill would authorize appropriations totaling $2,429,055,000 for both "operating expenses" and "plant and capital equipment" for the coming year. That amount is approximately 4.1 percent less than the amount requested by the Commission and about 6.7 percent less than was authorized for fiscal year 1973.

Approximately 48 percent of the Commission's fiscal year 1974 estimated program costs will be for military applications of atomic energy and the balance for civilian programs. The civilian portion of the AEC's programs includes $128.8 million in operating costs for the high energy physics program for which the AEC acts as principal funding agent for the entire Federal Government.

OPERATING FUNDS

Turning to the bill itself, the individual sections are explained in the section-by-section analysis beginning at page 43 of the committee report. Very briefly, section 101(a) would authorize $1,740,750,000 for operating expenses and this total figure consists of the components listed in the table on page 3 of the committee report. A detailed discussion of each portion thereof begins at page 6 of the committee report. You will note from the table on page 3 that the committee has recommended several adjustments to the AEC's requested authorization. The net total of these adjustments is a reduction of $12,500,000.

I would like to highlight some of the significant areas affected by the committee's recommendations. Recognizing the Nation's need for increasing amounts of clean energy, the committee recommended increases of $15 million for the operation of the gaseous diffusion plants, $7.9 million for civilian nuclear reactor development, $10.6 million for applied energy technology, and $8.5 million for controlled thermonuclear research.

URANIUM ENRICHMENT

The largest single addition recommended by the committee relates to the operation of the three gaseous diffusion plants owned and operated by the AEC. These plants represent the sole source of enriched uranium necessary to manufacture fuel for nuclear reactors as well as to supply the materials required for our nuclear weapons program. The committee has recommended the addition of $15 milion to be applied to the operation of these facilities.

The committee has consistently urged the AEC to continue with its programs to increase the output of enriched uranium from its three gaseous diffusion plants. The projected growth of the use of nuclear power for generating electrical energy makes it imperative that vigorous steps be taken to maximize the production of this enriched material. By far, the largest portion of the uranium enrichment budget pertains to the procurement of electric power to operate these facilities. However, the projected costs of obtaining electric power are becoming increasingly unpredictable. In view of recent trends in the cost of obtaining energy, it is possible that this portion of AEC's authorization request for fiscal year 1974 may be inadequate to permit operating these plants at planned power levels. Additionally, the committee understands that seasonal or short-term power, in excess of that provided under long-term contracts, could be made available to the AEC at reasonable prices on short notice. Because of budget restraints in the past, the AEC has had to forego buying electrical energy which was available on a short-term basis which could have produced enriched uranium at about $25 per unit while the average sale price is $38.50 per unit. Therefore, the committee recommended this increase of $15 million to

assure adequate funding of the planned power procurements and to permit the Commission to take advantage of short-term power purchases at reasonable prices as they become available.

CIVILIAN NUCLEAR REACTOR DEVELOPMENT

During the hearings on the proposed authorization bill, the committee received information concerning the current status of the electric power industry and nuclear powerplants. The information on the status of the nuclear powerplants showed that as of March 1973 there were 30 operable plants having a cumulative rating of approximately 15.5 million kilowatts. Sixty nuclear powerplants, having a cumulative rating of approximately 53.7 million kilowatts were under construction, and 75 more plants with a total rating of 78.6 million kilowatts were on order. This amounts to a total of 165 plants having an estimated capacity of 147.8 million kilowatts. This is to be compared with a total installed capacity at this time of all types of electric powerplants of about 350 million kilowatts. Commitments by the electric power industry within the United States for these powerplants total $50 billion in capital cost. This figure is increased to $250 billion if the cost of the fuel and other operating expenses over the life of the plant are included.

As you know, our supplies of natural gas and oil are limited. Moreover, the use of our supply of coal is currently restricted by environmental considerations. In view of the Nation's increasing reliance on nuclear power as one of our few domestic sources of energy, the committee recommended an increase of $7 million for the continued development of alternate concepts to the present generation of light water nuclear reactors. This sum would increase the amounts being spent on developing the high temperature gas reactor, the thorium utilization program, and the gas cooled fast reactor concept, and would continue work on the molten salt breeder reactor during fiscal year 1974.

In view of our limited resources of natural uranium, and a projected serious imbalance-of-payments problem arising from the necessity of importing fuel, the committee also recommended authorization of $2 million to commence planning for a second liquid metal fast breeder reactor demonstration plant. It seems clear that a second demonstration plant will be needed to assure timely development of reliable and economic fast breeder reactors.

APPLIED ENERGY TECHNOLOGY

The committee recommended an increase of $10.6 million, to $18.6 million, for AEC's applied energy technology program. The President's second energy message in April of this year continued to recognize that the scientific talent and facilities of the AEC's national laboratories represent a vital national asset since they can be utilized in defining solutions to our national energy dilemma in all areas.

Of the $10.6 million increase, approximately $6 million will be added to the Commission's activities in general energy development. This category includes work in the areas of energy transmission and storage and programs for the development of geothermal and solar energy.

The committee also recommended the addition of $3.7 million for the continuation of certain isotopes development technology programs including the production of isotopes for medical purposes. AEC had planned to cancel these programs. However, the committee felt they should be restored so that these important research efforts directed toward improving our health and environment could be continued.

CONTROLLED THERMONUCLEAR RESEARCH

A combination of factors has made it imperative that the United States continue to explore and develop all possible energy sources. This is particularly true for those sources which do not contribute significantly to the pollution problem. With the exception of the breeder reactor, it appears that fusion reactors will be the only nonfossil energy source now under research which may be capable of contributing the great amounts of energy needed in the future to maintain the health and economic well-being of the country. Continued and increased dependence on foreign fossil fuels can have a significant adverse impact on the economy and on our standard of living.

The AEC is supporting two fusion programs. The magnetic confinement program has been underway since the early 1950's. The laser-pellet fusion program was begun in 1962 and had been a comparatively minor research effort until a few years ago.

The committee continues to support a realistically increased research and development program in magnetic confinement which would be directly related to the magnitude of the difficulties and potential benefits which lie ahead. Therefore, the committee recommended authorization of $53 million for operating expenses of the controlled thermonuclear research program in fiscal year 1974. This is an increase of $8.5 million over the AEC's request. The increased funding should permit an acceleration of the program effort in several significant areas to exploit recent advances in our knowledge.

WEAPONS

The committee was also aware of the need for fiscal restraint. In this regard, it recommended the elimination of advanced engineering development programs for two new atomic artillery shells—$15 million—and a general reduction of $35 million in other weapons activities. This reduction, coupled with the elimination of associated production facilities which I shall describe later and the denial of $80 million for another classified weapons facility which is also referred to later results in a total reduction of $142 million in nuclear weapons efforts.

CONSTRUCTION FUNDS

With regard to the plant and capital equipment portion of the budget, contained in section 101(b) of the bill, a total of $688,305,000 is recommended. This is a reduction of $90,995,000 from the amount requested by the AEC. The bill authorizes $145,225,000 for new construction projects, $172,300,000 for capital equipment not related to construction, and $370,780,000 in increases in authorization for previously authorized projects.

The major changes recommended in this area are an $80 million reduction for certain classified facilities and a denial for a request for $12 million for production facilities for two new atomic artillery shells. I should stress that the committee's recommendations in the weapons area do not, in our judgment, impair the national security.

The committee also recommended the addition of $2.5 million for modifications to the Transient Reactor Test Facility consistent with the increased emphasis on the fast reactor safety program.

Sections 102, 103, and 104 of the bill set forth certain limitations regarding the application of the funds authorized by this bill. These are similar to provisions incorporated in previous authorization acts. However, this year, the committee recommended the addition of two new subsections in section 102 which would clarify the AEC's authority to incur obligations beyond amounts specifically set out for each line item construction project.

As I mentioned earlier, section 105 contains the amendments to prior year acts which provide for additional authorization of previously authorized projects.

Section 106 provides for rescission of two previously authorized projects which are no longer necessary. The total authorization for those two projects was $2.75 million of which $500,000 was applied to reduce the new obligational authority for fiscal year 1972 and $750,000 is being so applied for the fiscal year 1974 budget.

CONCLUSION

These are the highlights of the bill, Mr. President. The joint committee believes that this bill provides for the minimum authorization necessary to effectively carry out the essential programs and activities of the Commission. Mr. President, this is a sound and carefully considered bill and I urge its favorable consideration.

We had extensive hearings in the Joint Committee on Atomic Energy. The bill has been cleared on both sides and there is no objection to it as far as I know. I am ready to answer questions if anyone has a question.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. PASTORE. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. PASTORE. Mr. President, I ask

unanimous consent that this vote be taken tomorrow at 9:30 a.m., and that rule XII be waived.

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

What is the will of the Senate?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. PASTORE. Mr. President, I ask unanimous consent that the unanimous-consent agreement be vitiated at this time and that we proceed with the call of the roll. The yeas and nays have been ordered.

The PRESIDING OFFICER. Without objection, rule XII will be suspended and the order for the rollcall will be vitiated.

Mr. MANSFIELD. Mr. President, will the Senator withhold that request?

Mr. PASTORE. Mr. President, in order to resolve the confusion, I renew the original unanimous-consent request that we vote at 9:30 tomorrow morning and that rule XII be waived.

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

ROUTINE MORNING BUSINESS

The routine morning business transacted today is printed at this point in the RECORD by unanimous consent.

ENROLLED BILL SIGNED

The ACTING PRESIDENT pro tempore (Mr. ROBERT C. BYRD) today signed the enrolled bill (S. 1386) to authorize appropriations for the saline water program for fiscal year 1974, and for other purposes, which had previously been signed by the Speaker of the House of Representatives.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, June 21, 1973, he presented to the President of the United States the enrolled bill (S. 1386) to authorize appropriations for the saline water program for fiscal year 1974, and for other purposes.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. ROBERT C. BYRD) laid before the Senate the following letters, which were referred as indicated:

PROPOSED DONATION OF CERTAIN SURPLUS PROPERTY

A letter from the Chief of Legislative Affairs, Department of the Navy, reporting, pursuant to law, on the intention of the Department of the Navy to donate certain surplus property to the Warren County Chapter of the National Railway Historical Society, Warrenton, N.C. Referred to the Committee on Armed Services.

PROPOSED LEGISLATION FROM DEPARTMENT OF THE AIR FORCE

A letter from the Assistant Secretary of the Air Force, transmitting a draft of proposed legislation to amend sections 2734a(a) and 2734b(a) of title 10, United States Code, to provide for settlement under international agreements, of certain claims incident to the noncombat activities of the Armed Forces, and for other purposes (with an accompanying paper). Referred to the Committee on Armed Services.

REPORT OF SMALL BUSINESS ADMINISTRATION

A letter from the Administrator, Small Business Administration, transmitting, pursuant to law, a report of that Administration, for calendar year 1972 (with accompanying reports). Referred to the Committee on Banking, Housing and Urban Affairs.

PROPOSED LEGISLATION FROM SECRETARY OF COMMERCE

A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to further amend the Economic Stabilization Act of 1970, as amended, to authorize the President to prohibit or curtail the exportation of articles, commodities, or products from the United States, and for other purposes (with accompanying papers). Referred to the Committee on Banking, Housing and Urban Affairs.

REPORT OF FEDERAL COMMUNICATIONS COMMISSION

A letter from the Chairman, Federal Communications Commission, transmitting, pursuant to law, a report of that Commission, for the fiscal year ended June 30, 1972 (with an accompanying report). Referred to the Committee on Commerce.

PROPOSED AMENDMENT OF CONCESSION CONTRACT IN GRAND CANYON NATIONAL PARK, ARIZ.

A letter from the Acting Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed amendment to a concession contract in Grand Canyon National Park, Ariz. (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

REPORT OF ATTORNEY GENERAL

A letter from the Attorney General, transmitting, pursuant to law, his report for the fiscal year 1972 (with an accompanying report). Referred to the Committee on the Judiciary.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. ROBERT C. BYRD):

A joint memorial of the Legislature of the State of Colorado. Referred to the Committee on Agriculture and Forestry:

"SENATE JOINT MEMORIAL NO. 14

"Whereas, Gasoline diesel, and propane fuel are in perilously short supply throughout Colorado and the rest of the nation, and a worsening of the shortages in these fuels is virtually inevitable; and

"Whereas, Agriculture is one of the keystones of the economies of this state and the entire nation, and, at this time of year, the consumption of fuel by the agricultural sector of the economy reaches a peak level; and

"Whereas, It is very likely that it will be necessary to allocate most fuels that are in short supply on a priority basis according to relevant need; and

"Whereas, It is most important that sufficient fuels be allocated to the agricultural sector of the economy in order that the people of this nation may be adequately supplied with food and clothing; now, therefore,

"Be It Resolved by the Senate of the Forty-ninth General Assembly of the State of Colorado, the House of Representatives concurring herein: That the General Assembly hereby memorializes the Congress of the United States to take all appropriate action within its power *to insure that the agricultural sector of the economy is allocated sufficient fuel* to perform its vital national function.

"Be It Further Resolved, That copies of this Memorial be transmitted to the President of the United States, the Secretary of the United States Department of Interior, the Chairman of the President's Oil Policy Committee, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of Congress from Colorado."

Resolutions of the Massachusetts House of Representatives. Referred to the Committee on the Judiciary:

"RESOLUTIONS

"Memorializing the Congress of the United States To Investigate the Justice Department's Prosecution of Five Irish Residents of New York Before a Federal Grand Jury in Fort Worth, Tex.

"*Resolved,* That the Massachusetts House of Representatives respectfully urges the Congress of the United States to investigate the Justice Department's prosecution of five Irish residents of New York before a federal grand jury in Texas as to the violation of the constitutional rights of these five United States residents; and be it further

"*Resolved,* That copies of these resolutions be sent by the Secretary of the Commonwealth to the President of the United States, to the presiding officer of each branch of Congress and to each member thereof from the Commonwealth.

"House of Representatives, adopted, June 13, 1973."

A concurrent resolution of the Legislature of the State of New Hampshire. Referred to the Committee on Finance:

"HOUSE CONCURRENT RESOLUTION NO. 18

"Memorializing Congress of the devastating effect on the State of New Hampshire of U.S. Public Law No. 92-603, relating to title 19 of the Social Services Act

"Whereas, the communities of the State of New Hampshire maintain numerous nursing, convalescent, homes for the aged, hospital and similar facilities; and

"Whereas, these communities are limited in both the financial support that they can provide and the availability of professional and semi-professional personnel; and

"Whereas, the requirements of the United States Public Law 92-603, relating to Title 19 of the Social Services Act, when it becomes effective on January 1, 1974, would place a difficult if not impossible burden on most of these communities; and

"Whereas, due to the mandatory staffing, funding, changes required in the physical plant, and the maintaining of the necessary records, shall mean the possible loss of some of these facilities to the State of New Hampshire; Now Therefore,

"Be It Resolved by the Senate and House of Representatives, in General Court Convened:

"That the provisions of U.S. Public Law 92-603 be modified by the United States Congress to take into consideration the non-availability of professional personnel as required by this law in small communities such as those that comprise the State of New Hampshire and the other facets of the law that would make it virtually impossible for such small communities to meet.

"Be It Further Resolved, that certified copies of this resolution be forwarded by the secretary of state to members of the New Hampshire congressional delegation,

the clerk of the United States Senate, the clerk of the United States House of Representatives, and to the President of the United States of America."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ERVIN, from the Committee on Government Operations, with amendments:

S. 37. A bill to amend the Budget and Accounting Act of 1921 to require the advice and consent of the Senate for appointments to Director and Deputy Director of the Office of Management and Budget (Rept. No. 93-237).

By Mr. COTTON, from the Committee on Commerce:

S. 2047. An original bill to authorize a Federal payment for the planning of a transit line in the median of the Dulles Airport Road and for a feasibility study of rapid transit to Friendship International Airport (Rept. No. 93-236). Placed on the calendar.

By Mr. RANDOLPH, from the Committee on Labor and Public Welfare, with amendments:

S. 896. A bill to amend the Education of the Handicapped Act, and for other purposes (Rept. No. 93-238).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. ROBERT C. BYRD (for Mr. EASTLAND), from the Committee on the Judiciary:

Mitchell A. Newberger, of Florida, to be U.S. Marshal for the Middle District of Florida; and

Victor R. Ortega, of New Mexico, to be U.S. attorney for the district of New Mexico.

The above nominations were reported with the recommendation that the nominations be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

Timothy F. Cleary, of Maryland, to be a member of the Occupational Safety and Health Review Commission.

The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. ALLEN:

S. 2046. A bill for the relief of Heikki Tapani Rika. Referred to the Committee on the Judiciary.

By Mr. COTTON, from the Committee on Commerce:

S. 2047. An original bill to authorize a Federal payment for the planning of a transit line in the median of the Dulles Airport Road and for a feasibility study of rapid transit to Friendship International Airport. Placed on the calendar.

By Mr. COTTON (by request):

S. 2048. A bill to amend the Natural Gas Act to extend its application to the direct sale of natural gas in interstate commerce, and to provide that provisions of the Act shall not apply to certain sales in interstate commerce. Referred to the Committee on Commerce.

By Mr. ERVIN (for himself, Mr. RIBICOFF, and Mr. METCALF):

S. 2049. A bill to revise and restate certain functions and duties of the Comptroller General of the United States, and for other purposes. Referred to the Committee on Government Operations.

By Mr. JAVITS:

S. 2050. A bill to establish a Domestic Enterprise Bank to assist in the development of employment and business opportunities in urban and rural areas, to assist and promote job opportunities in business threatened foreign imports or technological obsolescence, and for the construction of low- and moderate-income housing projects. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. SCHWEIKER:

S.J. Res. 127. Joint resolution to authorize the Secretary of the Navy to transfer the United States ship *Constitution* to the Philadelphia Naval Shipyard, Philadelphia, Pa. Referred to the Committee on Armed Services.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COTTON (by request):

S. 2048. A bill to amend the Natural Gas Act to extend its application to the direct sale of natural gas in interstate commerce, and to provide that provisions of the act shall not apply to certain sales in interstate commerce. Referred to the Committee on Commerce.

Mr. COTTON. Mr. President, I introduce, by request of the Acting Secretary of the Interior, for appropriate reference, a bill to amend the Natural Gas Act to extend its application to the direct sale of natural gas in interstate commerce, and to provide that provisions of the act shall not apply to certain sales in interstate commerce.

I ask unanimous consent that the letter from the Acting Secretary of the Interior, transmitting this bill and the bill be printed in the RECORD.

There being no objection, the letter and bill were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., April 15, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: In accordance with today's Presidential Message on Energy, I am enclosing a proposed bill "To amend the Natural Gas Act to extend its application to the direct sale of natural gas in interstate commerce, and to provide that provisions of the Act shall not apply to certain sales in interstate commerce."

We recommend that it be referred to the appropriate committee and that it be enacted.

Natural gas, which currently satisfies 32 percent of our basic energy needs, is our cleanest burning fuel. On combustion, it emits far less particulates and sulfur oxides than any other fossil fuel. In some areas, it is the only fuel that can be burned in any quantity without significantly violating air quality standards and hazarding health.

Regrettably, however, natural gas is in the shortest supply of all our domestic fuels. For the past 5 years, we have consumed more than twice as much as we have found and added to our inventories. During the past year, 15 of the Nation's largest interstate pipelines were unable to provide enough gas to meet the needs of their customers. In many communities today, families cannot obtain clean, efficient gas to heat their homes or apartments.

When the Natural Gas Act was passed in 1938, it is very questionable that Congress intended for producers of natural gas to be regulated by the Federal Power Commission. But a Supreme Court decision in 1954 required the Federal Power Commission to regulate the sales of independent producers in interstate commerce. The history of wellhead price regulation since that decision has been replete with indecision, delay, and inappropriate policies, all of which are now bearing fruit in the gas shortages and market distortions which are patently harmful to the consumer, to the U.S. economy, and to the cause of clean air in our major cities.

The natural gas shortages does not result from inadequate domestic energy resources. Geologists estimate that we have sufficient undeveloped energy resources to last for several decades. Instead, the shortages result from the Federal Power Commission establishing prices for natural gas which are so low—in many cases well below the prices for other, more polluting fuels—that demand has been artificially stimulated and the exploration and development required to develop new supplies to satisfy rapidly expanding demand have been discouraged. These forces have inexorably led to the shortages which we are now experiencing.

In order to stimulate the development of our domestic natural gas resources, the enclosed legislation would exempt from the Federal Power Commission's regulation the sale of natural gas dedicated for the first time to interstate commerce or rededicated upon expiration of an existing contract on or after April 15, 1973, or produced from wells commenced on or after April 15, 1973. This action will permit natural gas prices to seek their competitive level, in a proper relation to the prices of other fuels. Competitive pricing will stimulate the exploration and development of our vast domestic natural gas resources. Over time, market mechanisms will also reallocate supplies of this clean premium fuel to the most efficient and highest-priority uses.

The President is mindful that in a time of shortage, prices can temporarily be bid above long-term competitive levels. Should this happen, it would pose an unnecessary, albeit temporary, burden on the consumer. To protect against this possibility, the enclosed legislation gives the Secretary of the Interior the authority for 3 years after enactment of this legislation to impose ceilings on the prices of new gas supplies if he deems this necessary. It is expected that after 3 years sufficient new supplies of natural gas will be elicited so that the natural forces of supply and demand will keep prices at competitive levels.

In addition to inadequate overall supplies inefficient ways. Large quantities of the natural gas have led to its use in careless and inefficent ways. Large quantities of the natural gas used in this country is consumed under large industrial and utility boilers—where other fuels could be used equally as well. So while some homeowners are forced to do without natural gas and to employ more expensive alternatives, large quantities of gas are being consumed inefficiently largely because of its cheap price. The homeowner suffers, the economy suffers, and the environment suffers.

To assist in correcting this problem, the enclosed legislation will give the Federal Power Commission jurisdiction over rates of the direct industrial sales of the interstate pipelines. This will allow the Federal Power Commission to adjust these industrial rates, where necessary, to reflect the value of this premium fuel. This will encourage an early reallocation of natural gas to premium uses, and will more equitably distribute the burden of paying for the new, more expensive supplies of gas. This provision of the legislation will further protect the homeowners

from sharp price increases for this essential service.

At the present time, the Federal Power Commission has authority over the importation and exportation of natural gas. When this provision was included in the Natural Gas Act in the 1930's, this country was almost totally self-sufficient in energy and in fact enjoyed substantial spare producing capacity. Today, the situation is quite different. Last year approximately 4 percent of our natural gas needs and 30 percent of our petroleum needs came from foreign sources and most estimates show further increass in our dependency on foreign supplies in the near future. With the increasing dependence of this Nation on energy imports, it is essential that the authority to approve imports or exports of all energy forms be consolidated in the Executive Branch. The attached legislation, therefore, removes the Federal Power Commission's authority over natural gas imports and exports.

I would urge that Congress consider carefully and act with great dispatch on the legislation which is enclosed. The highest of priorities must be established for restoring rationality and balance to the market for natural gas, and of again achieving an equilibrium between demand and supply for this premium fuel.

Our present situation results from past regulations and practices. Each day of delay will see the natural gas shortage worsen and will further compound the distortions and inequities which we already witness. The enclosed legislation offers the best chance of solving the gas shortage in the quickest possible time and at the least cost to the consumer. I am convinced that unless this legislation is enacted, we will see further shortages, higher prices to the consumer, and less reliable supplies. I strongly urge that Congress enact this legislation.

The Office of Management and Budget advises that enactment of this legislation would be in accord with the President's program.

Sincerely yours,

JOHN C. WHITAKER,
Acting Secretary of the Interior.

S. 2048

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That Section 1(b) of the Natural Gas Act is amended to read as follows:

"(b) The provisions of this Act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for domestic, commercial, industrial, or any other use, and to natural gas companies engaged in such transportation or sale, but shall not apply to any other transportation or sale of natural gas or to the local distribution of natural gas or to the facilities used for such distribution or to the production or gathering of natural gas or to the sale of natural gas dedicated for the first time to interstate commerce or rededicated upon expiration of an existing contract on or after April 15, 1973, or produced from wells commenced on or after April 15, 1973, for domestic, commercial, industrial or any other use, by any person, provided that person is not engaged in the transportation of natural gas in interstate commerce."

SEC. 2. Section 2(6) of the Natural Gas Act is amended striking the last two words and by inserting before the period at the end thereof a comma and the following: "subject to the exception in Section 1(b) above."

SEC. 3. Section 2 of the Natural Gas Act is amended by adding at the end thereof the following new subsection:

"(10) 'Affiliate' of another person means any person directly or indirectly controlling, controlled by, or under common control with such other person."

SEC. 4. Section 3 of the Natural Gas Act is amended by striking from the first sentence "or import any natural gas from a foreign country" and by striking from the second sentence "or importation."

SEC. 5. Section 4(e) of the Natural Gas Act is amended by inserting at the end thereof the following: *"Provided, however,* That the Commission shall have no power to deny, in whole or in part, that portion of the rates and charges made, demanded, or received by any natural gas company for or in connection with the purchase of natural gas exempt from the Act pursuant to Section 1(b) except to the extent that the rates or charges made, demanded or received for natural gas by an affiliate of the purchasing natural gas company exceed those made, demanded or received by persons not affiliated with the purchasing natural gas company. *Provided, further,* That the Commission shall have no power to deny, in whole or in part, that portion of the rates or charges made, demanded or received by any natural gas company for natural gas produced from the properties of that company from wells commenced on or after April 15, 1973, except to the extent that the rates or charges made, demanded or received exceed those made, demanded or received for natural gas by persons not affiliated with the purchasing natural gas company."

SEC. 6. Section 5(a) of the Natural Gas Act is amended by inserting at the end thereof the following: *"Provided, however,* That the Commission shall have no power to deny, in whole or in part, that portion of the rates and charges made, demanded, or received by any natural gas company for or in connection with the purchase of natural gas exempt from the Act pursuant to Section 1(b), except to the extent that the rates or charges made, demanded or received for natural gas by an affiliate of the purchasing natural gas company exceed those made, demanded or received by persons not affiliated with the purchasing natural gas company. *Provided, further,* That the Commission shall have no power to deny, in whole or in part, that portion of the rates or charges made, demanded or received by any natural gas company for natural gas produced from the properties of the company from wells commenced on or after April 15, 1973, except to the extent that the rates or charges made, demanded or received exceed those made, demanded or received for natural gas by persons not affiliated with the purchasing natural gas company. *Provided, further,* That the Commission shall have no power to order a decrease in the rate or charge made, demanded or received for the sale of natural gas by any person not engaged in the transportation of natural gas in interstate commerce or by any affiliate of such person, if such rate or charge shall have been previously determined to be just and reasonable, such determination being final and no longer subject to judicial review."

SEC. 7. Section 24 of the Natural Gas Act is renumbered Section 25 and a new Section 24 is added as follows:

In order to protect the interests of consumers, the Secretary of the Interior is authorized for 3 years from the date of enactment of this legislation to monitor the wellhead prices of natural gas sales exempted in Section 1(b) hereof, and if necessary to establish ceilings as to the future rates of and charges for such sales. In determining whether to establish such ceilings and in setting the level of such ceilings, the Secretary shall take the following factors into accounts—

(a) The current and projected price of other fuels at the point of utilization, adjusted to reflect a comparable heating value;

(b) The premium nature of natural gas and its environmental superiority over many other fuels;

(c) Current and projected prices for the importation of liquefied natural gas and the manufacture of synthetic gaseous fuels; and,

(d) The adequacy of these prices to provide necessary incentive for exploration and production of domestic reserves of natural gas and the efficient end-use of such supplies.

The Secretary may raise or remove any ceiling imposed under the provisions of this Section if he determines the bases for the imposition of ceilings have changed or no longer exist. Any ceiling imposed under the provisions of this Section will terminate 3 years from the date of enactment of this Act.

SEC. 8. This Act may be cited as the "Natural Gas Supply Act of 1973."

By Mr. ERVIN (for himself, Mr. RIBICOFF, and Mr. METCALF):

S. 2049. A bill to revise and restate certain functions and duties of the Comptroller General of the United States, and for other purposes. Referred to the Committee on Government Operations.

ACCOUNTING AND AUDITING ACT OF 1973

Mr. ERVIN. Mr. President, on behalf of myself, Senator RIBICOFF and Senator METCALF, and at the request of the Comptroller General, I introduce for appropriate reference the Accounting and Auditing Act of 1973, which is designed to strengthen and update the authority and functions of the General Accounting Office so that it may more effectively carry out its general statutory responsibilities.

This bill is similar in many respects to a measure introduced in the 91st and 92d Congresses by Senator RIBICOFF, which passed the Senate unanimously during the 91st Congress; and contains provisions similar to S. 2702 which I introduced in the 92d Congress.

As the agent of Congress, the GAO serves as a vital resource of the legislative branch. Its primary function is to obtain, analyze, and present through its audit, review, and reporting activities information necessary to enable Congress to legislate more effectively.

The statutory responsibilities of the GAO in terms of providing assistance to Congress were expanded by the Legislative Reorganization Act of 1970 (Public Law 91–510). Among other duties imposed upon GAO, that act requires the Comptroller General to:

Cooperate with the Secretary of the Treasury and the Director of the Office of Management and Budget in developing, establishing, and maintaining standard classifications of programs, activities, and transactions of Federal agencies;

Review and analyze the results of Government programs, including the making of cost benefit studies, at the request of either House of Congress or any congressional committee;

Have available in GAO employees who are expert in analyzing and conducting cost benefit studies of Government programs;

Assist congressional committees in analyzing cost-benefit studies furnished by Federal agencies;

Explain to, and discuss with, congressional committees or their staffs, GAO reports which would be of assistance in connection with the committee's consideration of legislation—including ap-

propriations measures—or its reviews of Federal programs and activities;

Furnish copies of GAO reports to the Congress to the House and Senate Committees on Appropriations and Government Operations, and other interested committees; and

Transmit to all congressional committees and Members of Congress periodic lists of GAO reports issued, and to furnish copies of reports upon request.

In addition to its audit, review, investigative, and certain other activities, the GAO is required to settle and adjust claims by and against the Government including the settlement of accounts of accountable officers, and to determine the legality of expenditures or proposed expenditures of appropriated funds.

In order to better perform his functions, the Comptroller General has recommended the statutory changes incorporated in this bill. They are designed to update certain auditing functions, and they should solve two problems which have been of great concern to me and other Members of the Congress during the past several years. One concerns access to information from the executive agencies, and the other allows the Comptroller General to seek court enforcement of his rulings and determinations when he differs with the Attorney General.

ACCESS TO INFORMATION

Comptroller General Staats testified recently at hearings on executive privilege before three Senate subcommittees that he believes "it is self-evident that the GAO, as an oversight arm of the Congress, cannot be effective if it does not have full access to records, information, and documents pertaining to the subject matter of an audit or review." Yet, the Comptroller General testified, much information has been deliberately withheld from the GAO by executive agencies during the past several years. I will insert at the end of these remarks a list of some of these incidents which has been supplied by the Comptroller General.

In his testimony, Comptroller General Staats referred to two problems he has encountered in obtaining full information from the Executive. One of these is an overextension of the doctrine of executive privilege by certain executive branch officials, and the other is what he termed "agency privilege" whereby executive officials "refuse to furnish us particular records or documents which they do not consider appropriate for our review."

Mr. President, in my own experience as chairman of the Judiciary Subcommittee on Constitutional Rights, I once requested certain documents from the Department of the Army regarding military surveillance of civilians. The officer in charge of that operation refused my request, saying that the documents would be of no use to the subcommittee. To my mind, that was an assertion of what the Comptroller General referred to as "agency privilege."

As to executive privilege, the Comptroller General testified that it has not been exercised as such with respect to providing information to GAO directly. However, he said that the use of executive privilege by the President has complicated the problem of access to information. Mr. Staats testified:

> Particularly disturbing is the fact that the departments and agencies have interpreted . . . the President's directive [regarding the exercise of executive privilege] to be not limited to the specific requests which prompted the exercise of executive privilege but rather as a standing directive that no internal working documents, detailed planning data, or estimates as to future budget requirements will be made available to the Congress or the General Accounting Office without the approval of higher authority. Our concern in this respect is supported by the general directives which were issued to carry out the President's policy. In other words, agencies have become super cautious and want to run no risk that either the letter or the spirit of the directives will be violated on an "across-the-board" basis. My opinion is that the President had no such purpose but the effect has been nevertheless to require additional records screening, additional referrals up the organizational hierarchy, and tremendous delays in making information available to us.

On the other hand, he testified, "agency privilege" does not purport to represent assertions of executive privilege. He said he was unaware of any legal authority which supports the arrogation of such discretion on the part of agency officials to withhold information.

Complicating the problem of the GAO gaining access to information from the Executive is the lack of stringent enforcement provisions to which the Comptroller General can turn when information is denied him. For this reason, the bill I introduce today has a provision which would, in effect, cut off funds to an agency which refuses to supply information to which the Comptroller General has a legal right of access, and it makes clear that he has such a right.

Title IV of the bill would restate existing law to make clear GAO's basic right of access to all information within the executive branch bearing upon its audit and review responsibilities, except where otherwise specifically provided by law, and provides a remedy in cases where an executive agency refuses, procrastinates or otherwise fails to fully cooperate in response to a request by the Comptroller General for such information. It would also impose certain recordkeeping requirements upon direct and indirect recipients of Federal funds, and provide GAO with a right of access—enforceable under title II—to such records for purposes of its audit and review responsibilities. GAO has this authority with respect to all grants to States and under numerous individual grant programs. This new general authority will avoid the need to provide such authority in each new Federal assistance program.

Finally, section 402 of title IV would provide a means of enforcing the Comptroller General's right of access to executive branch information, including books, documents, papers and records. The ultimate remedy in cases of failure to provide requested information would be a cutoff of funds available to an executive unit under review by the Comptroller General. This remedy could be invoked only after—and to the extent that—the Comptroller General's right of access is sustained in a declaratory judgment by a Federal three-judge court. In addition, it would apply only at the election of the Comptroller General, subject to disapproval by either House of Congress.

POWER OF THE COMPTROLLER GENERAL TO SUE

The second major area which has disturbed me, and which this bill is intended to remedy, is the general inability of the Comptroller General to sue in the Federal courts when his determinations differ from those of the Attorney General.

At present, the Comptroller General must be represented by attorneys of the Justice Department if he desires to bring a suit to resolve the potential impasse which arises under existing law where an executive agency appears unwilling to comply with a determination by the Comptroller General concerning the legality of the proposed use of appropriated funds. Since these attorneys are under the direction of the Attorney General, who in turn serves as the lawyer for the executive branch, the Comptroller General is placed in a position of being represented by his adversary's counsel.

This problem was very forcefully demonstrated in 1969 when the Comptroller General and the Attorney General differed in their opinions as to the legality of the so-called "Philadelphia Plan" which was designed to promote minority employment in the construction trades in the Philadelphia area of Pennsylvania and New Jersey.

The basic facts of that dispute were these:

First. The Department of Labor issued an order requiring that major construction contracts in the Philadelphia area, which were entered into or financed by the U.S. Government, to include commitments by the contractors to goals of employment of minority workers in specified skills trades;

Second. The Comptroller General issued a decision dated August 5, 1969, advising the Secretary of Labor that he considered the Philadelphia Plan to be in contravention of the Civil Rights Act of 1964, and that he would be required to so hold in passing upon the legality of expenditures of appropriated funds under contracts made subject to the plan;

Third. The Attorney General on September 22, 1969, issued an opinion to the Secretary of Labor advising him of his conclusion that the plan was not in conflict with any provision of the Civil Rights Act, that it was authorized by Executive Order 11246, and that it could be enforced in awarding Government contracts.

The Comptroller General subsequently testified during hearings on the Philadelphia Plan before the Senate Judiciary Subcommittee on Separation of Powers, of which I am honored to serve as chairman, that in his opinion the Civil Rights Act of 1964 was the law governing nondiscrimination in employment and that it overrode any administrative rules, regulations, and orders which conflicted with or went beyond its provisions.

The Attorney General obviously disagreed with the Comptroller General, but there was no adequate way to bring the issue before the courts, where such dis-

putes between the GAO and the Executive belong, because of the inability of the Comptroller General to retain his own council and to initiate the action. Consequently, in the 92d Congress I introduced S. 2702, which would have given the Comptroller General that authority. Title I of the bill I introduce today also provides the Comptroller General with the power to go into court.

Under title I, the Comptroller General could—unless the Congress disapproves—obtain prompt judicial review of such controversies by institution of a civil action for declaratory and injunctive relief before a Federal three-judge court, with the right of appeal directly to the U.S. Supreme Court.

President Nixon, in a statement issued on December 22, 1969, recognized the need to provide for judicial determination of such controversies.

He said, in part:

When rulings differ * * * when the chief legal officer of the executive branch and the chief watchdog of the Congress end up with opposing views on the same matter of law, the place for resolution of such differences, is the courts—just as it is for the resolution of differences between private citizens.

The President took the position that legislation on this subject should—

* * * permit prompt court review of any difference between legal opinions of the Comptroller General and those of the Executive, and * * * permit the Comptroller General to have his own counsel (rather than the Attorney General) to represent him in such cases.

He also stated:

I wish to assure the Congress and the public of this Nation that I consider the independence of the Comptroller General of the United States of the utmost importance in the separation of powers in our Federal system.

The President's remarks were made in the context of a proposed amendment to a supplemental appropriations bill, H.R. 15209, 91st Congress, which would have enforced by legislation a decision by the Comptroller General with which the Attorney General disagreed. Application of these provisions would result in expeditious judicial resolution of future disputes, consistent with the needs of the Congress and the stated position of the President.

SUBPENA POWER

Title II would authorize the Comptroller General to issue, and obtain judicial enforcement of, subpenas requiring the production of negotiated contract and subcontract records and records of other non-Federal individuals and entities—such as certain Federal grantees—to which he has a right of access by law or agreement.

The Comptroller General testified on September 16, 1969, before the Subcommittee on Executive Reorganization of the Government Operations Committee that much time could be saved if GAO had the authority to issue judicially enforceable subpenas. He said that the GAO "could avoid the loss of much time and effort if the Congress were to grant the Comptroller General the authority to compel by judicially enforceable subpena, the production of those books, accounts, and other contractor records covered under the examination of records."

BUDGET, FISCAL AND PROGRAM INFORMATION

In this year of budget reform in Congress, one point has been made with clarity: Congress needs full and complete information about the budget, fiscal affairs and program operations of the Government. In order to further this goal, title III of the bill provides that the Comptroller General will assist Congress in obtaining this information.

He would be authorized to: first, conduct a continuing program to ascertain congressional needs for such information; second, assist congressional committees in developing specifications for legislative requirements for executive branch evaluations of Federal programs and reports thereon to Congress; and third, monitor reporting requirements of Congress and congressional committees, and recommend improvements to enhance their usefulness and to eliminate duplicative or unnecessary reporting.

OTHER PROVISIONS OF THE BILL

The remaining eight titles of the bill deal generally with specific areas of audit and review by GAO—adding, modifying, and in some cases eliminating areas of responsibility—in order to enhance the capability and flexibility of the agency in concentrating its resources upon areas of greatest significance and need to the Congress.

Title V would permit the Comptroller General to exercise control over the General Accounting Office Building and to sublet space therein to other agencies. He would also be permitted to lease additional space for the use of the GAO in the District of Columbia and elsewhere.

Title VI would authorize the Comptroller General to make selective studies of the profits of major Government contractors, for the purpose of comparing profits from government business with those from commercial sources and ascertaining whether proper allocation of costs are made to government business. Necessary access to information authority would be provided for application to such studies, together with safeguards against disclosure of information relating to commercial transactions.

Title VII would authorize the Comptroller General to prescribe limitations upon the amount of disbursement vouchers subject to administrative preaudit by statistical sampling techniques, in accordance with Public Law 88-521, and would require the Comptroller General to include in his reviews of accounting systems an evaluation of such procedures.

Title VIII would vest primary responsibility for audit of transportation bills and recovery of overcharges in one or more executive agencies designated by the Director of the Office of Management and Budget—rather than the GAO—subject to standards promulgated jointly by the Secretary of the Treasury and the Comptroller General. The GAO audit would conform to the audit procedures applicable generally to Government activities.

Title IX would provide for audit and review by GAO of nonappropriated funds and related activities within the executive branch, which have greatly increased in recent years.

Title X would give the Comptroller General greater discretion in employing program evaluation experts as consultants or on a fulltime basis and to obtain consultant services, at rates of compensation not to exceed level V of the executive schedule.

Title XI would change from 1 to 3 years the frequency requirements for GAO audits of wholly owned and mixed-ownership Government corporations, and the making of reports to the Congress on such audits. This title would also modify audit requirements with respect to certain other Government entities.

Title XII would eliminate requirements for annual GAO audits of certain revolving funds, and make the frequency of such audits subject to the discretion of the Comptroller General.

Mr. President, I ask unanimous consent to insert at this point in the RECORD the text of the Accounting and Auditing Act of 1973, a section-by-section analysis of the bill, and a list of incidents in which information has been denied the Comptroller General by executive agencies.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 2049

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 "Accounting and Auditing Act of 1973."

TITLE I—ENFORCEMENT OF DECISIONS AND SETTLEMENTS

SEC. 101. The Budget and Accounting Act, 1921, as amended (31 U.S.C. 42), is further amended by adding at the end thereof the following new sections:

"SEC. 320. (a) Whenever the Comptroller General, in the performance of any of his functions authorized by law, has reasonable cause to believe that any officer or employee of the executive branch is about to expend, obligate, or authorize the expenditure or obligation of public funds in an illegal or erroneous manner or amount, he may institute a civil action in the United States District Court for the District of Columbia for declaratory and injunctive relief. If the Attorney General is in disagreement with the Comptroller General he is authorized to represent the defendant official in such action. Other parties, including the prospective payee or obligee who shall be served with notice or process, may intervene or be impleaded as otherwise provided by law, and process in such an action may be served by certified mail beyond the territorial limits of the District of Columbia.

"(b) Upon application of the Comptroller General or the Attorney General an action brought pursuant to this section shall be heard and determined by a district court of three judges under section 2284 of title 28, United States Code. An action brought under this section shall be expedited in every way.

"(c) In actions brought under this section the Comptroller General shall be represented by attorneys employed in the General Accounting Office and by counsel whom he may employ without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapters III and VI of chapter 53 of such title relating to classification and General Schedule pay rates.

"(d) In the event the institution of suit under this section serves to delay a payment beyond the date it was due and owing in payment for goods or services actually delivered to and accepted by the United States, then such payment when made by the agency involved shall include interest thereon at the rate of 6 per centum per annum for the time it has been withheld. Otherwise, no court shall have jurisdiction to award damages against the United States, its officers, or agents as a result of any delay occasioned by reason of the institution of suit under this section.

"(e) This section shall be construed as creating a procedural remedy in aid of the statutory authority of the Comptroller General and not as otherwise affecting such authority.

"SEC. 321. No action may be instituted by the Comptroller General under section 320 until the expiration of a period of thirty calendar days (excluding the days on which either House is not in session because of adjournment of more than three days to a day certain or an adjournment of the Congress sine die) following the date on which an explanatory statement by the Comptroller General of the circumstances giving rise to the action contemplated has been filed with the Committees on Government Operations of the Senate and the House of Representatives and during such thirty-day period the Congress has not enacted a concurrent resolution stating in substance that it does not favor the institution of the civil action proposed by the Comptroller General."

TITLE II—SUBPOENA POWER

SEC. 201. To assist in carrying out his functions, the Comptroller General may sign and issue subpoenas requiring the production of negotiated contract and subcontract records and records of other non-Federal persons or organizations to which he has a right of access by law or agreement.

SEC. 202. In case of disobedience to a subpoena issued under section 201, the Comptroller General may invoke the aid of any district court of the United States in requiring the production of the records involved. Any district court of the United States within the jurisdiction in which the contractor, subcontractor, or other non-Federal person or organization is found or resides or in which the contractor, subcontractor, or other non-Federal person or organization transacts business may, in case of contumacy or refusal to obey a subpoena issued by the Comptroller General, issue an order requiring the contractor, subcontractor, or other non-Federal person or organization to produce the records; and any failure to obey such order of the court shall be punished by the court as a contempt thereof.

TITLE III—BUDGET, FISCAL AND PROGRAM INFORMATION FOR THE CONGRESS

SEC. 301. (a) The Comptroller General shall conduct a continuing program to ascertain the needs of the committees and Members of the Congress for fiscal, budgetary, and program information and shall recommend to the Congress and to the executive agencies, as appropriate, improvements in developing and reporting such information to meet these needs most effectively.

(b) The Comptroller General shall assist committees in developing specifications for legislative requirements for executive branch evaluations of Federal programs and activities, including reporting the results of such evaluations to the Congress.

(c) The Comptroller General shall monitor the various recurring reporting requirements of the Congress and committees and make recommendations to the Congress and committees for changes and improvements in these reporting requirements to meet the congressional information needs ascertained by the Comptroller General, to enhance their usefulness to the congressional users and to eliminate duplicative or unneeded reporting.

TITLE IV—ACCESS TO RECORDS

SEC. 401. Section 313 of the Budget and Accounting Act, 1921 (31 U.S.C. 54), is amended to read as follows:

"SEC. 313. (a) Except where otherwise specifically provided by law, all departments and establishments shall furnish to the Comptroller General such information regarding the powers, duties, organization, transactions, operations, and activities of their respective offices as he may from time to time require of them; and the Comptroller General or any of his duly authorized representatives shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of any such department or establishment.

"(b)(1) Each recipient of Federal assistance pursuant to grants, contracts, subgrants, subcontracts, loans or other arrangements, entered into other than by formal advertising, shall keep such records as the head of the department or establishment involved shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The head of such department or establishment and the Comptroller General, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in paragraph (1) of this subsection, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the head of the department or establishment or the Comptroller General may be related or pertinent to the grants, contracts, subgrants, subcontracts, loans or other arrangements referred to in paragraph (1) of this subsection."

SEC. 402. (a) If any information, books, documents, papers, or records requested by the Comptroller General from any department or establishment under section 313(a) of the Budget and Accounting Act, 1921, as amended, or any other authority, have not been made available to the General Accounting Office within a period of twenty calendar days after the request has been delivered to the office of the head of the department or establishment involved, the Comptroller General may institute a civil action in the United States District Court for the District of Columbia for declaratory relief in accordance with subsection (b) of this section. The Attorney General is authorized to represent the defendant official in such action. The Comptroller General shall be represented by attorneys employed in the General Accounting Office and by counsel whom he may employ without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapters III and IV of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) Actions instituted pursuant to subsection (a) of this section shall be for the purpose of declaring the rights and other legal relations of the parties, in accordance with section 2201 of title 28, United States Code, concerning the Comptroller General's request for information, books, documents, papers, or records; and no further relief shall be sought by the parties or provided by the courts. Such actions shall be heard and determined by a district court of three judges. Immediately upon the filing of a complaint under subsection (a) of this section the matter shall be referred to the chief judge of the United States Court of Appeals for the District of Columbia Circuit, who shall designate three judges, at least one of whom shall be a circuit judge, to serve as members of the court to hear and determine the action. Actions under this subsection shall be governed by the rules of civil procedure to the extent consistent with the provisions of this section, and shall be expedited in every way.

(c) Any party may appeal directly to the United States Supreme Court from a declaratory judgment under subsection (b) of this section. Such appeal shall be taken within thirty days after entry of the judgment. The record shall be made up and the case docketed within sixty days from the time such appeal is taken under rules prescribed by the Supreme Court.

(d)(1) Subject to paragraph (2) of this subsection, if after a declaratory judgment sustaining the Comptroller General's right to all or any information, books, documents, papers, or records requested becomes final such information is not made available to the General Accounting Office, no appropriation made available to the bureau, office, or unit of the department or establishment which the Comptroller General identifies as being under review shall be available for obligation unless and until such information is made available to the General Accounting Office.

(2) Paragraph (1) of this subsection shall not become operative unless:

(A) the Comptroller General determines to invoke the provisions thereof and files with the Committees on Government Operations of the Senate and the House of Representatives notice of his determination, together with identification of the bureau, office, or unit under review and the appropriations available thereto; and

(B) during thirty calendar days (excluding the days on which either House is not in session because of adjournment of more than three days to a day certain or an adjournment of the Congress sine die) following the date on which the Comptroller General files such notice, neither House has passed a resolution in accordance with section 403 of this Act stating in substance that it does not favor invocation of paragraph (1) of this section.

(e) Where the conditions set forth in paragraph (2) of subsection (d) are satisfied paragraph (1) of subsection (d) shall become operative on the day following expiration of the thirty-day period specified in subsection (d)(2)(B).

SEC. 403. (a) This section is enacted by Congress—

(1) as an exercise of the rule-making power of the Senate and the House of Representatives, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions referred to in subsection (d)(2)(B) of section 402 of this Act and described by subsection (b) of this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(b) For the purpose of this section, "resolution" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the _____ does not favor the proposal that appropriations provided by _____ cease to be available to ____, filed with the Committees on Government Operations of the Senate and the House of Representatives by

the Comptroller General on ------," the blank spaces therein being filled, respectively, with the name of the resolving House, the appropriation or appropriations concerned, the name of the bureau, office, or unit under review by the Comptroller General, and the date of filing of the Comptroller General's proposal.

(c) A resolution under this section shall be referred to the Committee on Government Operations by the President of the Senate or the Speaker of the House, as the case may be; and hereinafter the word "committee" refers to the Committee on Government Operations of the Senate or the House of Representatives, as the case may be.

(d) (1) If the committee to which a resolution under this section has been referred has not reported it at the end of ten calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other such resolution which has been referred to it.

(2) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported another such resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(3) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other such resolution.

(e) (1) When the committee has reported, or has been discharged from further consideration of, a resolution under this section, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate on the resolution shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the resolution. A motion to further limit debate is not debatable. An amendment to, or a motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(f) (1) Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution under this section, and motions to proceed to the consideration of other business, shall be decided without debate.

(2) Appeals from the decisions of the Chair relating to the application of the rules of the Senate and the House of Representatives, as the case may be, to the procedure relating to such resolution shall be decided without debate.

TITLE V—GENERAL ACCOUNTING OFFICE BUILDING

SEC. 501. Notwithstanding any other provision of law, the Comptroller General shall have exclusive custody and control over the General Accounting Office Building, including the operation, maintenance, repairs, alterations, and assignment of space therein. The Comptroller General and the head of any Federal agency may enter into agreements for space to be occupied in the General Accounting Office Building by such agency at such rates as may be agreed upon. Amounts received by the General Accounting Office pursuant to such agreements will be deposited to the appropriation initially charged for providing operation, maintenance, repair and alteration services with respect to such space. The Comptroller General is authorized to lease buildings or parts of buildings in the District of Columbia (without regard to section 34 of title 40, United States Code) or elsewhere for the use of the General Accounting Office for a period not to exceed ten years.

TITLE VI—PROFITS STUDY

SEC. 601. (a) With respect to contractors having Government contracts, including subcontracts, aggregating one million dollars or more in the contractor's most recent fiscal year, the Comptroller General is authorized and directed to conduct studies on a selective basis of all profits made by such contractors on Government and commercial contracts. Such studies shall be made from time to time within the discretion of the Comptroller General but not less frequently than once in each five-year period following enactment of this Act and reports on the results of each study shall be promptly submitted to the Congress.

(b) Any contractor referred to in subsection (a) of this section shall, upon the request of the Comptroller General or his authorized representatives, prepare and submit to him such information maintained in the normal course of business by such contractors as the Comptroller General determines necessary or appropriate in conducting any study authorized in subsection (a) of this section.

(c) In order to determine the profits referred to in subsection (a) of this section, either on a percentage of the cost basis, percentage of sales basis, a return on private capital employed basis, or any other pertinent basis, the Comptroller General and his authorized representatives are authorized to audit and inspect and to make copies of any books, accounts or other records which the Comptroller General determines are necessary to permit calculations of the profits of any contractor, but he shall not disclose any information obtained under the authority of this section relating to a contractor's profits on any individual commercial contract or on any individual contract entered into pursuant to formally advertised competitive bidding.

(d) As used in this section:

1. The term "contractor" means any individual, firm, corporation, partnership, association or other legal entity which provides services and materials under direct contracts or under subcontracts with a prime contractor.

2. The term "services and materials" means either services or materials or services and materials and includes construction.

3. The term "Government contracts" means contracts and other transactions between any department, agency, or instrumentality of the Federal Government and any contractor.

4. The term "commercial contracts" means all contracts and commercial transactions other than Government contracts.

TITLE VII—STATISTICAL SAMPLING PROCEDURES IN THE EXAMINATION OF VOUCHERS

SEC. 701. Subsection (a) of Public Law 88-521, approved August 30, 1964 (31 U.S.C. 82b-1(a)), is amended to read:

"(a) Whenever the head of any department or agency of the Government or the Commissioner of the District of Columbia determines that economies will result therefrom, such agency head or the Commissioner may prescribe the use of adequate and effective statistical sampling procedures in the examination of disbursement vouchers not exceeding such amounts as may from time to time be prescribed by the Comptroller General of the United States; and no certifying or disbursing officer acting in good faith and in conformity with such procedures shall be held liable with respect to any certification or payment made by him on a voucher which was not subject to specific examination because of the prescribed statistical sampling procedure: *Provided*, That such officer and his department or agency have diligently pursued collection action to recover the illegal, improper, or incorrect payment in accordance with procedures prescribed by the Comptroller General. The Comptroller General shall include in his reviews of accounting systems an evaluation of the adequacy and effectiveness of procedures established under the authority of this Act."

TITLE VIII—AUDIT OF TRANSPORTATION PROBLEMS

SEC. 801. Section 322 of the Transportation Act of 1940, as amended, 49 U.S.C. 66, is further amended by deleting the first sentence thereof and substituting therefor the following:

"Subject to such standards as shall be promulgated jointly by the Secretary of the Treasury and the Comptroller General of the United States, payment for transportation of persons or property for or on behalf of the United States by any carrier or forwarder shall be made upon presentation of bills therefor prior to audit by the executive agency or agencies designated by the Director of the Office of Management and Budget, but the right is reserved to the United States Government to deduct the amount of any overcharge by any carrier or forwarder from any amount subsequently found to be due such carrier or forwarder. This does not affect the authority of the General Accounting Office to make audits in accordance with the Budget and Accounting Act, 1921, as amended, 31 U.S.C. 42, and the Accounting and Auditing Act of 1950, as amended, 31 U.S.C. 65."

TITLE IX—AUDIT OF NONAPPROPRIATED FUND ACTIVITIES

SEC. 901. (a) The operations of nonappropriated funds and related activities within the executive branch, such as the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, and Exchange Councils of the National Aeronautics and Space Administration, the systems of accounting and internal controls and any internal or independent audits or reviews of such funds and activities, unless otherwise provided by law, shall be subject to review by the Comptroller General of the United States in accordance with such principles and procedures and under such rules and regulations as he may prescribe. The Comptroller General and his duly authorized representatives shall have access to such books, accounts, records, documents, reports, files, and other papers, things, or property relating to such funds and activities as are deemed necessary by the Comptroller General.

(b) To aid the Comptroller General in planning audits or reviews under subsection (a) of this section, each nonappropriated fund activity within the executive branch of the Government shall furnish to the Comptroller General at such times and in such form as he shall require an annual report of the operations of such activity, including an annual statement of financial operations, financial condition, and cash flow.

TITLE X—EMPLOYMENT OF EXPERTS AND CONSULTANTS

SEC. 1001. (a) The Comptroller General is authorized to employ not to exceed ten experts on a permanent, temporary, or intermittent basis and to obtain services as authorized by section 3109 of title 5, United States Code, but in either case at a rate (or the daily equivalent) for individuals not to exceed the rate for Level V of the Executive Schedule (5 U.S.C. 5316).

(b) Service of an individual as an employee or consultant under subsection (a) of this section shall not be considered as employment or holding of office or position bringing such individual within the provisions of sections 3323(a) and 8344 of title 5, United States Code, or any other law limiting the reemployment of retired officers or employees or governing the simultaneous receipts of compensation and retired pay or annuities, subject to section 5532 of title 5, United States Code.

TITLE XI—AUDITS OF GOVERNMENT CORPORATIONS

AMENDMENTS TO THE GOVERNMENT CORPORATION CONTROL ACT

SEC. 1101. (a) Section 105 of the Government Corporation Control Act (31 U.S.C. 850) is amended by adding thereto the following sentence: "Effective January 1, 1973, each wholly owned Government corporation shall be audited at least once in every three years."

(b) The first sentence of section 106 of such Act (31 U.S.C. 851) is amended to read as follows: "A report of each audit conducted under section 105 shall be made by the Comptroller General to the Congress not later than six and one-half months following the close of the last year covered by such audit."

(c) Section 202 of such Act (31 U.S.C. 857) is amended by adding thereto the following sentence: "Effective January 1, 1973, each mixed-ownership Government corporation shall be audited at least once in every three years."

(d) The first sentence of section 203 of such Act (31 U.S.C. 858) is amended to read as follows: "A report of each audit conducted under section 202 shall be made by the Comptroller General to the Congress not later than six and one-half months following the close of the last year covered by such audit."

AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT

SEC. 1102. (a) Section 17(b) of the Federal Deposit Insurance Act (12 U.S.C. 1827 (b)) is amended by adding thereto the following sentence: "The Corporation shall be audited at least once in every three years."

(b) The first and second sentences of section 17(c) of such Act (12 U.S.C. 1827(c)) are amended to read as follows: "A report of each audit conducted under subsection (b) of this section shall be made by the Comptroller General to the Congress not later than six and one-half months following the close of the last year covered by such audit. On or before the expiration of five and one-half months following the close of the last year covered by such audit the Comptroller General shall furnish the Corporation a short form report on his audit of the Corporation."

AMENDMENT TO FEDERAL CROP INSURANCE ACT

SEC. 1103. Section 513 of the Federal Crop Insurance Act (52 Stat. 76; 7 U.S.C. 1513) is amended to read as follows:

"The Corporation shall at all times maintain complete and accurate books of accounts and shall file annually with the Secretary of Agriculture a complete report as to the business of the Corporation."

AMENDMENTS TO THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968

SEC. 1104. Section 107(g) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701y(g)) is amended by:

(1) adding a new sentence at the end of subparagraph (1) thereof as follows: "Such audit shall be made at least once in every three years."

(2) substituting the following sentence in lieu of the first sentence in subparagraph (2) thereof: "A report of each such audit shall be made by the Comptroller General to the Congress not later than six and one-half months following the close of the last year covered by such audit."

AMENDMENT TO DISTRICT OF COLUMBIA REDEVELOPMENT ACT OF 1945

SEC. 1105. Section 17 of the District of Columbia Redevelopment Act of 1945 (60 Stat. 801) is amended by deleting the word "annual" from the clause "such books shall be subject to annual audit by the General Accounting Office."

AMENDMENT TO THE FEDERAL HOME LOAN BANK ACT

SEC. 1106. Section 18(c)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1438(c)(6)) is amended by deleting the word "annually" from clause (B) of the first sentence thereof.

TITLE XII—REVISION OF ANNUAL AUDIT REQUIREMENTS

AMENDMENT TO FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

SEC. 1201. Section 109(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 756(e)) is amended to read as follows:

"(c)(1) As of June 30 of each year, there shall be covered into the United States Treasury as miscellaneous receipts any surplus in the General Supply Fund, all assets, liabilities, and prior losses considered, above the amounts transferred or appropriated to establish and maintain said fund.

"(2) The Comptroller General shall make audits of the General Supply Fund in accordance with the provisions of the Accounting and Auditing Act of 1950 and make reports on the results thereof."

AMENDMENT TO THE FEDERAL AVIATION ACT OF 1958

SEC. 1202. That part of the second sentence of section 1307(f) of the Federal Aviation Act of 1958 (49 U.S.C. 1537(f)) which precedes the proviso is amended to read as follows: "The Secretary shall maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of the Accounting and Auditing Act of 1950."

AMENDMENT WITH RESPECT TO THE BUREAU OF ENGRAVING AND PRINTING FUND

SEC. 1203. Section 6 of the Act entitled "An Act to provide for financing the operations of the Bureau of Engraving and Printing, Treasury Department, and for other purposes" (31 U.S.C. 181d) is amended to read as follows:

"The financial transactions, accounts, and reports of the fund shall be audited by the Comptroller General in accordance with the provisions of the Accounting and Auditing Act of 1950."

AMENDMENT WITH RESPECT TO THE VETERANS' CANTEEN SERVICE

SEC. 1204. Section 4207 of title 38, United States Code, is amended to read as follows:

"SEC. 4207. AUDIT OF ACCOUNTS.

"The Service shall maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of the Accounting and Auditing Act of 1950."

AMENDMENT WITH RESPECT TO THE HIGHER EDUCATION INSURED LOAN PROGRAM

SEC. 1205. Paragraph (2) of section 432(b) of the Higher Education Act of 1965 (20 U.S.C. 1082(b)(2)) is amended to read as follows:

"(2) maintain with respect to insurance under this part a set of accounts, which shall be audited by the Comptroller General in accordance with the provisions of the Accounting and Auditing Act of 1950, except that the transactions of the Commissioner, including the settlement of insurance claims and of claims for payments pursuant to section 428, and transactions related thereto and vouchers approved by the Commissioner in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government."

AMENDMENTS WITH RESPECT TO CERTAIN HOUSING PROGRAMS

SEC. 1206. (a) Section 106(a)(2) of the Housing Act of 1949 (63 Stat. 417; 42 U.S.C. 1456(a)(2)) is amended to read as follows:

"(2) maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of the Accounting and Auditing Act of 1950: *Provided*, That such financial transactions of the Administrator as the making of advances of funds, loans, or grants and vouchers approved by the Administrator in connection with such financial transactions shall be final and conclusive upon all officers of the Government."

(b) Section 402(a)(2) of the Housing Act of 1950 (64 Stat. 78; 12 U.S.C. 1749(a)(2)) is amended to read as follows:

"(2) maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of the Accounting and Auditing Act of 1950: *Provided*, That such financial transactions of the Administrator as the making of loans and vouchers approved by the Administrator in connection with such financial transactions shall be final and conclusive upon all officers of the Government."

AMENDMENT TO THE FEDERAL CREDIT UNION ACT

SEC. 1207. Section 209(b)(2) of the Federal Credit Union Act as added by section 1 of Public Law 91-468 (12 U.S.C. 1789(b)(2)) is amended by deleting the word "annually" therefrom.

AMENDMENT WITH RESPECT TO AUDIT OF THE GOVERNMENT PRINTING OFFICE

SEC. 1208. The third sentence of subsection 309(c) of title 44 of the United States Code is amended to read as follows:

"The Comptroller General shall audit the activities of the Government Printing Office at least once in every three years and shall furnish reports of such audits to the Congress and the Public Printer."

SECTION-BY-SECTION ANALYSIS

TITLE I—ENFORCEMENT OF DECISIONS AND SETTLEMENTS

Section 101 would add new sections to the Budget and Accounting Act, 1921, as amended, which would provide the Comptroller General procedural remedies through court action to prevent the obligation or expenditure of funds in an illegal or erroneous manner.

The new section 320 provides for declaratory and injunctive relief when the Comptroller General has reasonable cause to believe that any official of the executive branch is about to expend, obligate, or authorize the expenditure or obligation of public funds in an illegal or erroneous manner.

Subsection (a) authorizes the Comptroller General to institute a civil action for such relief in the United States District Court for the District of Columbia; it authorizes the Attorney General to represent the defendant official in such action if he disagrees with the Comptroller General; it provides that other parties may intervene or be impleaded; and it provides that service or process may be made by certified mail beyond the territorial limits of the District of Columbia.

Subsection (b) provides that upon application of the Comptroller General or the Attorney General an action brought under this section shall be heard and determined by a district court of three judges under section 2284 of title 28, United States Code, and that an action brought under this section shall be expedited in every way. An order granting or denying an injunction in such actions would be appealable directly to the United States Supreme Court under 28 U.S.C. 1253.

Subsection (c) provides that in actions brought under this section the Comptroller General shall be represented by attorneys of the General Accounting Office and by additional counsel of his choosing who may be employed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapters III and VI of chapter 53 of such title relating to classification and General Schedule pay rates.

Subsection (d) provides that in the event a suit brought under this section delays a payment for goods or services beyond its due date, the said payment when made by the agency involved shall include interest thereon at the rate of 6 per centum per annum from the time it was withheld and that no other court shall have jurisdiction to award damages against the United States as a result of any delay occasioned by the institution of a suit under this section.

Subsection (e) provides that this section shall be construed as creating a procedural remedy in aid of the statutory authority of the Comptroller General and is not intended to otherwise affect existing provisions of law.

Section 321 provides that no action may be instituted under section 320 until the expiration of thirty calendar days from the date on which the Comptroller General gives notice to the Senate and House Committee on Government Operations of his intention to file such a suit. During the period Congress may prevent such action by the passage of a concurrent resolution disapproving it. In computing the thirty day period, days on which either House is not in session because of adjournment of more than 3 days to a day certain, or an adjournment sine die, are excluded.

TITLE II—SUBPOENA POWER

Section 201 would authorize the Comptroller General to sign and issue subpoenas requiring the production of negotiated contract and subcontract records and records of other non-Federal persons or organizations to which he has a right of access by law or agreement. This authority includes books, accounts, and other records of contractors or subcontractors having negotiated Government contracts and of various other non-Federal persons or organizations most of which have received Federal grants or other financial assistance.

Section 202 would provide that in case of disobedience to a subpoena, the appropriate district court may issue an order requiring compliance with the subpoena and any failure to obey such order shall be punished by the court as a contempt thereof. The Comptroller General could be represented by General Accounting Office attorneys in subpoena enforcement proceedings under this section. However no provision is made for employment of special counsel for this purpose.

TITLE III——BUDGET, FISCAL AND PROGRAM INFORMATION FOR THE CONGRESS

Section 301 would provide for the Comptroller General to assist congressional committees and Members of Congress in obtaining fiscal, budgetary and program information needed in connection with improving congressional control over the Federal budget. The Comptroller General would—

Conduct a continuing program to ascertain congressional needs for such information;

Assist congressional committees in developing specifications for legislative requirements for executive branch evaluations of Federal programs and reports thereon to the Congress; and

Monitor reporting requirements of the Congress and congressional committees, and recommend improvements to enhance their usefulness and to eliminate duplicative or unnecessary reporting.

TITLE IV—ACCESS TO RECORDS

Section 401 would amend generally section 313 of the Budget and Accounting Act, 1921, so as to strengthen the Comptroller General's right of access to the documentation needed to adequately audit Federal and federally assisted programs.

Section 313(a), as amended, would constitute a clarification of the current statutory language to require that except where otherwise specifically provided by law, the departments and establishments shall furnish the Comptroller General any information regarding the operations and activities of their respective offices as the Comptroller General may require of them. For the purpose of securing such information, this subsection authorizes the Comptroller General and his authorized assistants and employees access to and the right to examine the books, documents, papers, or records of the departments or establishments.

Subsection (b)(1) would require each recipient of Federal assistance obtained under other than by formal advertising procedures to keep such records as the head of the department or establishment involved prescribes. Such records would include those which fully disclose the amount and disposition by the recipients of the proceeds of the assistance, the total cost of the project or undertaking with which the assistance was given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as would facilitate an effective audit.

Subsection (b)(2) would grant to the head of the department or establishment involved, the Comptroller General, and their duly authorized representatives, access for the purpose of audit and examination to any documentation of the recipients described in subsection (b)(1) which the head of the department or establishment or the Comptroller General believes may be related or pertinent to the Federal assistance received.

Section 402 would provide a means of enforcing the Comptroller General's right to access to executive branch information. Subsections (a) through (c) of this section would authorize the Comptroller General to institute an action for declaratory relief in cases where an executive department or establishment fails to comply with a request for information, books, documents, papers, or records. Such actions would be heard and determined by a Federal three-judge court, with a right of direct appeal to the United States Supreme Court.

Subsection (d) of section 402 would provide for a cutoff of funds of the executive unit under review with respect to which such information, books, documents, papers, or records were not made available to the Comptroller General. Operation of the fund cutoff remedy would be subject to the following conditions:

It would apply only to the extent that a declaratory judgment sustained the Comptroller General's right to information requested, and only after the declaratory judgment had become final either by affirmance on appeal or by failure to appeal.

The Comptroller General would have discretion concerning whether or not the remedy should be sought.

Either House of Congress could disapprove invocation of the remedy within thirty days following notification by the Comptroller General of his intent to seek its application and the fund cutoff would be effective on the day following such thirty-day period.

The ultimate fund cutoff remedy of subsection (d) is derived in part from section 502 of the Foreign Assistance and Related Programs Appropriation Act, 1972, approved March 8, 1972, Pub. L. 92-242, 86 Stat. 48, 55, which provided a cutoff of funds for expenses of the Inspector General, Foreign Assistance (Department of State), thirty-five days following a request by the General Accounting Office or a cognizant congressional committee or subcommittee for information in the custody of that office, unless such information was furnished or the President certified that he had forbidden the furnishing of such information and his reasons for doing so.

Section 403 of title IV would provide a procedure for consideration by the Congress of proposed fund cutoffs which is generally similar to that governing congressional consideration of reorganization plans proposed by the President. See 5 U.S.C. 908–913.

TITLE V—GENERAL ACCOUNTING OFFICE BUILDING

Section 501 would afford the Comptroller General control of the General Accounting Office Building; would provide for the subletting of space therein to other agencies; and would authorize the Comptroller General to lease additional space for the use of the General Accounting Office in the District of Columbia and elsewhere.

TITLE VI—PROFITS STUDIES

Section 601 would afford the Comptroller General authority to make selective studies of the profits of Government contractors and subcontractors whose Government business, in their most recent fiscal year, aggregated one million dollars or more. These studies would be made with a view toward comparing profits on Government business with profits on commercial business.

Subsection (a) defines the contractors covered by the section, authorizes and directs the Comptroller General to make studies of profits made by these contractors at least once every five years, and requires the Comptroller General to properly report the result of each study to the Congress.

Subsection (b) requires that when requested by the Comptroller General or his representatives, contractors will submit such information maintained in the normal course of business as the Comptroller General determines is necessary or appropriate to conduct his studies under subsection (a).

Subsection (c) authorizes the Comptroller General and his representatives to audit and inspect and to make copies of any books, accounts, or other records which the Comptroller General determines are necessary to permit calculation of the profits of any contractor. This subsection specifically precludes the Comptroller General from disclosing any information obtained under the authority of section 601 which relates to the contractor's profit on any individual commercial contract or on any individual contract entered into pursuant to formally advertised competitive bidding.

Subsection (d) defines for the purpose of section 601 the terms "contractor," "services and materials," "Government contracts," and "commercial contracts."

By section 408 of the act approved November 19, 1969, Pub. L. 91-121, 83 Stat. 204, 208, the Comptroller General was authorized and directed to conduct a one-time study of the profits of representative defense contractors and subcontractors. The Comptroller General's report on this study, B-159896, was submitted to the Congress on March 17, 1971. Title VI would provide permanent authority for such studies.

TITLE VII—STATISTICAL SAMPLING PROCEDURES IN THE EXAMINATION OF VOUCHERS

Public Law 88-521, authorized heads of departments and agencies and the Commissioners of the District of Columbia to prescribe the use of adequate and effective statistical sampling procedures in the examination of disbursement vouchers for amounts of less than $100. Certifying and disbursing officers who acted in good faith and who followed such procedures were relieved of liability for the improper certification or payment of vouchers that may not

have beeen examined because of the statistical sampling procedure provided that such officer and his department or agency diligently pursued collection actions prescribed by the Comptroller General.

Section 701 would amend subsection (a) of Public Law 88–521 so as to eliminate the $100-dollar limitation on the amount of disbursement vouchers subject to audit by statistical sampling techniques and in lieu thereof impose a limitation of such amount as may from time to time be prescribed by the Comptroller General for each department or agency. Section 701 would also add a new requirement that the Comptroller General include in his reviews of accounting systems an evaluation of the adequacy and effectiveness of procedures established under the authority of the amended act.

TITLE VIII—AUDIT OF TRANSPORTATION PAYMENTS

Section 801 would amend section 322 of the Transportation Act of 1940, as amended, 49 U.S.C. 66, to continue the requirement for payment of carrier bills upon presentation contained in the law since 1940, but to make clear that the primary responsibility for the audit of transportation bills and the recovery of overcharges is to be removed from the General Accounting Office and placed in one or more executive agencies designated by the Director of the Office of Management and Budget. This responsibility includes the processing of carrier claims and furnishing records and reports to the Department of Justice for the proper defense or prosecution of litigation arising from the handling of carrier accounts and claims. The General Accounting Office transportation audit responsibilities and related functions would then conform to the procedures for the audit of Government activities generally under the provisions of the Budget and Accounting Act, 1921, as amended, 31 U.S.C. 41, and the Accounting and Auditing Act of 1950, as amended, 31 U.S.C. 65.

TITLE IX—AUDIT OF NONAPPROPRIATED FUND ACTIVITIES

Section 901(a) would authorize the Comptroller General, unless otherwise provided by law, to review the operations, systems of accounting and internal controls, and any internal or independent audits of review of nonappropriated funds and related activities within the executive branch. Under this section the Comptroller General and his duly authorized representatives would have access to such documentation relating to these funds and activities as is deemed necessary.

Subsection (b) would require such nonappropriated fund activities to furnish to the Comptroller General an annual report of the operations of their activity, including annual statements of financial operations, financial conditions and cash flow.

The authority provided in section 901 would extend generally to instrumentalities established and operated under the control or aegis of an executive department or agency for the benefit of its personnel and which are financed from sources other than appropriations. Primary examples of such instrumentalities are the Army and Air Force Exchange Service, Navy Exchanges, Coast Guard Exchanges, and Exchange Councils or the National Aeronautics and Space Administration. The Comptroller General would not review nonappropriated fund activities to the detriment of his reviews of higher priority appropriated fund activities. However, in recent years the size, scope and number of nonappropriated fund activities have increased greatly and the authority and requirement imposed by this section even though a limited number of reviews will be made, should afford some needed control and review over such activities.

TITLE X—EXPERTS AND CONSULTANTS

Section 1001(a) would provide the Comptroller General discretion to employ on a full or part-time basis up to ten experts and to obtain consultant services authorized by 5 U.S.C. 3109, at a rate of compensation not to exceed Level V of the Federal Executive Pay Act.

Subsection (b) would exempt individuals serving under subsection (a) from restrictions upon reemployment of retired Federal employees and simultaneous receipt of compensation and retired pay or annuities.

TITLE XI—AUDITS OF GOVERNMENT CORPORATIONS

Section 1101(a) would provide that each wholly owned Government corporation subject to the Government Corporation Control Act shall, effective January 1, 1973, be audited at least once in every three years.

Subsection (b) would provide that the Comptroller General's report of each audit of each wholly owned Government corporation shall be made to the Congress not later than six and one-half months following the close of the last year covered by such audit. The use of the six and one-half month time period following the close of the corporation's fiscal year for reporting to the Congress replaces the date of January 15 specified in existing law, since the Comptroller General's audit would not be made annually and would be made on the basis of the fiscal year used by the corporation in maintaining its books rather than the year ending June 30 of each year.

Subsections (c) and (d) would make the same change in the frequency of audit and reporting date with respect to each mixed-ownership Government corporation as is provided in section 1101(a) and 1101(b) for wholly owned Government corporations.

Section 1102 would make a similar change in the frequency of audit and reporting date with respect to the Federal Deposit Insurance Corporation.

Section 1103 would amend section 513 of the Federal Crop Insurance Act so as to delete the requirement for an annual audit by the General Accounting Office of the Federal Crop Insurance Corporation.

Section 1104 would make a change similar to that provided in sections 1101 and 1102 for wholly and mixed-owned Government corporations and the Federal Deposit Insurance Corporation in the frequency of audit and reporting date with respect to the National Homeownership Foundation, a nonprofit corporation chartered by the Congress but which is not an agency or instrumentality of the United States Government.

Sections 1105 and 1106 would repeal the requirement for an annual audit by the General Accounting Office of the District of Columbia Redevelopment Corporation and the Federal Home Loan Bank Board, respectively, thereby granting the Comptroller General discretionary authority to determine the frequency of such audits.

TITLE XII—REVISION OF ANNUAL AUDIT REQUIREMENTS

Title XII would eliminate the requirements for annual audits of the following revolving funds and make them subject to audit at the discretion of the Comptroller General, in accordance with the provisions of the Accounting and Auditing Act of 1950:

Section 1201—The General Supply Fund, GSA.

Section 1202—War Risk Insurance Fund, Transportation.

Section 1203—Bureau of Engraving and Printing Fund, Treasury.

Section 1204—Veterans Canteen Fund, VA.

Section 1205—Student Loan Insurance Fund, HEW.

Section 1206—Urban Renewal Fund, HUD. College Housing Fund, HUD.[1]

Section 1207—National Credit Union Administration Fund.

Section 1208—Government Printing Office Fund.

EXAMPLES OF ACCESS TO RECORDS BEING DENIED THE COMPTROLLER GENERAL

(Compiled by the General Accounting Office)

INTERNATIONAL ACTIVITIES

We have been experiencing increasing difficulties in obtaining access to information needed in our reviews and evaluations of programs involving our relations with foreign countries and United States participation in international lending institutions. The Departments of Defense, State, and Treasury have employed delaying tactics in preventing our access to necessary records. Information and records have been withheld on the basis that they were internal working documents or that they disclosed tentative planning data. The most serious interference has resulted from restraints placed upon agency officials which require them with more and more frequency to refer to higher authority for clearance before making records available to our staff.

On August 30, 1971, the President invoked executive privilege to withhold information which had been requested by the Senate Foreign Relations Committee relating to the Military Assistance Program. The President determined that it would not be in the public interest to provide to the Congress the basic planning data on military assistance that was requested by the Chairman of the Senate Foreign Relations Committee, and he directed the Secretary of State and the Secretary of Defense not to make available to the Congress any internal working documents which would disclose tentative planning data on future years of the Military Assistance Program which are not approved executive branch positions.

Subsequent to this action we noted a general increase in the volume of documents that operating officials were referring to higher authority for approval for release to our auditors. This practice added to the delays in obtaining access to documents that had hampered our audit efforts in the past. Although absolute denial of access to a document is quite rare, our reviews have been hampered and delayed by the time-consuming processes employed by the various organizational elements within and between the executive agencies. These delays occur in screening records and in making decisions as to whether such records are releasable to GAO. It is not unusual for our staff people to request access to a document at an overseas location and to be required to wait several weeks while such documents are screened through channels from the overseas posts and through the hierarchy of the departments involved.

The increasing concern of the Comptroller General, especially with actions within the Department of Defense that were having the effect of denying GAO access to information and documents needed to carry out our responsibilities for review of international activities of the Department of Defense, in particular military assistance activities, prompted him to write to the Secretary of Defense on October 13, 1971. He cited examples of our access problems and pointed out specific DOD instructions and directive which, we believed, had created an atmosphere that was discouraging overseas agency officials from cooperating with GAO personnel. In reaching for a solution to this complex problem, the Comptroller General sum-

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[1] This change will have a similar effect on the following programs; Housing for elderly or handicapped (12 U.S.C. 1701q); Rehabilitation loans (42 U.S.C. 1452b); Public facility loans (42 U.S.C. 1494); New community assistance (42 U.S.C. 3912); low-rent housing (42 U.S.C. 1417a); riot insurance (12 U.S.C. 749bbb–17); transportation grants (49 U.S.C. 1609).

marized his position to the Secretary of Defense as follows:

"I am most interested, as I am sure you are, in establishing a mutual accommodation within which we can carry out our respective responsibilities, with due regard to the sensitivities of the matters under review.

"I believe you can appreciate the depth of my concern at what appears to be an increasing effort within the Department of Defense to restrict the General Accounting Office's capability to carry out its responsibilities to the Congress in the field of international matters.

"To clear the air and set the stage for joint efforts to establish better working relationships I believe that a personal expression of your views communicated to your representatives in Washington and overseas would be extremely helpful. We would then be glad to work with the Assistant Secretary of Defense (Comptroller), or others that you designate, in the interest of accomplishing mutually acceptable working arrangements."

On January 27, 1972, the Secretary of Defense replied, stating:

"At the outset, let me assure you that neither the Assistant Secretary of Defense (ISA) nor myself condone any actions which could be interpreted as restricting your auditors from carrying out their responsibilities in the field of international matters or discouraging overseas officials from cooperating with your auditors in the performance of their statutory responsibilities."

He also indicated a need and intent to continue to screen the files of the Department before making them available for our review and stated:

"Papers in these files originate within as well as outside the Department, including The White House, and Department of State. I am sure that you appreciate that merely because such papers are in our files we cannot release them to GAO without the express approval of the originator. Fortunately, however, it is only on rare occasions that GAO auditors actually need access to such papers to complete their audits or reviews. The matter of access to such papers must, I believe, continue to be handled on a case-by-case basis. In the future, when the question of access to sensitive documents in the international affairs area arises, I have asked the Assistant Secretary of Defense (ISA), when he believes that access to a particular document should be denied, that he consult with the Assistant Secretary of Defense (Comptroller) and the General Counsel prior to refusing access."

The Secretary suggested that to clear the air and set the stage to establish better working relationships that DOD and GAO send representatives to some overseas locations with a view to creating an atmosphere of mutual cooperation and understanding.

Since the exchange of letters we have been meeting with Defense officials in an attempt to establish mutual working arrangements within which we can carry out our responsibilities. While we have vigorously pursued this matter with agency officials, we see no real breakthrough which will solve our problem. The most serious interference is in the restraints which have been placed upon agency officials overseas and which require them more and more to refer to Washington for clearance before making documents available to our staffs. Although these are not termed refusals, they come close because of the interminable delays that result from having to refer routine matters through channels to Washington.

On March 15, 1972, the President invoked executive privilege with respect to the foreign assistance program and international information activities. In a memorandum to the Secretary of State and the Director, United States Information Agency he directed these officials not to make available to the Congress any internal working documents which would disclose tentative planning data—such as is found in the Country Program Memoranda and the Country Field Submissions—and which are not approved positions.

Since then we have experienced some tightening up on our access to documents. For example, the Agency for International Development on March 23, 1972, instructed its operating personnel as follows:

* * * * *

"In order to carry out the President's directive, A.I.D. Country Field Submissions should not be disclosed to representatives of the Congress or the General Accounting Office. Likewise, disclosure should not be made of any other document from an A.I.D. Assistant Administrator, A.I.D. Office Head or A.I.D. Mission Director to higher authority containing recommendations or planning data not approved by the Executive Branch concerning overall future budget levels for any fiscal year for any category of assistance (e.g., Development Loans, Technical Assistance, Supporting Assistance, or PL-480) for any country.

"In lieu of the disclosure of such documents, the President has directed that Congress be provided with "all information relating to the foreign assistance program and international information activities" not inconsistent with his directive. Ordinarily, the substantive factual information contained in these documents should be disclosed through means of oral briefings, testimony, special written presentations and such other methods of furnishing information as may be appropriate in the circumstance.

"The General Counsel should be advised of any Congressional or GAO requests for any document described in [the first paragraph] above or for files or records containing such a document. The General Counsel should also be advised of requests for other documents which raise Executive Privilege questions, whether under the rationale of the President's March 15 directive or otherwise, and a decision should be obtained from the General Counsel concerning the availability of the document for disclosure before the document is disclosed."

On May 8, 1972, the Under Secretary of State issued a memorandum to all Agency Heads, Assistant Secretaries, and Office Heads on the subject of executive privilege. This memorandum cites the Presidential Directive of March 15, 1972, and contains instructions similar to those put out by AID. However, it goes a bit further in broadening the field of applicability by stating:

"It will be noted that the President's directive is not strictly limited to Country Program Memoranda and Country Field Submissions, but applies also to other, similar internal working documents in the foreign assistance and international information fields which would disclose tentative planning data and which are not approved positions. Undoubtedly, specific questions will arise in the future as to whether or not the President's directive applies to particular congressional requests for disclosure. Such questions should be resolved in consultation with the Office of the Legal Adviser."

There is evidence that the executive agencies may try to satisfy GAO's need for access to records by providing the required information by means other than direct access to the basic documents, especially in cases where such documents are considered to be internal working documents. This would not be acceptable unless we are able to satisfy ourselves that the data provided to us is an accurate presentation of the substantive information contained in the basic documents.

In summary, our access to the records and documents or other materials we need to carry out our responsibilities for reviewing programs relating to international activities has been increasingly difficult. It is a matter of degree, but it has seriously interfered with the performance of our responsibilities. The most serious interference is in the restraints which have been placed upon agency officials overseas and which require them more and more to refer to Washington for clearance before making documents available to our staff. Although these are not termed refusals, they come close because of the interminable delays that result from having to refer routine matters through channels to Washington.

In addition to the unnecessary cost and waste of time this involves, there is the increased risk of our making reports without being aware of significant information and the increased risk of our drawing conclusions based on only partial information.

We are seriously concerned with the increasing restrictions that have been imposed on overseas officials in particular, that take away a large measure of their discretion for dealing with GAO personnel, and we have conveyed this to the agencies.

INTERNATIONAL LENDING INSTITUTIONS

Beginning in the fall of 1970, we undertook to study U.S. participation in international lending institutions—the World Bank, International Development Association, Inter-American Development Bank, and Asian Development Bank. During our initial survey and in our later reviews relating to specific institutions, we encountered difficulties in obtaining information from the Treasury Department.

We experienced long delays in obtaining certain information. For example, access to monthly operations reports and to loan status reports for one of the institutions that we requested in December 1970 was not granted until August 1971 and then only after repeated requests.

We were refused access to several categories of documents by Treasury Department officials. These included the recorded minutes of the meetings of the institutions' board of directors, periodic progress reports on the status of projects being financed by the institutions, and a consultant's report on management practices of one of the institutions. Also, although Treasury officials advised us that they had refused access only to internal documents which they received in confidence from the institutions, we were refused access to certain documents which, as far as we could determine, were not documents furnished by the institutions but rather were documents prepared by U.S. officials for use by other U.S. officials.

We were not auditing the records of the Inter-American Development Bank as such but only those documents that had been provided by the Inter-American Development Bank to the Executive Director and were available for his use in the exercise of his management responsibilities. We believe that these records should have been available to us in our review which was on the U.S. system for appraising and evaluating Inter-American Development Bank projects and activities. Any report on this subject would necessarily be lacking to the extent to which information used by the United States in evaluating Bank projects was not made available to us during our examination. We see no valid basis for Treasury's refusal to provide access to the records we requested.

INTERNAL REVENUE SERVICE

GAO's review efforts at the Internal Revenue Service had been materially hampered, and in some cases terminated, because of the continued refusal by IRS to grant GAO access to records necessary to permit an effective review of IRS operations and activities.

Without access to necessary records, GAO cannot effectively evaluate the IRS administration of operations involving billions of dollars of annual gross revenue collections

and millions of dollars in appropriated funds. Such an evaluation, we feel, would greatly assist the Congress in its review of IRS budget requests and in its appraisal of IRS operations and activities. Without such access, the management of this very important and very large agency will not be subject to any meaningful independent audit.

GAO has taken every opportunity to impress upon IRS officials that it is not interested in the identity of individual taxpayers and does not seek to superimpose its judgment upon that of IRS in individual tax cases; rather, GAO is interested in examining into individual tax transactions only for the purpose of, and in the number necessary to serve as a reasonable basis for, evaluating the effectiveness, efficiency, and economy of selected IRS operations and activities. GAO has, in general, directed its efforts toward those areas where it believed that improvements in current operations would bring about better IRS administration of programs, activities, and resources.

It is the position of IRS that no matter involving the *administration* of the internal revenue laws can be officially before GAO and therefore we have no audit responsibility. The Commissioner of IRS, in a letter to the Comptroller General dated June 6, 1968, stated:

"I must note that the [Chief Counsel, IRS] opinion holds that the Commissioner of Internal Revenue is barred by Sections 6406 and 8022 of the Internal Revenue Code from allowing any of your representatives to review any documents that pertain to the administration of the Internal Revenue Laws. Thus, federal tax returns and related records can be made available to you only where the matter officially before GAO does not involve administration of those laws."

Under the provisions of 26 U.S.C. 6103, tax returns are open to inspection only on order of the President and under rules and regulations prescribed by the Secretary of the Treasury or his delegate and approved by the President. Regulations appearing in 26 CFR 301.6103(a)–100–107 grant several Government agencies specific right of access to certain tax returns. Our Office is not included among those agencies. The regulation applicable to our Office, 26 CFR 301.6103(a)–1(b)(f), provides that the inspection of a return in connection with some matter officially before the head of an establishment of the Federal Government may be permitted at the discretion of the Secretary or Commissioner upon written application of the head of the establishment.

IRS has permitted Federal agencies, States, individuals, contractors, and others to have access to tax returns and records. GAO has been given access to individual tax returns only when the return is needed in connection with another matter in which GAO is involved or when we have made reviews at the request of the Joint Committee on Internal Revenue Taxation. Otherwise we have been denied records requested for reviews of IRS operations. The reviews of IRS conducted at the request of the Joint Committee have been made pursuant to an arrangement whereby GAO and the Joint Committee agreed on certain priority matters involving the administration of the internal revenue laws. Under this arrangement we, in effect, make reviews for the Joint Committee, and we have had the complete cooperation of the Service.

ECONOMIC STABILIZATION PROGRAM

Another access to records problem arose when GAO attempted, pursuant to a congressional request, to review the effectiveness of IRS activities in monitoring prices. IRS did not formally deny GAO the right to review records of the Economic Stabilization Program.

Rather, the General Counsel of the Treasury Department submitted a proposed "memorandum of understanding," which was to be signed by himself, the Comptroller General, and the Commissioner and Chief Counsel of IRS, as a condition precedent to permitting GAO to perform the review.

In our opinion, the memorandum of understanding would have negated GAO's independence and limited GAO's right to records to such an extent that any work under taken would not have provided a basis to properly perform the audit. Accordingly, the General Counsel of the Treasury Department was advised that the memorandum of understanding was not acceptable to GAO. Subsequently, we advised the Treasury Department in January 1973 that, since Phase II of the Economic Stabilization Program was being phased out, there was no practical purpose in pursuing the matter.

FEDERAL DEPOSIT INSURANCE CORPORATION

The long and involved history of controversy between GAO and the Federal Deposit Insurance Corporation over GAO's right of access to certain of the Corporation's records appears in the published hearings of the House Committee on Banking and Currency of May 6 and 7, 1968. Those hearings resulted in the introduction of H.R. 16064, 90th Congress, a bill to amend the Federal Deposit Insurance Act with respect to the scope of audit of FDIC by GAO.

Essentially what is involved in this dispute is that although our Office is required by section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) to conduct annual audits of the Corporation, we have been unable to fully discharge our responsibilities because FDIC has not permitted us unrestricted access to examination reports, files and other records relative to the banks which it insures.

It is the position of the Corporation that our right of access to its records is limited to those administrative or housekeeping records pertaining to its financial transactions. It is GAO's position that, because the financial condition of the Corporation is inseparably linked with the manner in which it supervised the banks which it insures, we cannot report to the Congress on the financial condition of the Corporation without evaluating the significance of its contingent insurance indemnity obligation for the banks.

At the time section 17 was being considered by the Congress, it developed that, although GAO and FDIC had agreed on the language included therein, divergent views were held by GAO and FDIC as to its meaning. Each made its position known to the House Committee on Banking and Currency, but the matter was not resolved. This difference of opinion still exists with both the Corporation and GAO feeling that the present law supports their respective positions. Repeated efforts to resolve the matter administratively have failed, and, for this reason, the Comptroller General in his testimony of March 6, 1968, before the House Banking and Currency Committee, recommended that the Federal Deposit Insurance Act be amended to specifically provide for an unrestricted access to the examination reports and related records pertaining to all insured banks.

EMERGENCY LOAN GUARANTEE BOARD

The Emergency Loan Guarantee Board, established by the Emergency Loan Guarantee Act (Pub. L. 92–70), through its Chairman—the Secretary of the Treasury—has taken the position that it was not the intent of the Congress in establishing the Board to grant GAO authority to review Board activities. The Board was established to make guarantees or to make commitments to guarantee lenders against loss of principal or interest on loans to major business enterprises whose failures would seriously and adversely affect the economy or employment of the Nation or a region thereof.

GAO believes that it has the responsibility and authority to review the Board's activities including decisions of the Board in approving, executing, and administering any loan guaranteed by the Board. The Board's position, as indicated, is that there is nothing in the Emergency Loan Guarantee Act or its legislative history which would provide for a GAO review of all Board activities and that the Congress might need to pass additional legislation to make it clear that GAO has this authority. The main thrust of the Board's position is that the congressional review of loan guarantee matters is carefully spelled out in the guarantee act; GAO is directed to audit the borrower and to report its findings to the Board and to the Congress; and the Board is directed to make a "full report" of its operations to the Congress. It is our position that, as an agency of Government, the Board is clearly subject to audit examination by GAO and that the records of the Board are required to be made available to GAO under its basic authorities. Those authorities are section 312 of the Budget and Accounting Act, 1921 (31 U.S.C. 53); section 206 of the Legislative Reorganization Act of 1946 (31 U.S.C. 60); subsections 117(a) and (b) of the Accounting and Auditing Act of 1950 (31 U.S.C. 67(a), (b)); and section 204 of the Legislative Reorganization Act of 1970 (84 Stat. 1140).

It is our view that under these basic authorities GAO has responsibility for auditing the activities of the Board and thus has attending right of access to such information and documents as the Board uses in reaching its decisions. Further, it is our view that neither the failure to spell out explicitly that GAO has such responsibility and right of access nor the fact that under Pub. L. 92–70 GAO was given explicit authority to audit the borrower diminishes in any way the basic audit authorities that we rely upon.

While the records in this case were subsequently made available, the Treasury did so, however, only because of the intervention of the House and Senate Banking and Currency Committees. In making the records available, however, the Executive Director of the Board stated that "we continue to believe that the GAO does not have the statutory authority to review the Board's internal records relating to its decisionmaking process." The Board supported this position in its first Annual Report of July 31, 1972.

COUNTERVAILING DUTY STATUTE

In 1971, pursuant to a congressional request, GAO sought to review the Department of the Treasury's administration of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303), which requires the Secretary of the Treasury to levy a countervailing duty on any dutiable product imported into the United States for which the producing nation has provided a production or export grant or bounty.

In January 1973, we decided that our efforts to obtain the necessary records to make the review were unsuccessful.

EXCHANGE STABILIZATION FUND

By Public Law 91–599, approved December 30, 1970, the Congress directed that the administrative expenses of the Exchange Stabilization Fund, established by section 10 of the Gold Reserve Act of 1934, be audited by the General Accounting Office and provided certain access to records authority. The legislative history made it clear that the audit should start with fiscal year 1972, and the GAO started efforts to obtain access in the Spring of 1972. After a long period of refusals and delays, the Treasury Department finally agreed in March 1973 to provide GAO access to all financial records and relevant supporting information on the administrative expense of the Exchange Stabilization Fund for 1972. The audit has been started.

CORPORATION FOR PUBLIC BROADCASTING

The Public Broadcasting Act of 1967 provides that the Public Broadcasting Corporation shall be audited by the General

Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. In attempting to comply with our responsibility under this Act, we have requested such documents as minutes of the meetings of the Board of Directors and files relating to a long-term lease for office space entered into by the Corporation. In both instances we were initially denied access to this data. Subsequently, this information was made available to us and enabled us to more properly evaluate certain operations of the Corporation.

On August 10, 1972, an internal Corporation memorandum advised Corporation officials that if GAO wished "to examine documents setting forth policies or procedures or to pursue a detailed examination of how decisionmaking takes place or analyzing program expenditures to determine the proportion received by various recipients or any of a variety of tasks they might pursue along this line, I believe you should simply state you feel such requests are beyond the scope of their activity and that you decline to pursue the matter with them." On August 22, 1972, the Comptroller General advised the Acting President of the Corporation that the GAO's responsibility for auditing the Corporation included audits which could lead to an identification of needed management improvements together with suggestions as to courses of action which should be considered to correct management deficiencies or otherwise strengthen the management of the Corporation.

Although we have had no written reply to the August 22 letter, the Acting President of the Corporation advised us orally on September 25, 1972, that the Board of Directors and its Chairman felt that it was not clear as to our right of access to information of other than a financial nature. Since that date we have not been formally refused information necessary to perform our work although we have had some difficulty in obtaining needed data in a timely manner.

Mr. RIBICOFF. Mr. President, I am pleased to join with the chairman of the Government Operations Committee in sponsoring the Accounting and Auditing Act of 1973. I have long believed the authority of the Comptroller General to assist Congress in the legislative process should be strengthened and the capability of his office increased.

This bill is similar to one which I introduced earlier this year, S. 460. In 1970, a prior version of that legislation passed the Senate unanimously, but was not acted upon by the House.

Mr. President, there is broad agreement in Congress that the role of the legislative branch in Government must be strengthened. This bill is an important step in that direction. By expanding the authority of the Comptroller General to serve the Congress we increase our own capability to deal effectively with the issues before us. I look forward to working with my committee chairman, Senator ERVIN, for the passage of this bill.

By Mr. JAVITS:

S. 2050. A bill to establish a Domestic Enterprise Bank to assist in the development of employment and business opportunities in urban and rural areas, to assist and promote job opportunities in businesses threatened or substantially harmed by increases in foreign imports or technological obsolescence, and for the construction of low and moderate income housing projects. Referred to the Committee on Banking and Urban Affairs.

DOMESTIC ENTERPRISE BANK ACT

Mr. JAVITS. Mr. President, I introduce today the Domestic Enterprise Bank Act to establish a corporation patterned after the World Bank authorized to first, make and participate in long-term, low-interest loans and guarantees and to second, provide supportive technical assistance, in order to stimulate employment opportunities in depressed urban and rural areas and to; third, promote the economic survival and preservation of jobs in those businesses substantially harmed by increases in foreign imports or technological obsolescence.

1. THE NEED FOR A NEW STRATEGY

For several decades, the phenomenon of urbanization has been the dominant domestic trend in this country. Urbanization has proliferated the big city slum, the slum which continues to give birth to crime, despair, and hopelessness.

But the crisis of the core city is also a crisis for rural America, whose people are taking flight to the cities as farm manpower needs diminish and increased mechanization in farming continues to diminish manpower needs. No program or effort which seeks to resolve the unemployment problems of the city slum can stand alone—rural migration needs to be halted or at least slowed and the economy of rural America brought back into equilibrium.

This bill seeks to tap the resources of what can be our greatest ally in our efforts to curb the growing list of unemployment—the private sector. Government by itself simply cannot marshal the funds nor the talent to solve this unemployment problem. But when used in conjunction with and to stimulate private efforts, Government funds can have a catalystic effect and hence a far greater impact.

For some time there has been a growing recognition of the need to establish an essentially private source of low-interest capital for economic development of our depressed urban and rural areas, and there has been an acceleration in the Federal effort to stimulate employment opportunities. But we have yet to make available sufficient capital to meet the challenge which unemployment imposes and give a real boost to our own struggling enterprises.

In 1967, I had introduced the Domestic Development Bank Act which is the forerunner of this bill. I have received the important suggestions of a number of my colleagues—suggestions which have been largely incorporated in this bill. Moreover the Domestic Enterprise Bank Act had a great deal of study and analysis involving business, labor, foundation executives, professors, and economists.

The problems of unemployment and lack of business opportunity, which the forerunner to the Domestic Enterprise Bank Act sought to address in 1967, are not only with us in 1973, but stand today in gargantuan proportions. Frequently the struggling domestic entrepreneur is hard put to locate adequate capital on reasonable terms to update his manufacturing plant, to purchase new equipment, or to conduct research and development activities.

The legislation which I am offering today seeks to deal with two related unemployment problems which are fundamental to the substance of rural and urban poverty.

I need not remind Members of the Congress that we are still in the throes of large-scale unemployment. As recently as March 1973, the Bureau of Labor Statistics reported 4.4 million persons still unemployed. But the most fundamental problem is the continuing staggering unemployment rate in our city slums and underdeveloped areas. The latest statistics from the Department of Labor indicate that in 51 low income areas, the unemployment rate among white teenagers is 21 percent and for black teenagers over 35 percent—1970. The plight of the returning Vietnam era veterans compounds the current unemployment problem.

The National Advisory Commission on Civil Disorders concluded in March of 1968 that:

> Unemployment and underemployment are among the persistent and serious grievances of disadvantaged minorities.

The second fundamental problem is the need for involvement of the rural or urban poverty area resident in the ownership and management of the business community which serves him. The Economic Opportunity Loan program, which I authored, has evolved from a statement of goals to a point where there is some tangible sign of success. Recently, the Small Business Administration and the Veterans' Administration made the economic opportunity loan program available to returning Vietnam era veterans. The administration's Office of Minority Business Enterprise in the Department of Commerce, responsible for coordinating all minority enterprise programs, is continuing its efforts in this vital area.

But the cruel fact is that even if these new initiatives continue to be expanded and improved to meet their stated goals, they are minimal when one considers the extent to which the economically and socially deprived have been denied the opportunity to participate fully in the free enterprise system.

But more than a concern for the disadvantaged calls upon us to take concrete action. The very life of our core cities and depressed rural areas is at stake. Businesses are leaving the core cities and the depressed rural areas at alarming rate. The situation in the depressed rural areas can be measured by the migration statistics. Some 2.3 million Americans migrated from nonmetro to metro areas between 1960 and 1970, and there is no indication the trend will not continue. But jobs are tending toward the suburbs—between 75 and 80 percent of added employment in trade and industry alone.

This proposal would use Government funds and resources essentially as levers and catalysts to move the private forces into positions that can supplement current strictly governmental efforts to fight poverty.

THE DOMESTIC ENTERPRISE BANK OPERATION

The Bank would be established as a profitmaking corporation authorized to

make long-term, low-interest loans and guarantees, to participate in loans with public or private lenders to sell participations in its loans, and to provide supportive managerial and technical assistance. In essence, it would be very much like the World Bank in its purpose, operations, and structure. The World Bank has demonstrated that the provision of attractive credit is a powerful development tool in underdeveloped areas and that such a venture can be economically sound. In fiscal year 1972, the World Bank earned $183 million in net income and made more than $2 billion in loans and has raised over $3.4 billion from private investors for its development activities.

The Domestic Enterprise Bank would initially issue $3 billion in capital stock subscribed by the Federal Government. As was true of the World Bank, 20 percent of the Government subscription would be paid in initially—$600 million—with the Bank having a call on the remaining 80 percent—$2.4 billion—as a reserve to meet the Bank's liabilities on its own borrowings on the private bond market. In this manner, there would be a guarantee or reserve at market interest rates, just like the World Bank, in order to raise the bulk of its loan funds. The initial $600 million paid in by the Government would be raised by the Secretary of the Treasury through sale of U.S. obligations on the market, so that there would be no drawdown on tax revenues to finance the Bank. This is the manner in which most of the U.S. Government contributions for the international development banks have been raised, including the World Bank, the Inter-American Bank, and the Export-Import Bank. Through this technique, only the credit of the United States is called upon; all the funds for the Bank's activities would come ultimately from private investors without burden on the taxpayer. The Government stock would earn dividends for the Treasury which should more than offset the cost to the Government of paying the interest and principal due on the Treasury Bonds sold to finance its subscription to Bank stock. This method of financing, utilizing U.S. Government bonds rather than congressional appropriations, is necessary to insure private bondholders that the Government guarantee will be made good on the Bank's bonds. Otherwise, the Bank would have to go through the appropriation process whenever it called upon its reserves of Government stock.

The Bank would finance private business and commercial projects where capital is not otherwise available on reasonable terms. Loans could go to businesses and projects of all sizes, but with small business loans it might be more efficient for the Bank to operate through guarantees to local banking and financial institutions or by using local banks as agents. Loans could also be made to public agencies for essential public development projects such as transportation or power facilities which could not be financed through other sources, but this would not be the major purpose of the Bank.

The Bank would have authority to make mortgage loans for low- and moderate-income housing, although this authority is limited to 10 percent of total outstanding obligations.

The Bank would also be authorized to make mortgage loans for residential facilities where housing is integrated with business facilities, as on the upper floors over retail stores. The mortgage loan could cover the entire project.

One of the more important functions of the Bank would be to take the initiative in bringing management and capital together for projects and act as developer or owner of a particular project until such time as a private purchaser could be found. Unlike a tax incentive economic development scheme, which is essentially passive, the Bank approach would provide an active entrepreneural agent.

The primary condition on loans in eligible areas would be that the project be located in a development area designated by the Secretary of Commerce, in consultation with the Secretary of Labor, as an area having a high proportion or concentration of unemployed or low-income persons, or if not in such area, generate new jobs of which at least 25 in number and not less than 50 percent are to be held by persons who prior to such employment were unemployed or low-income residents of eligible poverty areas.

It is probably unwise in the long run simply to focus on the slum itself by bringing jobs and plants within those areas. Efforts to improve the ghetto must be matched with efforts to open opportunities in the suburbs and beyond for its inhabitants. Otherwise, we only increase the magnet of the central city for the rural migrant, and we point resolutely in the direction of black occupied cities surrounded by white suburbs.

It is important to emphasize that rural areas would also be eligible since it must be recognized that urban unemployment cannot be eradicated until the massive population migration from rural areas is slowed or halted.

The potential borrower would have to be certified by appropriate local officials and would be required to comply with local building and architectural codes. Another condition would be a general requirement that the bank be satisfied that the project would contribute to raising living standards in the area, so that the borrower would have to explain and provide some assurances about the "trickle down" effects of his business into the local community, including employment of local persons and firms in the construction of the project and as employees of the establishment. As a further condition of financing, the bank would have to be satisfied that the borrower had adequate equity or other financial interest in the facility to insure his careful and business-like management of the project and to guard against fly-by-night management of the project. The share which the borrower would have to put up would vary according to such conditions.

The bank would also come to the aid of business enterprises substantially harmed by the loss of jobs due to foreign imports or technological obsolescence. Thus, complimenting the adjustment assistance provisions of our trade laws. The financing necessary to purchase additional equipment, plant relocation, expansion or renovation as well as various research and development projects could be supplied by the bank.

The bank would be empowered, in connection with such projects, to undertake insurance arrangements in connection with such facilities. These arrangements might take the form of self-insurance of a project by the bank, coinsurance of a project by the bank, coinsurance between the bank and the borrower or reinsurance arrangements concluded by the bank with insurance companies to protect the facility against casualty loss.

THE BANK ORGANIZATION

The Bank would be organized through the establishment of a commission which would appoint incorporators. The Commission would be composed of the Vice President, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Labor, the Director of the Office of Economic Opportunity, and the majority and minority leaders of the Senate and House of Representatives. The Commission would appoint incorporators who would serve as the initial board of directors, two-thirds of whom would be representatives of the private sector and one-third government officials or employees. The President would thereafter appoint the 20 directors, with the advice and consent of the Senate, for 4-year terms on a staggered basis—10 directors appointed every 2 years, 14 would be from the private sector—6 from business and finance, two from organized labor, two finance, 2 from organized organizations or foundations which deal with the problems of poverty, 2 from education, and 2 representing the general public. The remaining six directors would be from Government, including Federal, State, and local government.

Mr. President, the Domestic Development Bank concept as embodied in the act has received favorable recognition from such groups as the Kerner Commission and the Urban Coalition. The concept was also a part of the Community Self-Determination Act introduced in October 1969, and of which I was a primary sponsor. This bill takes that concept and expands upon it. The Domestic Enterprise Bank Act would function as a two-edged sword. Addressing depressed urban and rural areas on one hand and cutting away at the loss of jobs due to imports and technological obsolescence on the other.

Others in the Congress have made great contributions in underscoring the need for an additional financial institution. Senator PROXMIRE's action in conducting hearings in 1967 on financial institutions and his own Commodity Credit Expansion Act, have provided important direction. Senator SPARKMAN's introduction of the Urban Development Bank Act has also underlined this general need.

Mr. President, there is indeed an economic "time bomb" inherent in the present unemployment situation. The choice is clear: shall we attempt to defuse it by the kind of commitment that estab-

lishment of this Bank would represent? Or shall we continue to be satisfied with answering the needs of our citizens, for jobs and entrepreneurship opportunities with the bandage approach represented by the welfare check? I consider it necessary to introduce this proposal because of the growing needs of this great Nation.

I ask unanimous consent that an explanation of the act may be made part of my remarks.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

EXPLANATION OF THE DOMESTIC ENTERPRISE BANK ACT

The Domestic Enterprise Bank would be established substantially to supplement current efforts to provide job opportunities, stimulate minority entrepreneurship, and encourage the economic development in depressed "high risk" rural and urban areas and to promote the economic survival and preservation of jobs in those businesses substantially harmed or threatened by increases in foreign imports or technological obsolescence.

The Bank would be a source of development financing and would provide supportive technical assistance. In essence it would be very much like The World Bank in its purposes, operations, and structure. The World Bank has demonstrated that the provision of attractive credit is a powerful development tool in underdeveloped areas and that such a venture can be economically sound.

The Domestic Enterprise Bank would be established as an autonomous corporation authorized to make long-term, low-interest loans and guarantees, to participate in loans with public or private lenders, to sell participations in its loans, and to provide supportive technical assistance. The financing would be for private business and commercial projects where capital is not otherwise available on normal terms. Loans could go to businesses and projects of all sizes, but with small business loans it might be more efficient for the Bank to operate through guarantees to local banking and financial institutions or by using local banks as agents. Loans could also be made to public agencies for essential public development projects such as transportation or power facilities which could not be financed through other sources, but this would not be the major purpose of the Bank.

The Bank would have the limited authority to make mortgage loans to developers for low and moderate income housing in eligible areas in aid of business development, although this would not be a sizable activity for the Bank.

The Bank could take the initiative in bringing management and capital together for projects and could itself act as developer of a particular project until such time as a private purchaser could be found. Unlike a tax incentive economic development scheme, which is essentially passive, the Bank approach would provide an active entrepreneurial agent.

Eligibility for the Bank's programs fall into two broad categories:

First, as to eligible areas, the primary condition would be that the project be located in a development area designated by the Secretary of Commerce as an area having a high proportion or concentration of unemployed or low-income persons or, if not in such area, generate new jobs of which at least 25 in number and not less than 50 percent are to be held by persons who prior to such employment were unemployed or low-income residents of eligible poverty areas. Both urban areas and rural areas would also be eligible since it must be recognized that urban unemployment cannot be eradicated until the massive population migration from rural areas is slowed or halted. The potential borrower under this criteria would also have to be certified by appropriate local officials regarding the adequacy of his architectural design, and the provision of public or private assistance for any families or businesses displaced. Another condition would be a general requirement that the Bank be satisfied that the project would contribute to raising living standards in the area, so that the borrower would have to explain and provide some assurances about the "trickle down" effect of his business into the local community, including employment of local persons and firms in the construction of the project and as employees of the establishment. As a further condition of finance, the Bank would have to be satisfied that the borrower had adequate equity or other financial interest in the facility to insure his careful and business-like management of the project; the share which the borrower would have to put up would vary according to such conditions and be determined by the Bank.

Second, as to eligible enterprises, the primary condition would be that the enterprise is threatened or has been substantially harmed by increase in foreign imports or technological obsolescence. Enterprises could qualify under this criteria without regard to geographical location. As a condition of financing the Bank would have to be satisfied that the changes proposed by the enterprise would enable the enterprise to preserve or create jobs and operate on a sustaining basis. The traditional requirements as to financial interest and management ability would have to be met.

The Bank would be empowered, in connection with its loan activity to undertake insurance arrangements in connection with such an enterprise. Such arrangements might take the form of self-insurance on a project by the Bank, coinsurance of a project by the Bank, coinsurance between the Bank and the borrower, or reinsurance arrangements concluded by the Bank with insurance companies to protect the facility against casualty loss.

The Bank would initially issue $3 billion in capital stock subscribed by the Federal Government. As was true of the World Bank, 20 percent of the Government subscription would be paid in initially—$600 million—with the Bank having a call on the remaining 80 percent—$2.4 billion—as a reserve to meet the Bank's liabilities on its own borrowings on the private bond market. In this manner, there would be a guarantee or reserve for private investors in the Bank's bonds. It would sell bonds at market interest rates, just like the World Bank, in order to raise the bulk of its loan funds. The initial $600 million paid in by the Government would be raised by the Secretary of the Treasury through sale of United States obligations on the market, so that there would be no draw-down of tax revenues to finance the Bank. This is the manner in which most of the U.S. Government contributions for the international development banks have been raised, including the World Bank, the Inter-American Bank, and the Export-Import Bank. Through this technique, only the credit of the United States is called upon; all the funds for the Bank's activities would come ultimately from private investors without burden on the taxpayer. The Government stock would earn dividends for the Treasury which should more than offset the cost to the Government of paying the interest and principal due on the Treasury bonds sold to finance its subscription to Bank stock. This method of financing, using the sale of U.S. Government bonds rather than congressional appropriations, is necessary to insure private bond holders that the Government guarantee will be made good on the Bank's bonds. Otherwise, the Bank would have to go through the risky appropriation process whenever it called upon its reserves of Government stock.

The Bank would be organized through the establishment of a commission which would appoint incorporators. The Commission would be composed of the Vice President, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Labor, the Director of the Office of Economic Opportunity, and the majority and minority leaders of the Senate and House of Representatives. The Commission would appoint incorporators, who would serve as the initial board of directors, two-thirds of whom would be representatives of the private sector and one-third Government officials or employees. The President would thereafter appoint the 20 directors, with the advice and consent of the Senate, for 4-year terms on a staggered basis—ten directors appointed every 2 years, 14 of the directors would be from the private sector—six from business and finance, two from organized labor, two from private social welfare organizations or foundations which deal with the problems of poverty, two representing the general public and two representatives from education. The remaining six directors would be from government, including Federal, State, and local government.

ADDITIONAL COSPONSORS OF BILLS

S. 1708

At the request of Mr. CRANSTON, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 1708, to amend title X of the Public Health Service Act to extend appropriations authorizations for 3 fiscal years and to revise and improve authorities in such title for family planning services programs, planning, training, and public information activities, and population research.

S. 2025

SOCIAL SECURITY COST-OF-LIVING INCREASE

Mr. EAGLETON. Mr. President, I am pleased to cosponsor the bill, S. 2025, introduced yesterday by the Senator from Connecticut (Mr. RIBICOFF) which would authorize a cost-of-living increase for social security beneficiaries in January 1974.

Under the law passed by Congress last year, annual cost-of-living benefit adjustments are authorized whenever the Consumer Price Index has risen by at least 3 percent during the preceding year. However, this law delays the first such increase until January 1975.

In view of recent increases in the cost of living, I do not believe we should expect social security recipients who live on fixed and, more often than not, inadequate incomes to wait until January 1975 for a benefit adjustment.

Since the beginning of this year, the Consumer Price Index has risen at an annual rate of 9.2 percent. And leading the price increases have been two items which take the largest shares of the budget of the average elderly person—food and shelter.

If we do not take action to amend this law, not only will the elderly have to wait until January 1975 for an increase, but that increase will not even cover the dramatic price increases that have occurred during the first half of this year.

Mr. President, I strongly support the legislation introduced by the Senator

from Connecticut, and I urge that it be added as an amendment to the debt ceiling bill which will be before the Senate next week.

DESIGNATION OF DATE FOR FEDERAL ELECTIONS—AMENDMENTS

AMENDMENT NO. 246

(Ordered to be printed, and to lie on the table.)

Mr. COOK. Mr. President, very shortly we will consider S. 343, a bill introduced by my colleague, Senator ROBERT C. BYRD of West Virginia. This bill, as amended, proposes to designate the first Tuesday in October as election day. In addition, it sets the time for the primary as that period beginning on the first Tuesday in June and ends on the first Tuesday in August with the national nominating convention to begin by the 1st of August.

While I support the intent of the bill and applaud the efforts of Senator ROBERT C. BYRD, I do not believe that it goes far enough toward the ultimate goal of condensing the total time now being required for the election process.

Accordingly, I send to the desk and ask to have printed an amendment to S. 343 which would condense the time allowed for Federal campaigns and elections by an additional month by requiring that no primary be held prior to July, instead of June as now proposed in the existing bill.

LAND USE POLICY AND PLANNING ASSISTANCE ACT OF 1973—AMENDMENT

AMENDMENT NO. 247

(Ordered to be printed, and to lie on the table.)

Mr. HELMS. Mr. President, today I am submitting an amendment which in my judgment may prevent the Senate from making a mistake which we may later greatly regret.

Mr. President, with all respect for my distinguished colleagues who are persuaded absolutely that this bill is an excellent one, I must observe that scarcely ever have I heard so much confusion about the intent of legislation, the definition of words, the meaning of phrases and the applicability of provisions.

I feel, Mr. President, that if we could read the minds of Senators who, during the past few days, have voted on countless amendments which I have heard them confess that they did not really understand, we would have to admit in all charity that the Senate is not fully aware of the implications of this bill.

I do not criticize the distinguished Senator from Washington. I admire him. He is my friend. I do not question his sincerity.

But, aside from my own conviction that this is a very bad piece of legislation in terms of further centralizing awesome power in Washington in the coming years, I feel there is enough doubt about this bill to warrant the Senate at least to proceed cautiously, on a year-to-year basis, so that we can be surefooted in doing whatever it is that we intend to do.

Moreover, there is my conviction that in this time of great inflation and economic crisis, we should not be commiting the Federal Government to further built-in costs. Just this morning, Secretary Shultz complained in testimony before the Senate Finance Committee that 75 percent of the Federal budget is, as he described it, "uncontrollable," precisely because this Congress and present and previous administrations have committed the taxpayers to supply funds for programs years in advance.

My amendment simply reduces authorizations for 1 year, and further would require the Department of the Interior to administer the program out of its existing general administrative budget.

If we are really serious about this business of bringing Federal spending under control, this amendment offers a step in that direction.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 227 TO S. 925

Mr. McGOVERN. Mr. President, I have an amendment at the desk (No. 227) that I intend to offer either on this bill (S. 268) or the Federal financing bank bill (S. 925) which would require the President to give Congress 15 days' notice of any proposed change under the Economic Stabilization Act. I think possibly we may wait for a more appropriate bill on which to call up this amendment than either the pending bill or the Federal financing bank bill, but I ask unanimous consent to add the following cosponsors to the amendment in addition to the distinguished majority leader (Mr. MANSFIELD): Senators GRAVEL, HUGHES, KENNEDY, HUMPHREY, ABOUREZK, and NELSON.

I ask unanimous consent that their names may be added as cosponsors at the next printing of the amendment.

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

NOTICE OF HEARINGS ON S. 707 AND S. 1160

Mr. RIBICOFF. Mr. President, the Subcommittee on Reorganization, Research, and International Organizations of the Committee on Government Operations and the Consumer Subcommittee of the Commerce Committee will hold a hearing on S. 707 and S. 1160 on Thursday, June 28, 1973, in room 3302 of the Dirksen Building. The hearing will begin at 9:30 am.

NOTICE OF HEARINGS ON BUREAU OF INDIAN AFFAIRS

Mr. JACKSON. Mr. President, I wish to announce to the Senate that the Subcommittee on Indian Affairs will conduct an oversight hearing on a proposal for the organization of the central office of the Bureau of Indian Affairs.

Because the proposed reorganization has been the subject of concern among many tribal leaders and rank-and-file tribal members, the subcommittee desires to have departmental and Bureau officials discuss the background leading to the reorganization, the reorganization itself, and how this reorganization will improve the social and economic condition of Indian people residing on Indian reservations and in Indian communities.

The subcommittee will hear only departmental witnesses at this time and, if circumstances warrant, a later hearing may be held to take testimony from the Indian people on the proposed reorganization.

The hearing will commence at 9 a.m. on June 25 and will be held in room 3310, Dirksen Senate Office Building.

ADDITIONAL STATEMENTS

IMPORTATION OF STRATEGIC MATERIALS FROM RHODESIA

Mr. ALLEN. Mr. President, the Lynchburg, Va., News of June 18, 1973, contained an excellent editorial commending the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) for his efforts in authorizing and pressing to passage legislation to authorize importation of strategic materials from a non-Communist nation—Rhodesia—if such materials are being imported from a Communist nation. It also commended the distinguished Senator for his devastating answer to criticism of his actions and of the action of the Congress by Mr. John Scali, U.S. Ambassador to the U.N. I ask unanimous consent that a copy of this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WITH KINDNESS

Senator Harry F. Byrd Jr. typifies the traditional Virginia gentleman—courteous, courageous, cool. If the occasion demands, the kind that can cut you to ribbons. Last week came such an occasion . . .

Senator Byrd arose on the floor of the Senate to call attention to a remark by John Scali, U.S. Ambassador to the United Nations, that the United States was in "open violation of international law" in importing chrome and nickel from Rhodesia.

Scali explained that the U.N. Security Council resolution of 1966 ordering an economic boycott of Rhodesia was "legally binding on the United States."

Mr. Scali, commented Senator Byrd, perhaps might be affected by the rarified atmosphere of the $33,000 per year penthouse which the taxpayers of the United States rent for him in the Waldorf Towers in New York City.

Then out came the rapier . . .

The United Nations did decree sanctions against Rhodesia, Senator Byrd noted. And Lyndon B. Johnson, as President of the United States at the time, put the sanctions into effect—without consulting the Congress. Those sanctions remain in effect today, with one exception:

The Congress adopted legislation which stated that the importation of a strategic material from a non-Communist country could not be denied if the same strategic material was being imported from a Communist country.

That legislation, Senator Byrd explained.

". . . passed the Senate of the United States. It passed the House of Representatives. It was approved by the Congress of the United States. It was signed into law by the President of the United States. There has been a court test brought by various Members of the House of Representatives, seeking to have the law nullified. The courts have upheld what the Congress of the United States did.

"So Congress, acting on a matter affecting our own national interest, and taking the steps prescribed under the Constitution, enacted legislation which is now a part of the law of our Nation."

"One would think," he continued, "that the American Ambassador to the United Nations would feel an obligation to support the laws of our Nation. One would think the Ambassador to the United Nations would have an obligation to support the duly enacted laws—enacted by Congress, signed by the President, and approved by the courts.

"But now we find him making speeches in New York, saying that the U.S. Congress acted illegally.

"Nonsense."

Having fired that volley, he then compassionately administered the coup de grace . . .

"He (Scali) says the Security Council decision is legally binding on the United States. What he is saying is that the U.S. Congress must subordinate itself to any acts taken by the Security Council of the United Nations.

"Congress did not turn over to the United Nations the right to determine what laws Congress can and cannot make.

"Yes, I think the American Ambassador to the Untied Nations should represent the people of the United States and uphold the laws of the United States while he is an Ambassador, rather than inaccurately to condemn Congress and condemn the President, who signed the bill into law."

SENATOR SAM J. ERVIN, JR.

Mr. ROBERT C. BYRD. Mr. President, Newsday's Journal of Opinion for April 22, 1973, carried an article by Edwin M. Yoder, Jr., associate editor of the Greensboro, N.C., Daily News, concerning our colleague, SAM ERVIN, which bore the title, "The Gospel According to Sam."

I ask unanimous consent that a copy of this article be printed in the body of the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE GOSPEL ACCORDING TO SAM

(By Edwin M. Yoder, Jr.)

North Carolinians have noted with amusement the recent startled discovery of their senior senator's virtues by such unlikely converts as The Progressive and Playboy magazines.

With amusement, I say, because Sam Ervin, while he hardly seems at a glance cast for the role of Nixon administration nemesis or champion of civil liberties, makes perfect sense to Tar Heels and it is fun to watch outsiders struggle to discover what that sense is.

Stewart Alsop recently wrote in Newsweek that Ervin, like the late Sen. Everett Dirksen, is "a great character actor . . . far and away the best of all the Senate's large collection of character actors . . . master of the pregnant pause, the eyebrows lifted in suspense, the jowl shaken in indignation, the droll interjection, the recondite historical or constitutional reference."

What others, especially of the liberal persuasion, view now as the greening of a southern tory—albeit a jollifying, Bible-quoting storytelling tory—Tar Heels see as the fulfillment of a destiny ordained by history, geography, training and temperament—a blend of mountain independence and cussedness, Calvinist conviction and the habit of hard work.

But an actor? Not Sam Ervin. The truth is that his stories are somewhat easier to follow in the reading than in the hearing. And in almost 20 years in the Senate, he has held only three news conferences, the third last week. For all I know of Sen. Ervin—and he is a surprisingly private figure in a state full of clubbable politicians who are on personal terms with thousands of constituents—he's as interested in marigolds as Ev Dirksen. But nothing would be more out of character than "Senator Sam," as he is affectionately known, wasting the Senate's time with oratory about flowers.

Beneath the mobile and colorful features—the shuttling eyebrows and wobbling jowls, the rapid mountain drawl—Sam Ervin is, above all, a very serous man. I suppose I've called at his office half a dozen times in recent years, and I can't recall a single time when he wasn't in a committee meeting or on the Senate floor—working.

Sam Ervin was marked to stand out in a legislative body that has more than its share of dilettantes and slackers. When he went to the Senate in 1954, the leadership immediately drafted him for the select committee then investigating Sen. Joe McCarthy, and it was Ervin's shrewd, lawyerly oratory that saw the censure resolution safely through. As a professor of mine at Chapel Hill said at the time, "They hardly knew what to do about old Joe McCarthy until Sam Ervin hung a few mountain stories on him."

Tar Heels with longer memories recall that in 1925, when North Carolina's public schools were threatened with a "monkey bill" (to bar the teaching of evolutionary theory), it was young Rep. Sam Ervin Jr. of Burke County who caged the monkey. Even the bigots had to laugh when, in a famous line, he observed: "Such a measure serves no good purpose except to absolve monkeys of their responsibility for the human race."

One thing North Carolinians also understand about Sam Ervin is that he is a Presbyterian, who, in denouncing the monkey bill, went on to say that any legislation throttling science was insulting to Christianity. If the faith needed that buttress, he declared, "then that religion cannot claim to be powerful enough to save men's souls."

It was the same Sam Ervin, still quoting his Bible, who last week rejected a White House offer to let presidential aides testify "informally" and privately to his Watergate investigative committee. The offer, he said, reminded him of the gospel story of Nicodemus—an early closet Christian—who slipped around to see Jesus "by night."

Like many southerners of his generation, Ervin was nourished on the King James Bible, and it remains a great coin of argument and moral authority. I recall that during the great civil rights bill debate of 1964, when Sen. Ervin was helping filibuster against the bill, our paper got a letter from one of the senator's cousins, an elderly and distinguished university professor. "I am writing," he announced, "to tell my kinsman Sam Ervin that he is playing the role of the Pharoah—keeping the children of Israel in bondage."

Sam Ervin's reply—it is one of his favorite biblical quotations—was: "Thou shalt not follow after a multitude to do evil." It doesn't matter, that is, how many people want something to happen—whether it is stretching the commerce clause of the Constitution to end segregation in restaurants, or stretching the Fourth Amendment to make room for "no-knock" warrants—if the action is ill-advised.

Southerners recognize in Sam Ervin, then, a mellowed strain of that flinty, doctrine-proud Calvinism borne by 18th Century Scotch-Irish settlers into the foothills of the Blue Ridge. To try to understand him without knowing something of that faith—its love of "book-learning," its facility for anecdote and tall tales, its humor and its granitic deference to bedrock principles is pointless. Or is, as Sam Ervin might put it, echoing the Bible, "a vain thing."

Yet Sam Ervin is not stickily pious—far from it. Other institutions have left their mark on him. One is the University of North Carolina at Chapel Hill, where he was graduated just before America marched off to World War I. It was then a place, liberal as southern institutions go, where a diligent young man could acquire the ornaments of humanism, skill in debate, and a sense of public responsibility—"an outpost of great Rome," as Ervin's famous contemporary Thomas Wolfe put it, "to which the wilderness crept up like a great beast."

Another institution that clearly marked him was the Harvard Law School, to which Ervin returned after a distinguished war record with the American Expeditionary Force. (Twice wounded, twice cited for gallantry, he was awarded the French Fourregere, the Silver Star and the Distinguished Service Cross.) At Harvard, where the so-called "legal realists" had not yet consolidated their revolution, Sam Ervin acquired a literalistic if sophisticated style of constitutional construction—tending occasionally to inflexibility. It is perhaps the secular counterpart of his Calvinism, with the same stern integrity of principle.

Still a third shaping institution might be mentioned: the North Carolina Supreme Court. Like most Tar Heel governing bodies, it is as plain and unpretentious as an old shoe. Sam Ervin became an associate justice there in 1948, after a term in Congress. He became known as the writer of correct, savory, witty—and dependably conservative—opinions. By reputation one of the better state tribunals, the North Carolina Supreme Court, in its homespun informality, takes lunch en bloc in public cafeteria in Raleigh, the ultimate custodians of the law waiting in line with everyone else. It's a long way from limousine liberalism.

Sam Ervin is no Bourbon. The misty uplands of Burke County, where the rolling terrain rises and tumbles toward the high mountains, is his ancestral country, a long way in mood, doctrine and history from the tidal lowlands. His neighbors and kinsmen are proud, unpretentious, independent people, with a broad streak of orneriness.

In the North Carolina political spectrum, Sam Ervin was known as an independent conservative, sent to the state supreme court by one conservative governor and to the Senate by another. In economic affairs, his loyalty lies to the business-oriented "progressive plutocracy" noted by V. O. Key Jr. as the key to political power in North Carolina. As Senate duties have multiplied, however, Ervin has participated little in election-year maneuvering, although in 1964 he persuaded his friend Dan K. Moore, another "mountain man," former state judge and corporation lawyer of the same strain, to run for governor against Gov. Terry Sanford's handpicked liberal candidate.

But Sam Ervin, conservative within the Tar Heel political spectrum, is a Democratic loyalist. He is in every election a reliable campaigner for whomever the party nominates, and last fall he was among the few prominent Democrats who openly confessed to being for George McGovern. (But the senator is rumored to have told a constituent that the choice, not a very good one, was "between stupidity and duplicity.")

With the election of Richard Nixon in 1968 came a flood of issues—the various criminal procedure bills involving preventive detention, the revelations of Pentagon spying on civilians, the Nixon attempt to revive the Subversive Activities Control Board, and now impoundment and Watergate—that offend Sen. Ervin's constitutional fundamentalism. For a senator who has stoutly backed the Vietnam war, routinely fought all civil rights bills, and argued an antilabor brief before the U.S. Supreme Court in the celebrated Deering-Millikan National Labor Relations Board case, this has seemed a strange turn.

Accordingly, there has been a quizzical note in his national press notices—as if something really freakish had happened. One

New York Times writer, two or three years ago, called him "an anachronism . . . out of the 18th Century perhaps," whose bouts with the Pentagon, the Army, the FBI and the Justice Department could be traced to his roots in Morgantown, N.C., "where one can still find people who speak Elizabethan English."

Actually, as I hope I've established, there is nothing quaint or freakish or especially new about Sam Ervin, the libertarian. A glance at his career, all the way back to the monkey bill fight, discloses an almost discomfiting consistency. Most public men begin with the politics of great issues, then work back to such slight accommodation as they can afford with principle. Sen. Ervin does the opposite, looking first to principle, then making some allowance (usually modest) for politics. His special quality has, I think, been best summed up by a former constituent, Tom Wicker of the New York Times:

"A certain kind of old-fashioned conservatism still has its exponents in America, still makes its case fundamentally against unbridled power, still believes that in the end it is the individual—not society and not any group—that is the basic unit of value.

"Judge Ervin's kind of conservatism may have been reluctant to place black men's rights on a par with those of whites, but it is not the kind of conservatism that holds cheap the rights themselves . . . It is a conservatism most wary of eroding principle in the cause of preserving principle."

THE ENERGY CRISIS—COAL CONVERSION

Mr. SCHWEIKER. Mr. President, there soon may come a day when we will no longer be able to take for granted the simple acts of switching on an electric light, turning up the heat, or saying "Fill 'er up" to the gas station attendant. As a matter of fact, the fuel shortage already has caused some gas stations to close, while other have been forced to set a limit of 10 gallons per customer.

The Senate responded to this crisis recently by voting to require equitable allocation of oil and gas resources—an initiative I strongly support. Undoubtedly, in months to come we will seek solutions to our long-range energy needs, and it is on this subject that I would like to speak today.

Mr. President, petroleum and natural gas represent 10 percent of our Nation's known energy reserves. We are currently importing one-third of our oil requirements, and if we continue at projected rates, we will be importing over 50 percent of our oil requirements by 1985. This will result in a balance-of-payments deficit of approximately $30 billion annually—attributable to oil imports alone. The effect of such a deficit on our economy would be staggering.

By way of contrast, our coal represents nearly 80 percent of the United States known energy reserves and nearly 50 percent of the world's coal reserves. It is estimated that this supply will last approximately 500 years, as compared to approximately 30 years for petroleum.

My point is this: We have within the continental boundaries of the United States a single source of energy capable of solving the energy crisis. That source of energy is coal.

To those who think of coal only in terms of the coal bin and the smokestack billowing sulfur, I would say simply that coal has moved out of the 19th century. Through modern technology we are rapidly approaching the day when coal will be converted into "clean" and economical fuels.

Two of the most promising methods of conversion are coal gasification and liquefaction, the conversion of coal into natural gas and fuel oil. Earlier this year I visited the site of the future coal gasification plant at Bruceton, Pa., outside Pittsburgh. When completed, the Bruceton plant will convert 75 tons of coal per day into 300,000 cubic feet of pipeline gas. With adequate research, this process can be feasible for commercial production within a few years—at a cost competitive with all sources of energy on the market today.

The conversion of coal into nonpolluting fuel oil low in sulfur and ash content is another process which is progressing rapidly. The liquefaction technique would enable coal, currently prohibited from use in electric power plants because of air quality standards, to be used for utility fuels. This is particularly critical when you consider that in 1968 coal was the source of energy for 50 percent of the electricity generated in the United States.

Still another technique being explored is low-Btu gasification of underground coal beds, which could be used as a source for local energy needs.

Mr. President, the proposed budget for fiscal year 1974 requests an increase of only $8 million for coal research. This seems to me a tragic lack of foresight. With adequate research, coal gasification and liquefaction may provide a solution to the energy crisis within a very few years. Coal is a guaranteed domestic source of energy for at least three centuries. It would be a disservice to future generations to fund anything less than a full-scale coal research program at this time.

Accordingly, the Senator from Illinois (Mr. STEVENSON) and I intend to introduce an amendment to the Interior Department appropriations bill to increase the appropriation for the Office of Coal Research from $51.3 million to $103 million for fiscal year 1974. It is my hope that with favorable action on this measure, and intense research and development of coal conversion techniques, we can use our largest domestic energy source to turn the tide in the energy crisis.

"DISSENT ON DEVELOPMENT"—A SCHOLARLY BOOK OF GREAT POLITICAL AND ECONOMIC VALUE

Mr. PROXMIRE. Mr. President, in today's Wall Street Journal, Mr. Edwin McDowell reviews a book entitled "Dissent on Development" by P. T. Bauer. The reviewer refers to it as an "extraordinary work" and "a scholarly book of great political and economic value."

P. T. Bauer is a professor at the London School of Economics and a fellow at Gonville and Caius College at Cambridge, England. He has the highest qualifications and his work is noteworthy.

FOREIGN AID ASSUMPTIONS CHALLENGED

In it he challenges the assumptions behind foreign aid and development aid. And he does so in a rigorous and intelligent way.

He believes that the flow of aid has inhibited the material progress of many recipient nations. He questions the "big project" aid program. He rejects the "cycle of poverty" theory. And he questions most of the basic assumptions upon which the present development aid programs are based.

Mr. President, it is refreshing indeed to get a constructive and intelligent analysis of development aid. So much of what has been written of the aid programs in the past has either been from xenophobic isolationists who saw nothing good in the programs or uncritical intellectuals who felt constrained to justify the programs no matter how bad they were. It is very gratifying to have this respectable and academic criticism from a highly qualified source.

For 2 years I chaired the Senate Appropriations Subcommittee which provided the funds for much of our foreign aid programs. As a result of that experience where I was required to study the programs in depth, I came to certain conclusions.

WHAT IS WRONG WITH FOREIGN AID

Far too much of the aid was military aid handled by the military departments and whose effects were to produce more mischief than any good which could come from it.

Most of the economic aid was what I call "big project" aid—dams, steel mills, powerplants, irrigation projects, public works, and the like. In my view these were of marginal value. They did more for the huge economic interests at home than for the poor abroad. The big banks, the earthmoving companies, the cement and steel interests, and the shipping interests were the ones who gained.

The initial proposals of President Truman for technical aid to help others help themselves and aid which was mainly aimed at feeding, clothing, housing, and educating those in the underdeveloped countries, has been corrupted by the big project programs. Almost none of the money goes for education and housing, for example. I recall most vividly one of our hearings when Mr. Hannah, the Administrator of AID, made a passionate plea for foreign aid on grounds that it helped to educate those abroad. He was left highly embarrassed when we asked, at the end of his plea, how much of our aid went for education purposes, and when he had to admit that it was only a tiny fraction of the total.

The fact is that the public works and the highway lobbies have followed this program to the ends of the earth.

LIMIT AID

For my own part I would support a limited program of technical assistance with the strong emphasis on education and training, and largely administered by the multinational organizations. But the rest of it—the military aid and the big project development aid—should be stopped. I believe it to be true that the funds are provided largely by those of

low or moderate incomes here and go to the wealthy both at home and abroad.

In the past these views have been pooh-poohed by the international community. But Mr. Bauer has written a book in which those views are largely supported by intelligent and rigorous analysis.

I ask unanimous consent that the review of his book by Mr. Edwin McDowell be printed in the RECORD.

There being no objection, the review was ordered to be printed in the RECORD, as follows:

AN ICONOCLAST LOOKS AT FOREIGN AID

(By Edwin McDowell)

For a policy that was conceived with the best of intentions and is still cited as a rare example of international virtue, aid to underdeveloped countries has drawn increasing criticism across a broad ideological spectrum.

Conservatives claim that foreign aid insulates too many governments from the consequences of their collectivist economic folly, liberals say it is used to prop up military dictatorships, and both complain it is a process whereby poor people in rich countries help rich people in poor countries.

Such disillusionment is increasingly expressed even in publications that formerly defended the aid program against any hint of criticism. Nevertheless, books defending or lauding foreign assistance programs still receive wide favorable publicity while those that are critical are virtually ignored, particularly if they criticize not just specific aid projects but the philosophic assumptions of the entire aid program.

One of the most important such books is P. T. Bauer's "Dissent on Development," a scholarly challenge to the dominant view that government-to-government grants and soft loans are indispensible to the economic progress of poor countries.

The British edition of the book received a glowing review in Encounter from Harry G. Johnson, professor of economics at the University of Chicago and the London School of Economics. Yet, while it has been out for some months now in this country, under the imprimatur of a distinguished academic publisher, the book has passed virtually without comment. Which is regrettable, since it could have profound impact on our thinking about the entire development question.

The author, professor at the London School of Economics and a Fellow at Gonville and Caius College, Cambridge, suggests that the flow of aid actually has inhibited the material progress of many recipient nations.

For one thing, it has enabled them to persist in or adopt any number of unwise political and economic policies that discourage capital formation from within their own borders and from foreign investors. It has enabled governments to indulge racist and xenophobic impulses by expelling ethnic minorities whose enterprise and hard work introduced attitudes of thrift and savings necessary for a money economy.

And soft loans and grants have obviated the necessity to seek commercial loans that, instead of being wasted on such monuments to national vanity as steel mills, unprofitable state airlines and heavy construction projects, would have been geared more closely to agriculture and to regional and national market conditions. "When resources are received from abroad for nothing, the valuable process of generating them is lost," the author writes. "When resources are both generated and then used locally the personal qualities and attitudes, social institutions and economic opportunities required for their employment are encouraged to develop simultaneously."

REJECTING A THEORY

The author rejects the "cycle of poverty" theory that holds that poor countries are locked into an existence of poverty and stagnation. If this thesis were valid, he notes, innumerable individuals, groups and communities could not have risen from poverty to riches as they have done throughout the world.

As it is, all developed countries started off poor, with low per capita incomes and low levels of accumulated capital, yet they advanced usually without appreciable outside capital and invariably without external grants. Most recently, Hong Kong, an overcrowded Crown Colony with few raw materials, little fertile soil, no fuel or hydroelectric power and a restricted domestic market, has displayed phenomenal progress in only a short time.

There is no single reason why some nations or large groups within nations are poor, anymore than there is any one reason why formerly penniless immigrants and their sons who received no financial or political favors are now the richest people in Southeast Asia (Chinese), East Africa (Indians) and West Africa (Lebanese).

The reasons are largely attributable to different attitudes and aptitudes, to social and political institutions, to historical experience. The fact that material backwardness is heavily concentrated in climatic extremes, especially in the tropics, even suggests a connection between material progress and climate.

Therefore, to suggest that poverty as such acts as the principal obstacle to material progress diverts attention from the underlying determinants of development. And to suggest that a Marshall-like plan can do for the underdeveloped world what it did for the economies of Western Europe is to confuse the problem of restoring economies among people who for centuries before the war had the faculties, motivations and institutions favorable to development, with developing economies where those necessary preconditions are largely nonexistent.

Professor Bauer's arguments are obviously at odds with the widespread belief that good will and sufficient resources can narrow and perhaps close the gap said to exist in per capita incomes between rich and poor countries.

To compound the heresy, he doubts whether such a gap can be measured in any meaningful way—that is, by reflecting broadly similar social and physical living conditions of diverse populations. For one thing, he says, providing several convincing examples, statistics upon which such arguments are based are extremely unreliable, sometimes subject to errors of several hundred percent. Even if they were accurate, however, at best they would only reflect "the contemporary belief that virtually all aspects of personal and social life can be meaningfully reduced to simple quantitative expressions intelligible to all."

Having said that, he reminds readers there is no signicant difference between the per capita income of the poorest developed country and the richest underdeveloped country. He points out that some undeveloped oil states of the Middle East have per capita incomes among the highest in the world, which suggests the difference attitudes and development history make even for opulent populations who would attempt to emulate the material conditions and modes of Western-type societies.

Talk of a widening gap is one of those expressions which appear to be descriptive (positive) statements but are actually prescriptive (normative) utterances, the author says. It appears to describe situations, but is actually designed to urge courses of action in the West by promoting a sense of urgency and mounting danger atop feelings of guilt.

Guilt is rarely mentioned in conventional development economics discussions, but Professor Bauer claims that it is an important element, particularly for promoting the unfounded idea that the West is somehow responsible for the poverty of the underdeveloped world. Actually, Western prosperity was generated by its own population, he says, not achieved at anyone's exepense. Those countries were already materially much more advanced than the underdeveloped countries when they established contact with the latter in the 18th and 19th Centuries. Even now many developed countries, including some of the richest, have few economic contacts with the underdeveloped world.

Moreover, some of the richest Western countries were colonies in their earlier history, notably the U.S., Canada, Australia and New Zealand, and some were already prosperous while they were still colonies. This certainly does not prove that colonialism is a necessary or admirable precondition of material progress, he says, but, along with the contemporary experience of Hong Kong, it tends to refute the assumption (enunciated as a general principle by the U.N. Conference on Trade and Development) that colonial status and economic progress are incompatible.

Nevertheless, belief that Western economic gains were achieved at the expense of the undeveloped world has led donors to favor economic development assistance as a form of partial restitution and has led recipients to view it as an admission of Western guilt. In part that accounts for what the author describes as the "economics of resentment," the anomaly of donor countries beseeching poor nations not to refuse their aid, combined with recipient governments showing their thanks by pursuing policies hostile to donors.

A RIGOROUS CRITIQUE

The book is comprised largely of essays that appeared originally in numerous scholarly journals, but here they have been expanded and in some cases rewritten. Central to many of them is the author's rigorous critique of that comprehensive central planning so often accepted as axiomatic in development literature.

Professor Bauer observes that many prominent economists do not believe central planning promotes economic progress, and he notes that it played no part in the development of any one of the now highly developed countries. While it is often assumed that planning involves conscious, rational and scientific control of economic life, in contrast to the supposedly irrational, blind and haphazard alternative, its major contribution seems to be that of concentrating power in the state. Its prime economic effect is usually to restrict the movement of resources to where they would be most productive and to inhibit establishment of new enterprises.

But more important than economic questions are the moral and social questions raised by efforts to transform man and society. "The attitudes and motivations which promote material success are not necessarily or even usually those which confer happiness, dignity, sensitivity, a capacity to love, a sense of harmony, or a reflective turn of mind," the author notes. Enforced removal of attitudes or beliefs uncongenial to material advance could result in large scale spiritual and emotional collapse.

Yet this aspect of economic development is largely subordinated to the naive assumption that peoples of underdeveloped countries are generally a homogeneous mass, much like people in developed countries except for being poorer. Professor Bauer is particularly critical of Gunnar Myrdal's sweeping prescription for transforming underdeveloped Asian countries, which seems to include extirpating ethnic or cultural identities and forcibly altering mores and conduct.

This is not only bad economics, in the author's view, but tragic social policy since, if successful, it would dehumanize society by abolishing all important differentiation and discrimination—except that between subjects and rulers.

This wide-ranging book is obviously iconoclastic, in that it directly challenges the prevailing development orthodoxy. But there isn't any doubt that what Prof. Johnson has described as "Bauer's professional integrity and concern for economic truth" have combined to produce a scholarly book of great political and economic value.

Quite simply, it is no longer possible to discuss development economics intelligently without coming to grips with the many arguments P. T. Bauer has marshalled in this extraordinary work.

A PROGRAM FOR THE 93D CONGRESS—FROM THE MEMBERS OF THE NATIONAL COUNCIL OF SENIOR CITIZENS

Mr. CHURCH. Mr. President, nearly 10,000 delegates from the National Council of Senior Citizens gathered in Washington for a highly productive 3-day legislative conference during the week of June 4.

Their basic message was not only compelling, but it was also worthy of national attention. Briefly stated, it could be summarized in the following way: Despite recent major improvements for older Americans, our Nation still has a long way to go if we are to assure them a life of dignity and self-respect.

Out of this conference emerged a comprehensive, sound legislative program which focused on immediate and long range policy considerations for the 1970's.

These proposals, it should also be pointed out, are designed to improve life for all Americans, the young as well as the old.

This point was made abundantly clear in the preface to the Congress:

The goals and specific proposals which follow here are not those which seek to serve only the interests of the elderly. We do not ask for charity. We ask only for the opportunity to contribute as best we can to a nation which we helped to build and defend.

As chairman of the Senate Committee on Aging, I am especially heartened because the National Council of Senior Citizens has endorsed several legislative proposals which I have sponsored and advanced.

Heading the list for immediate action is the outright abolition of poverty for the elderly—a goal I have long sought and have attempted to achieve. Quite clearly, a nation with a trillion-dollar economy has the capacity to eliminate this wretched condition. What is needed is a sense of commitment.

The delegates also emphasized that true economic security in retirement can never be fully achieved until we resolve the mounting health care cost problem which poses an intolerable drain upon the limited incomes of the aged. Moreover, proposals to reduce medicare coverage—as this administration has suggested—can only intensify this dilemma for millions of older Americans. For these reasons I have sponsored legislation to:

First. Put the administration on notice that the Congress opposes cutbacks in medicare coverage; and

Second. Call upon the administration to come forward with concrete proposals to improve medicare by closing gaps in coverage.

This measure, I am pleased to say, has been wholeheartedly endorsed by NCSC. And, I am hopeful that the Congress will act swiftly and decisively to approve this much needed proposal.

Another high priority item in the national council's legislative program is property tax relief for overwhelmed aged homeowners. A few months ago, Senator MAGNUSON and I introduced legislation—the Emergency Property Tax Relief Act—to shield elderly homeowners and renters from confiscatory property taxes and rents. This measure has been enthusiastically supported by NCSC:

The National Council of Senior Citizens urges Congress to adopt legislation similar to the Church-Magnuson bill, providing Federal funds to compensate local taxing authorities for reduced revenues where taxes on homes or apartments occupied by low-income individuals and families are reduced.

Mr. President, the National Council of Senior Citizens has presented an excellent blueprint for action for the 93d Congress. Their recommendations, it seems to me, should be must reading for every Member in Congress. And, I strongly urge that the appropriate standing committees begin early consideration of their proposals.

JUSTICE FOR ANDREI AMALRIK

Mr. McGOVERN. Mr. President, I am sure we all want to do everything we can to encourage President Nixon and General Secretary Brezhnev toward fruitful negotiations and to foster the spirit of détente. I have joined with other members of the Foreign Relations Committee in welcoming the General Secretary to the United States and in expressing the hope that these discussions will help move toward a resolution of the remaining deep and dangerous divisions between our two countries.

Yet, while these great issues are being discussed, this is also an appropriate time to remind ourselves of the grave human concerns all free men must feel about the conditions which face many individual Soviet citizens.

Many of us have raised with Mr. Brezhnev the evidence that, despite recent adjustments in emigration taxes, Soviet Jews who wish to leave that country are still harassed and persecuted, in defiance of internationally accepted emigration practices. We know that tens of thousands of Soviet Jews are denied both the right to practice their religion in the Soviet Union and to leave that country in search of religious and cultural freedom. These are practices a land dedicated to human liberty can neither understand nor accept.

Our sense of justice is especially offended by the persecution of those who seek to exercise the freedom of expression. Consider just one case among many.

Andrei Amalrik is a Moscow writer. He has completed 3 years in a prison camp at hard labor, and he is in ill health. But, despite the completion of his term, imposed because of his writings, he is still confined. The Soviet Government announced that they have discovered other charges against him, and that he will be tried again. I understand that two American universities, Harvard and George Washington, have invited Andrei Amalrik to lecture beginning this fall. Instead, it appears that he will be imprisoned by a government which does not want him but will not permit him to leave.

This case involves the liberty of one man, yet we know that it is a common occurrence, and that it raises fundamental issues of human decency and individual rights which should know no national boundaries.

I earnestly hope that issues of this kind will also receive serious attention in meetings between General Secretary Brezhnev and President Nixon.

Mr. President, I ask unanimous consent that an appeal on behalf of Andrei Amalrik by a number of prominent American writers and publishers be inserted in the RECORD.

There being no objection, the appeal was ordered to be printed in the RECORD, as follows:

DECLARATION BY THE COMMITTEE IN DEFENSE OF ANDREI AMALRIK

We are writers and publishers who are deeply concerned that the Moscow writer, Andrei Amalrik, has not been freed from prison camp at the conclusion of a harsh term. We now establish the Committee in Defense of Andrei Amalrik for the purpose of appealing to the government of the U.S.S.R. for clemency.

Andrei Amalrik has been punished for openly expressing his thoughts; he has suffered impaired health; and he now faces a new and arbitrary indictment. We urge that the responsible authorities act to effect his prompt liberation and the restoration of his rights under law, including the right to expression and, should he so desire, to travel abroad.

We esteem Andrei Amalrik. We ask that clemency be shown toward him in the spirit of improving relations between the U.S.S.R. and the U.S.A.

Authors: Henry Carlisle, John Hersey, Arthur Miller, Harrison Salisbury, John Updike, and Robert Penn Warren.

Publishers: Robert L. Bernstein President, Random House, Inc., Simon Michael Bessie, President, Atheneum Publishers, William Jovanovich, Chairman, Harcourt Brace Jovanovich, Inc., Winthrop Knowlton, President, Harper & Row, Publishers, and W. Bradford Wiley, Chairman, John Wiley & Sons, Inc.

THE EQUAL RIGHTS AMENDMENT

Mr. BAYH. Mr. President, on March 22, 1972, excerpts from the report of the Committee on the Judiciary on the Equal Rights Amendment, including a list of 53 groups supporting the amendment, were printed in the RECORD at my request. Included in that list was the Ladies Auxiliary of the Veterans of Foreign Wars. Recently I have received a letter from the VFW which states that—

Our Ladies Auxiliary has no current position nor has ever taken a position in the past regarding the Equal Rights Amendment.

After staff investigation, it appears that there is no documentary record supporting the information, presented to the Subcommittee on Constitutional Amendments last year, that the Ladies Auxiliary to the VFW has an official position with respect to the amendment.

Accordingly I wish to announce that I am now informed that neither the VFW nor the Ladies Auxiliary has an official position, either for or against, with respect to the equal rights amendment. I regret the misunderstanding which lead to the inclusion of the auxiliary in the list printed in the RECORD last year.

UNDERSTANDING THE MEANING OF GENOCIDE

Mr. PROXMIRE. Mr. President, I believe that opposition to the ratification of the Genocide Convention stems partially from a misunderstanding of what is meant by the term "genocide." As stated in article II of the treaty:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group;

(e) Forcibly transferring children of the group to another group.

Two of the phrases in the previous passage require clarification. The words "in whole or in part" are to be construed as meaning a substantial part of the group concerned. The phrase "mental harm" means the permanent impairment of mental faculties.

INTENT IS THE KEY

But perhaps the most crucial word in article II is "intent." In order for a charge of genocide to be legitimate or valid, the requirement of intent must be met. In other words, it must be shown that the person(s) being charged with genocide intended to destroy an entire group simply because it was a specific ethnical, national, racial, or religious group. Using this criterion, such actions as school busing, birth control clinics, and the killings at Mylai cannot be considered genocidal acts unless there is proof that these acts were indeed perpetrated with the intent of destroying the respective group as a group. Furthermore, it is not necessary that an entire group be destroyed but rather, as the then Deputy Under Secretary of State Dean Rusk testified in 1950:

That genocide meant the partial destruction of such a group with the intent to destroy the entire group concerned.

Once the meaning of the term "genocide" is understood, an important barrier to the treaty's ratification has been overcome. Lack of action by the United States on the Genocide Convention has been a blot on an otherwise admirable record of achievements in the area of human rights. A belated ratification is far superior to no ratification at all.

SELECT COMMITTEE ON PRESIDENTIAL CAMPAIGN ACTIVITIES

Mr. ERVIN. Mr. President, I ask unanimous consent that a copy of the statement I made at the opening of the hearings by the Senate Select Committee on Presidential Campaign Activities on May 17, 1973, be printed in the body of the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

OPENING STATEMENT BY SENATOR SAM J. ERVIN, JR., CHAIRMAN, SELECT COMMITTEE ON PRESIDENTIAL CAMPAIGN ACTIVITIES, MAY 17, 1973

Today the Select Committee on Presidential Campaign Activities begins hearings into the extent to which illegal, improper or unethical activities were involved in the 1972 presidential election campaign.

S. Res. 60 which established the Select Committee was adopted unanimously by the Senate on February 7, 1973. Under its provisions every member of the Senate joined in giving the Committee a broad mandate to investigate, as fully as possible, all the ramifications of the Watergate break-in which occurred on Saturday, June 17, 1972. Under the terms of the authorizing resolution, the Committee must complete its study and render its report on or before February 28, 1974. Of necessity, that report will reflect the considered judgment of the Committee on whatever new legislation is needed to help safeguard the electoral process through which the President of the United States is chosen.

We are beginning these hearings today in an atmosphere of the utmost gravity, the questions that have been raised in the wake of the June 17 break-in strike at the very undergirding of our democracy. If the many allegations made to this date are true, then the burglars who broke into the headquarters of the Democratic National Committee at the Watergate were in effect breaking into the home of every citizen of the United States. And if these allegations prove to be true what they were seeking to steal was not the jewels, money or other property of American citizens, but something much more valuable—their most precious heritage, the right to vote in a free election. Since that day, a mood of incredulity has prevailed among our populace, and it is the constitutional duty of this Committee to act expeditiously to allay the fears being expressed by the citizenry, and to establish the factual bases upon which these fears have been founded.

The first phase of the Committee's investigation will probe the planning and execution of the wiretapping and break-in of the Democratic National Committee's headquarters at the Watergate complex, and the alleged cover-up that followed. Subsequent phases will focus on allegations of campaign espionage and subversion and allegations of extensive violations of campaign financing laws. The clear mandate of the unanimous Senate Resolution provides for a bipartisan investigation of every phase of political espionage and illegal fund-raising. Thus it is clear that we have the full responsibility to recommend any remedial legislation necessary.

In pursuing its task, it is clear that the Committee will be dealing with the workings of the democratic process under which we operate in a nation that still is the last, best hope of mankind in his eternal struggle to govern himself decently and effectively.

We will be concerned with the integrity of a governmental system designed by men who understood the lessons of the past and who, accordingly, established a framework of separated governmental powers in order to prevent any one branch of the government from becoming dominant over the others. The founding fathers, having participated in the struggle against arbitrary power, comprehended some eternal truths respecting men and government. They knew that those who are entrusted with power are susceptible to the disease of tyrants, which George Washington rightly described as "love of power and the proneness to abuse it." For that reason, they realized that the power of public officers should be defined by laws which they, as well as the people, are obligated to obey, a truth enunciated by Daniel Webster when he said that "Whatever government is not a government of laws is a despotism, let it be called what it may."

To the end of ensuring a society governed by laws, these men embodied in our Constitution the enduring principles in which they so firmly believed, establishing a legislature to make all laws, an executive to carry them out, and a judicial system to interpret them. Recently, we have been faced with massive challenges to the historical framework created in 1787, with the most recent fears having been focused upon assertions by administration of both parties of executive power over the Congress—for example, in the impoundment of appropriated funds and the abuse of executive privilege. Those challenges, however, can and are being dealt with by the working of the system itself—i.e., through the enactment of powerful statutes by the Congress, and the rendering of decisions by the courts upholding the lawmaking power of the Congress.

In dealing with the challenges posed by the multitudinous allegations arising out of the Watergate affair, however, the Select Committee has a task much more difficult and complex than dealing with intrusions of one branch of the government upon the powers of the others. It must probe into assertions that the very system itself has been subverted and its foundations shaken.

To safeguard the structural scheme of our governmental system, the founding fathers provided for an electoral process by which the elected officials of this nation should be chosen. The Constitution, later-adopted amendments, and more specifically, statutory law, provide that the electoral processes shall be conducted by the people, outside the confines of the formal branches of the government, and through a political process that must operate under the strictures of law and ethical guidelines, but independent of the overwhelming power of the government itself. Only then can we be sure that each election truly reflects the will of the people, and that the electoral process cannot be made to serve as the mere handmaiden of a particular administraton in power.

If the allegations that have been made in the wake of the Watergate affair are substantiated, there has been a very serious subversion of the integrity of the electoral process, and the Committee will be obliged to consider the manner in which such a subversion affects the continued existence of this nation as a representative democracy, and how, if we are to survive, such subversions may be prevented in the future.

It has been asserted that the 1972 campaign was influenced by a wide variety of illegal or unethical activities, including the widespread wiretapping of the telephones, political headquarters, and even the residences of candidates and their campaign staffs and of members of the press; by the publication of forged documents designed to defame certain candidates or enhance others through fraudulent means; the infiltration and disruption of opponents' political organizations and gathering; the raising and handling of campaign contributions through means designed to circumvent, either in letter or in spirit, the provisions of campaign disclosure acts; and even the acceptance of campaign contributions based

upon promises of illegal interference in governmental processes on behalf of the contributors. Finally, and perhaps most disturbingly, it has been alleged that, following the Watergate break-in, there has been a massive attempt to cover up all the improper activities, extending even so far as to pay off potential witnesses and in particular, the seven defendants in the Watergate trial in exchange for their promise to remain silent—activities which, if true, represent interference in the integrity of the prosecutorial and judicial processes of this nation. Moreover, there has been evidence of the use of governmental instrumentalities in efforts to exercise political surveillance over candidates in the 1972 campaign.

Let me emphasize at the outset that our judicial process thus far has convicted only the seven persons accused of burglarizing and wiretapping the Democratic National Committee Headquarters at the Watergate complex on June 17. The hearings which we initiate today are not designed to intensify or reiterate unfounded accusations or to poison further the political climate of our nation. On the contrary, it is my conviction and that of the other Committee members that the accusations that have been leveled and the evidence of wrong doing that has surfaced has cast a black cloud of distrust over our entire society. Our citizens do not know whom to believe, and many of them have concluded that all the processes of government have become so compromised that honest governance has been rendered impossible.

We believe that the health, if not the survival of our social structure and of our form of government requires the most candid and public investigation of all the evidence and of all the accusations that have been levelled at any persons, at whatever level, who were engaged in the 1972 campaign. My colleagues on the Committee and I are determined to uncover all the relevant facts surrounding these matters, and to spare no one, whatever his station in life may be, in our efforts to accomplish that goal. At the same time, I want to emphasize that the purpose of these hearings is not prosecutorial or judicial, but rather investigative and informative.

No one is more cognizant than I of the separation of powers issues that hover over these hearings. The Committee is fully aware of the on-going grand jury proceedings that are taking place in several areas of the country, and of the fact that criminal indictments have been returned already by one of these grand juries. Like all Americans, the members of this Committee are vitally interested in seeing that the judicial processes operate effectively and fairly, and without interference from any other branch of government. The investigation of this Select Committee was born of crisis, unabated as of this very time, the crisis of a mounting loss of confidence by American citizens in the integrity of our electoral process which is the bedrock of our democracy. The American people are looking to this Committee, as the representative of all the Congress, for enlightment and guidance regarding the details of the allegations regarding the subversion of our electoral and political processes. As the elected representatives of the people, we would be derelict in our duty to them if we failed to pursue our mission expeditiously, fully, and with the utmost fairness. The aim of the Committee is to provide full and open public testimony in order that the nation can proceed toward the healing of the wounds that now afflict the body politic. It is that aim that we are here to pursue today, within the terms of the mandate imposed upon us by our colleagues and in full compliance with all applicable rules of law. The nation and history itself are watching us. We cannot fail our mission.

WILL THE UNITED STATES FALL LIKE ROME?

Mr. JACKSON. Mr. President, I would like to call the attention of my colleagues to two letters by Phelps Phelps, former Ambassador to the Dominican Republic and former Governor of American Samoa. These letters were published in the "Letters from the People Column" in the Youngstown, Ohio, Vindicator on April 18 and 19, 1973.

I ask unanimous consent that these two letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WILL UNITED STATES FALL LIKE ROME?

Editor of The Vindicator, Sir:

Since President Nixon's recent radio and TV address we heard protests and experienced a boycott because of the unsatisfactory proposal to contain meat prices at their highest level in March this year. But little has been said about the presidential remarks concerning confidence in the strength and progress of our country. After commending our strength, he said, "The pages of history are strewn with the wreckage of nations which fell by the wayside at the height of their strength and wealth, because their people became weak, soft, and self-indulgent and lost the character and the spirit which has led to their greatness."

How true that is and how well it applies to our own country today whose very fiber is being erroded by our failure to win the Southeast Asian War, by the wide use of psychedelic drugs in the armed forces and among youth here, by the spread of alcoholism, by family disruptions without regard to the effects on the children, by the undisciplined youth, by the increase in pornographic books, films, and even degrading language used in stage plays and movies, as well as the spread of crimes which cause people to double-latch their door and fear to open them, also fear to go out at night and fear of being robbed or mugged.

BROUGHT ON CRISIS

If these aren't the factors which lead a country to ruin, if these aren't the factors which weaken the character and spirit of a nation, I do not know what else they can be. And on top of all this our economy has been weakened by our waiting so long to rectify our balance of payments, which has been deteriorating for over 15 years, and finally brought on the current financial crisis throughout the world, about which we do not yet know the extent until nations get together and decide on a parity of all currencies, and we institute a more stable economic system.

Yes, it is true this country like other powerful ones before it is now experiencing the factors which drive a strong nation by the wayside, just as Spain, Rome, and others before. What is the President doing about that?

PHELPS PHELPS.

PICKING THEIR POCKETS—HITS NIXON CUTS IN VETERAN AID

Editor of the Vindicator, Sir:

Can we consider a friend of the Vietnam veterans the bureaucrat who uses his voice to praise the POW's while his hands pick their pockets?

The veteran's health care expansion bill and the national cemeteries Bill were passed in 1972, but President Nixon vetoed them on Oct. 27. These were reintroduced and passed in this session of Congress. Passed also was the drug treatment and rehabilitation bill.

However, the Office of Management and Budget impounded money for new hospitals and 8 new medical schools to be located in VA hospitals until the health expansion bill is resolved. For the OMB prefers to effectuate the absorption of the VA hospital system and make it a welfare plan under HEW. To eliminate from the budget the proposed $6 million for medical research when $5 million is needed to cover price rises and salary increases to maintain the present level of research, should not be allowed. These and other cuts are sponsored by antivet elements whom the President placed in office. But vet benefits are war costs not welfare. And the VA hospital system is a model of efficiency. It has raised the number of practicing physicians in the nation, and its standards are what vets deserve.

There is talk also of reducing pensions to house and feed incapacitated veterans at a time when prices are rising. And to effect a saving of $160 million by cutting disability payments to one-third what was allowed for the loss of a limb after WW II or Korea, is unfair. The VA succeeded in delaying the latter cut, but it is not rescinded. It is "under further consideration."

Even educational benefits are down. The current GI Bill is but one-quarter the education the fathers of these vets got after World War II. And after returning to school they find their payments often ensnarled in red tape for weeks or months. By cutting customary GI aid, the President and his OMB are undermining the morale of our present and future armed forces. These vets served under the most difficult circumstances ever known to mankind. They fought a bloody, filthy war, known in the United States as no war, and one in which our men were not properly supported by the government or the people. Don't the vets deserve a fair deal now? Write your congressmen if you agree.

PHELPS PHELPS.

CATEGORIZATION OF EMERGENCY MEDICAL FACILITIES IN LOS ANGELES COUNTY

Mr. CRANSTON. Mr. President, recently the Los Angeles Times carried an article describing several incidents where a seriously injured individual was unable to receive emergency treatment at a neighborhood hospital because that hospital was not equipped to provide 24-hour emergency services.

Occurrences such as this may cause far more than substantial inconvenience. They hold a potential for tragic consequences. In an effort to lessen the chances of such occurrences, the Hospital Council of Southern California, has classified all hospitals in the area as to its emergency capabilities, and has broadly disseminated this information throughout the community. I am particularly pleased to note that this information is being disseminated in both English and Spanish, the latter being a major language in the Los Angeles and other areas of California.

The categorization of hospital facilities and broad public information programs to enable the resident of a community to know how to get emergency treatment immediately are two elements essential to a community's being able to provide emergency medical services. There are mandatory elements of an emergency medical services system to be assisted by the legislation I introduced, S. 504, the Emergency Medical Services Systems Development Act of 1973, which recently passed the Senate and is pending conference with the House.

I believe this article demonstrates clearly the need for the type of coordina-

tion in a communitywide system which S. 504 requires and I ask unanimous consent, Mr. President, that it be printed in the RECORD for the information of other Senators.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COMMON PUBLIC MISCONCEPTION—NOT EVERY SOUTHLAND HOSPITAL WILL OR CAN TREAT EMERGENCIES

(By Harry Nelson)

Don,t think that every hospital can handle emergencies.

It's a common misconception that all hospitals have someone available to sew up cuts, set fractures and perform other emergency duties, say hospital authorities.

But a day does not pass that some unfortunate citizen is not confronted by the stark truth.

"The nearest hospital to my residence is located approximately two miles away," reads a letter from a Los Angeles resident who fell through a glass shower door and severed an artery in his arm. "My wife drove me to the hospital and as we drove up I observed I had lost a tremendous amount of blood. I felt faint and nausea was developing.

"As we approached the entrance to . . . Hospital a nurse unceremoniously told us that unless we had a doctor on staff I could not receive emergency treatment there—not even first aid to stop bleeding.

"My wife then proceeded to Daniel Freeman Hospital in Inglewood where I received immediate and efficient assistance."

Another complaining citizen, in a letter to the Hospital Council of Southern California, wrote:

"Wednesday evening my husband cut himself severely at home and was bleeding profusely. In view of the fact that the . . . Hospital is around the block from us, I rushed him there for treatment.

"Much to my dismay I was greeted by a frozen-faced secretary at the 'emergency' entrance who informed me that nothing could be done there because they were not equipped to handle emergencies.

"Whereupon I asked if there was a nurse available to stop the bleeding. Reluctantly she sent for one who appeared after 10 minutes, looking very professional, but said, 'We can't help you here—you'll probably have to go to . . . hospital.'

"My husband was so provoked he asked me to take him home. On the way I stopped at a drug store and the druggist told me how to stop the bleeding. I bought medication and proceeded to do the job that a hospital should be equipped to handle."

Both of these letter writers did what most people do when they have a medical emergency and decide to seek care on their own—they went to the nearest hospital, mistakenly assuming their needs would be met.

A far safer and more efficient approach, says Stephen Gamble, associate executive director of the Hospital Council of Southern California, is for every person to find out ahead of time the location of the nearest hospital that offers 24-hour basic emergency care.

In a densely populated area like metropolitan Los Angeles, it is not only impractical but undesirable for every hospital to equip itself to provide basic emergency care, according to Gamble.

Authorities agree that emergency services can be handled far more efficiently and with high quality if only certain well-staffed and well-equipped hospitals attempt to handle the problem.

Then, Gamble said in an interview, the job is to let the public know where adequately equipped and staffed emergency centers are located.

The hospital council has distributed 2 million pamphlets, printed in English or Spanish, explaining how to obtain emergency care. Individuals who want to learn the location of the nearest emergency center can call the council at 469-7311, or write to 6255 Sunset Blvd., Los Angeles 90028.

To avoid the problems which arise when persons go to a hospital which can't handle emergencies, the council has developed criteria for a true emergency center.

THREE CATEGORIES

All 240 member hospitals in Southern California have recently been classified in one of three categories with respect to their capability for handling emergencies.

Slightly more than half—129—meet the criteria making them eligible to be called basic 24-hour emergency centers, according to Gamble.

This means that they have a physician on the premises—not just on call—for emergency services 24 hours a day, that the emergency department has certain essential equipment and that certain facilities such as a blood bank, laboratory, X-ray, and similar things are available.

There are 39 hospitals in the second category, which is called the emergency standby service hospital. These hospitals are equipped to handle emergencies of most types, but ordinarily have a physician on call only.

The third group is called the emergency first aid and referral service hospital. These hospitals have no arrangement for providing outpatient emergency services but can give first aid under certain circumstances. There are 72 of them among council members.

The fact that a hospital is classified as standby or first aid and referral does not necessarily mean that it is a poor hospital, Gamble noted. Rather it means that in most cases the hospital has elected to offer other kinds of specialized services.

CHILD ABUSE

Mr. MONDALE. Mr. President, the Subcommittee on Children and Youth, of which I am chairman, has been conducting an intensive study of the problem of child abuse and its implications.

I am pleased to note that the spring issue of the magazine, "Mental Hygiene" contains a most informative article on this subject. The author, Jane C. Avery, discusses the potential of two approaches to dealing with child abuse which are of great interest to the subcommittee—multidisciplinary treatment programs and rehabilitation of the family unit. S. 1191, "The Child Abuse Prevention Act," which was reported by the subcommittee on June 18, would provide support for programs of this nature.

I ask unanimous consent that a copy of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE BATTERED CHILD

(By Jane C. Avery)

Children have been abused as long as the family has existed. This is nothing new, but what is new is the rapidly expanding interest and concern by doctors, lawyers, social workers, and psychologists in what has come to be called *the battered child syndrome.**

The syndrome characterizes a clinical condition in young children who have received serious physical abuse and focuses on the large number of children who are permanently injured or die as a result of injuries inflicted by their parents or those legally responsible for their care.

What actually causes this phenomena still eludes us, chiefly because of the lack of statistics. The magnitude of the problem is only just beginning to surface.

Prior to 1962, the battered child syndrome was often referred to by doctors as *unexplained trauma* or *accident-proneness*. In fact, many physicians were emotionally unwilling to diagnose it and reluctant to initiate proceedings against the parents, even when they were sure of the diagnosis.

However from studies that have been done, one thing is clear—whatever form the abuse takes, the physical and emotional scars that remain are often permanently crippling.

The first problem that must be tackled in this area is to identify the battered child. Most often, this is the task of the doctor. He may become suspicious when the injury does not match the unconvincing, and often conflicting, stories the parents give about the child's "falling." Or the physical examination may reveal old scars that the parents are unable to explain.

All too often doctors have treated the injury and remained silent about the suspected cause. Among the reasons for this reluctance are: an emotional denial that parents could commit such acts on their own child, fear of legal reprisal from them, and fear of making an unjust accusation.

In response to the problem, almost every state has enacted some form of reporting statute. Generally, these statutes require that suspected child abuse cases be reported to some authority, usually the police or a child welfare agency. Statutes vary as to the class of people required to report, but most laws grant some form of immunity from civil liability for doing so.

Most authorities agree that the basic objective of any reporting statute is to identify the abused child. Yet, to think that improved reporting laws will end the child abuse problem is naive and unrealistic.

After a report is made, something has to happen. A multi-disciplinary network of protection needs to be developed in each community to implement the good intentions of the law. Legislatures that require reporting but do not provide the means for further protection not only delude themselves but neglect the children.

But who are the abusers? Families of battered children are often a study in deprivation; both physical and emotional. They are usually beset by marital and financial problems, alcoholism, and mental illness. In fact, studies have indicated that perhaps as many as 90 percent of the abusing parents were themselves battered children.

The battered child is usually the product of a parent who has never had adequate emotional development. In many cases, families of battered children tend to be lacking in group and community integration, and the recidivism rate among them is very high.

Our first inclination, perhaps, is to punish these parents, since the general attitude toward the problem is one of public shock and anger. There exists a natural desire to exact retribution, to punish the parents for their acts of cruelty. Criminal prosecution is simply not an adequate solution.

In the first place, criminal prosecution requires proof through evidence that establishes guilt beyond a reasonable doubt. This is often difficult to meet, for the abuse usually takes place in the privacy of the home. Parents become mutually protective, and the victim is too young to speak for himself. Also, the examining physician may be reluctant to appear as a witness.

Convictions in these cases average between 5 and 10 percent. Even where a conviction is obtained fines and/or imprisonment do

* Dr. Henry C. Kempe originally coined the term in 1961 at a meeting of the American Academy of Pediatrics. He is Director of the National Center for the Prevention and Treatment of Child Abuse and Neglect at the University of Colorado Medical School, Denver, Colo.

little to alleviate the problem. In fact, the criminal prosecution may impede the continuance of the family's life as a unit, since imprisonment separates parent and child, thereby making the latter's homelife even more insecure and unstable. Fines are little better, reducing the parents' financial resources for necessities and perpetuating one of the underlying causes of the initial behavior.

Moreover, conviction leads to further social ostracism and impairs the parents' community relations, which may have been precarious at best. Even in cases where the prosecution is unsuccessful, the parents' hostility during the proceedings may become channeled against the child when they return home. And lastly, the prosecutor feels an obligation to prosecute the parents but, in most instances, feels no corresponding obligation to keep the family intact.

Prosecution and punishment, when used alone, serve only to increase the child's time in psychological limbo, and do nothing to clarify his future status regarding adequate parental care. The worst secondary effect of prosecution is perhaps the fear this type of proceeding instills in the parents, making them often reluctant to bring a child to a doctor for treatment in the first place.

The second most common reaction on the part of the general public is a desire to see the abused child immediately removed from the custody of his parents.

The problem with this approach is the lack of legal guidelines afforded the courts which, in turn, has tended to perpetuate the antiquated presumption that parents, because they are the natural guardians of their children, should always have custody. Since the courts are extremely reluctant to sever these parental rights, juvenile court judges are often left with the impossible task of choosing between two equally undesirable alternatives.

They can bend with the *parental right* theory and leave the child in the potentially dangerous home environment, or they can remove the child from the parents' custody and place him in an institution, which cannot provide the emotional support needed.

Juvenile court acts that provide for removal from the home, or allow the court to assume *protective custody*, are often only supplying illusory solutions. In most cases, there is simply no place to put the child, once he has been removed from the parents. State institutions are often overcrowded, under-financed, and under-staffed and, in their present condition, can offer no viable alternative.

If treatment is to be effective, the family must be regarded as a unit, and the abusive cycle must be broken completely. Removal of the batered child does not guarantee that the parents will seek help for themselves—the ultimate goal in any program dedicated to curbing child abuse.

In this respect, the juvenile court judge has the difficult task of balancing the interests of the parents against the probability of continuing danger to the child. In order to ease this balancing process, the judge should have the means to order a coordinated, inter-disciplinary investigation of the family, with a view toward making a diagnosis of the family as an entity, and for providing recommendations.

Once we have progressed to the point of recognizing that abusing parents are mentally ill individuals, it is perhaps only normal to suggest that they receive psychiatric treatment. Yet this approach, while commendable and extremely important, is not without its own difficulties. For the patient must learn to look at the child as one who needs love and attention, rather than as a source of fulfilling his own needs—a task some parents will find impossible to accomplish.

The main difficulty with the types of legislative and social responses just mentioned is that they do not, in themselves, lead to the desired protection and alleviation of the problems of the abused child. They seek to solve only fragments of the problem and, by so doing, accomplish nothing.

The primary objective must be the rehabilitation of the family as a viable unit. The physical treatment of children by their parents should not, as a matter of social policy, fall into the realm of criminal law. For such law may provide an inappropriate frame of reference for evaluating parent-child relationships.

On the other hand, removal of all legal sanctions may not be feasible or desirable. Removing the influence and authority of the law from intra-familial relationships that are threatening the security, well-being, and very life of a child would be tantamount to removing the sole source of protection that child might have. What, then, is available to protect the child, help the parent, and reestablish the family as a functional entity?

One approach is that of *protective intervention*. It avoids placing any individual blame on the parent and attempts to help him or her provide optimal care for the child. Child care centers appear to offer the most promise in this respect.

These centers could provide for a degree of separation from the parents for 8- to 10-hour periods, 5 days a week, without actually terminating the parent-child relationship. The child would be safe, while the parents, hopefully, seek professional help and guidance. Yet, healing the wounds, correcting the malnutrition, and protecting the battered child is but a part of the solution. The most important objective must be the rehabilitation of the environment that permits the abuse.

Ultimately, the solution must be legal, in the form of legislation, judicial decisions, and the machinery of state and community protective services. Taking one step at a time, our first concern should be to improve the reporting statutes.

Reporting should be made mandatory for any group of people likely to come into contact with a child-abuse situation, or people with an on-going relationship with children. This group would include doctors and hospital personnel, teachers, social workers, policemen, and lawyers. Such reports should be required whenever the injury does not appear to be accidental.

To alleviate any hesitancy on the part of members within this group to report to police, reports should be allowed to be made to a social welfare agency first. This would avoid giving any premature criminal aura to the proceedings. But any social agency so notified must keep in close contact with the court at all times, or subsequent remedial legal efforts will be fruitless.

Reporting laws should also outline clearly what is to be contained in the report. Medical proof, such as x-rays, should be available, as well as any other documentation of the diagnosis made by the doctor. Parents should also be told as soon as possible afterwards that the doctor has reported his suspicions.

There should be no secrecy in the proceedings. This avoids hostility later on when the child may suddenly be removed from the home, and it allows for a slightly better prospect of gaining the parents' cooperation from the beginning.

The statute should also provide for at least some degree of abrogation of the doctor-patient and huband-wife evidentiary privileges. Some authorities have suggested that an attorney be appointed to represent the child in any abuse hearings. Moreover, there should be a provision for immunity from civil and criminal liability for good faith reporting, perhaps even establishing a penalty for knowing and willful failure to report. In any case, the overall object of the statute should be to promote reporting, and thereby case finding.

The major obstacle to any program to conquer child abuse has been the lack of effective coordination among social welfare agencies on the state and local levels, courts, and medical agencies. If the protective functions of reporting laws are to be carried through, responsible agencies must be provided with sufficient funds and qualified personnel.

There must be legal authority to permit removal of the child from the home and, when appropriate, the authority to implement prompt social investigation and responsible community action. Above all, legislation in this area should be protective, not punitive.

Since the basic cause of the battered child problem is found in the parents' behavior, and not the child's, it has also been suggested that psychiatric counseling be made a condition to replacement of the child in the home.

Another suggestion has been to place all suspected cases of child abuse under the supervision of one court. At the very outset of a case, this court would be responsible for formulating a definite plan that would set forth all long-range and short-range alternatives. The effectiveness of such a court presupposes the existence of a trained staff of family counselors.

These counselors should be specially trained in working with intrafamilial relationships. They would help the parents to decide if the marriage itself was stable enough to accept the intrusion of a child. If the parents do not want the child, the court should have the authority to terminate the relationship and provide immediately for permanent placement.

On the other hand, if the potential for improvement exists, the court would allow the child to return to the home under careful supervision, and with the requirement that the parents continue receiving psychiatric help. The follow-up supervision must be purposefully directed toward the improvement of the home environment in toto. The counselors would need to have the same authority as probation or police officers regarding emergency removal of the child when necessary, but they would also be expected to offer remedial help rather than penal sanctions or automatic removal.

The most obvious problem with any of these suggestions is having enough funds recommended to provide the legal and psychological services needed. This would necessarily increase the state's economic and social burdens, but somehow we must transcend the antiquated notion that the child is merely a chattel of its parents.

As Thomas J. Donovan once observed: "Not until society collectively decides that its children are to be valued as greatly as its highways and weapons, will any truly meaningful progress be made toward eradication of this shocking social problem."

TRIBUTE TO VICTOR A. VAUGHN ON HIS RETIREMENT FROM THE DEPARTMENT OF AGRICULTURE

Mr. ALLEN. Mr. President, Victor A. Vaughn has announced his retirement from the Department of Agriculture and the U.S. Federal service as of June 30.

We shall miss him for the efficient service he provided Members of the Senate as a senior officer of the Legislative Affairs Office in the Department of Agriculture. Equally, we will miss his friendly smile and cheerful cooperation in providing us with information not easily obtainable, or putting us in touch with the right people to respond to our constituents.

The job of being a Senator is easier be-

cause of loyal, trustworthy civil servants like Vic Vaughn.

It is our understanding that Vic will remain in the Arlington community where he now lives, and that he and Mrs. Vaughn are looking forward to some golfing, traveling, and other activities for which he now expects to have more time.

I know my colleagues join me in wishing him well in his new career status of retirement.

NEW STEPS TOWARD CONVERSION

Mr. CRANSTON. Mr. President, I have long been interested in implementing what is clearly one of the most pressing needs of the 1970's: the transfer of aerospace technology to the urban setting.

In San Jose, Calif., Lockheed Missiles & Space Co. has been putting its enormous technological expertise to good use. A pilot demonstration project, sponsored by the National Science Foundation and the National Aeronautics and Space Administration, has been set up to facilitate the use of aerospace-related technology to meet the city's needs. A member of the Palo Alto Research Laboratory Division of the company has been assigned as science and technology adviser to San Jose's city manager.

Mr. President, this project demonstrates the wide-ranging potential of conversion planning. I ask unanimous consent that a short summary of the project be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

A BRIEF NOTE ON THE FOUR CITIES PROGRAM IN SAN JOSE

The City of San Jose and Lockheed Missiles and Space Company have been participating in the Four Cities Program since 1971. This pilot demonstration project, sponsored by the National Science Foundation and the National Aeronautics and Space Administration, is to evaluate a new means of effecting the transfer of aerospace technology into the urban setting. The new technique consists of placing a senior aerospace professional on the staff of the City Manager where access to the highest level of City personnel and awareness of continuing City problems is facilitated. A member of the Research and Development Division in the Palo Alto Research Laboratory Division of the company, Mr. Jerome Weiss, was assigned as Science and Technology Advisor to the City Manager.

Mr. Weiss has been responsible for carrying out several activities assigned to him by the City Manager and initiating several others. These latter include the development of a concept for implementing the "911" Emergency Telephone Number System in Santa Clara County in a manner which would retain the advantages of local control and deployment while realizing the advantages of centralization of receipt of requests for services. In many areas the fact that the boundaries of local jurisdictions and the boundaries of telephone exchanges do not coincide make it difficult for a municipality to institute a "911" system. The proposed concept would resolve this problem.

In addition, a concept has been developed for the City to further new industry within its boundaries by, in effect, home growing it within as well as seeking to attract it from without. This concept proposes that resident industry be encouraged to grow by offering rewards for growth and that local entrepreneurs be encouraged to grow by offering them various kinds of advantages or facilities.

Shortly after Mr. Weiss came to the City, he was requested to develop a plan for dealing with services, most particularly the vehicular problem, in the event that it was necessary to declare a smog alert. The smog problem has been growing in intensity in San Jose because of its location at the south end of the Bay and the growth of industry in the City itself. The plan developed included the novel use of school buses as an augmentation to the public bus system during the time that an alert might require that all but necessary traffic cease.

The problem of vehicle use and sale was also examined, and a preliminary study developed a significantly more effective policy to pursue in purchasing and using police vehicles. This study is now being extended to vehicles in Public Works and the Fire Department. The problems there are somewhat different, but there is reason to be hopeful that one can effect a significant savings.

Since March of 1972, Mr. Weiss has been chairman of the City's Electronic Data Processing Steering Committee. The City currently utilizes computer resources to a relatively minimal extent. The purpose of the committee is to prepare and implement a plan which would see the City increase the effective utilization of computer resources. To this point in time, an implementation plan has been prepared, and the second phase for doing detail design and evaluating other systems is currently underway.

Mr. Weiss has also served in reverse as a consultant to Lockheed as the result of his acquisition of new knowledge in the City. He has served as a link between the laboratories and the work which they have been doing in image processing and the Police Department which has a need in restoring poor images for identification purposes and analyzing images, such as fingerprints, for comparative purposes. He has also provided similar kinds of consulting to Lockheed in the areas of transportation systems, environmental impact requirements, and urban modeling.

The Mayor and the City Manager have been enthusiastic supporters of the program. They believe that there is a growing need for the application of technical knowledge in urban systems and have been pleased with the work to date. The program could be very usefully expanded into several functional areas, including police and fire, management systems, and public works. The Lockheed company is continuing to learn of city problems and new areas in which present day technology can have immediate useful effect. The result appears to be useful new areas of endeavor for the firm and worthwhile new products for the city.

NASA PROGRAMS

Mr. STEVENSON. Mr. President, I was necessarily absent Tuesday afternoon when the Senate completed its consideration of S. 7528, authorizing appropriations for the National Aeronautics and Space Administration. I would have voted against final passage of S. 7528 had I been present.

My opposition to this bill is not an opposition to all NASA programs and activities. I have been pleased by the many successes of our space program and am hopeful that its scientific and technological developments will have an increasing range of constructive domestic applications.

The costs of an expanded space program must be balanced against other national priorities. Some of the funds authorized for NASA in S. 7528 should be devoted instead to more pressing needs. I am particularly dubious about the merits of the Space Shuttle program, for which S. 7528 authorizes more than half a billion dollars. A recent study by the GAO raises serious questions about the accuracy of NASA's cost estimates and savings projections for the shuttle program. Continued development of the shuttle also increases the momentum for expansion of other aspects of our space program, if only to justify the costs of the shuttle itself. I submit that it would make more sense in this time of budgetary stringency to develop and support mass transit systems for our crowded cities. The Senate has twice approved a $268 billion outlay ceiling for fiscal 1974. The budget must be cut somewhere. I would prefer to cut funds for the space program than funds for housing, health, education, or transportation here on Earth.

The activities of NASA must be evaluated from the perspective of our total national needs. The authorizations in S. 7528 exceed what we can reasonably afford. It was for this reason that I would have voted against final passage of the bill.

FOOD PRICES

Mr. RIBICOFF. Mr. President, every day the news about the skyrocketing cost of food grows grimmer.

Yesterday the U.S. Department of Agriculture announced that retail food prices will average 12 percent higher this year despite phase III, the 60-day freeze, and the promise of a phase IV later in the year.

It is long past time for us to realize that cosmetic measures such as short-term, limited price freezes will not turn back prices.

What is needed in the short run is a price rollback and a freeze on the cost of raw agricultural and meat products at the farm level. It is at the source—the farm level—that inflation is most rampant. In the last year 83 percent of the increase in the cost of the market basket of food went to the farm—usually the large agribusiness corporation; 17 percent went to the wholesalers and grocers.

In the long run we must move the American agricultural system back to a free market economy. The farm subsidy program should be eliminated.

And the new farm bill, which compounds the problems of the past, should be defeated. It is a guaranteed annual income for large agribusiness corporations. The bill guarantees record-high target prices for farmers for wheat, cotton, and feed grains. And these prices would escalate as the cost of production goes up. This means that by 1976 we will be paying $7 billion to farmers. Every housewife in America will be making these payments every time she enters a grocery store.

If the farm bill reaches the President's desk, he should veto it. It is time for action not rhetoric.

I ask unanimous consent that an article on this subject be inserted at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 21, 1973]

USDA SEES 12 PERCENT RISE IN FOOD PRICE

Retail food prices will average 12 per cent higher this year, even with the 60-day freeze and a promise of new phase IV controls by President Nixon the Agriculture Department said yesterday.

Furthermore, the department reported, farmers may not produce as much meat, milk and poultry as it predicted earlier this year.

Production of such key crops as corn and soybeans also could be reduced by late planting this spring, lower yields and shortages of fuel and fertilizer, the report said.

"The imposition June 13 of price ceilings on all retail and wholesale prices means that retail food prices for 1973 will probably average about 12 per cent above last year" the report said.

"In the absence of price ceilings, retail food prices would probably have advanced further the next few months," the report said.

The report indicated a sharp revision in the department's thinking about food prices and the over-all farm production picture.

On May 8 the department predicted that food prices would rise 9 per cent this year, with most of the increase already accrued during the first three months.

Further, the May 8 report said retail food prices were expected to begin leveling off this summer and then start declining next fall and winter after larger farm production reaches the market.

But in the new report officials said farmers are not increasing output of some items as much as believed earlier.

Farmers have said they planned to plant 74 million acres of corn, up 12 per cent from 1972. On that basis the department projected earlier a record corn crop of about 6.0 billion bushels.

"However, the lateness of the planting season raises questions about both acreage and yields," the new report said.

The report, although indefinite about corn and other fall-harvested crops, said a record wheat crop is likely. Winter wheat estimated at a record 1.3 billion bushels or 11 per cent above 1972 is being harvested now in the Southern plains.

SENATOR RANDOLPH CALLS ATTENTION TO CHILD ABUSE ACT—COMMENDS SENATOR MONDALE

Mr. RANDOLPH. Mr. President, on Monday the Subcommittee on Children and Youth reported to the Committee on Labor and Public Welfare S. 1191, "The Child Abuse Prevention Act." Under the leadership of Senator MONDALE, the able chairman of the subcommittee and original sponsor of this legislation, our subcommittee reached agreement on a good bill. It establishes a foundation of the development of an effective program of prevention, identification, and treatment of child abuse.

Child abuse is one of the most shocking problems facing our Nation. Senator MONDALE'S deep concern for children who have been battered, beaten, or severly abused and his perseverance in moving forward in this vital area are reflected in legislation that marks an important step toward halting this dread disease.

Our subcommittee recognizes the need to focus on child abuse if this country is to effectively deal with the problem. The public must be made aware of the severity of the problem and that possible treatment is available. The National Commission on Child Abuse and Neglect established under S. 1191 to fully study and investigate the problems of child abuse will continue the necessary attention to this critical issue.

S. 1191 also provides for the establishment of the National Center on Child Abuse and Neglect in the Office of Child Development. The Secretary of Health, Education, and Welfare would be authorized to make grants through the center for the training of personnel to work in the area of child abuse and to make grants for the establishment of regional centers designed to prevent, identify, and treat child abuse.

During subcommittee hearings on this problem representatives of the administration testified that legislation is not needed. It was their contention that the present structure was working effectively, despite the 60,000 cases of child abuse reported each year. During a recent conference in Washington on child abuse, however, the administration presented a $4 million proposal to study the problem. It is my feeling that the administration's proposal was formalized only when action by our subcommittee became imminent.

The proposal approved by our subcommittee does not commit the Federal Government to an extensive and costly program before we have a complete study of the problem and recommendations for action by the National Commission on Child Abuse and Neglect.

Again, I commend the diligent Senator (Mr. MONDALE) for the vigor with which he has approached this subject and the reasonable proposal that he has presented.

I am hopeful that the Congress will act quickly and affirmatively on S. 1191 so that we can secure needed solutions to the alarming problems of child abuse and neglect.

AGRICULTURE AND FORESTRY EXPORT CONTROLS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to print in the RECORD a statement by the distinguished Senator from Minnesota (Mr. HUMPHREY).

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

STATEMENT BY SENATOR HUMPHREY

AGRICULTURE AND FORESTRY EXPORT CONTROLS

The imposition of embargoes on the export of U.S. agricultural commodities could have serious implications for American agriculture and the future of agriculture trade. With the President's announcement last week that he would be seeking broader authority to control exports, the Congress has turned its attention to the advisability of export controls as an emergency price stabilization measure. The Subcommittee on Foreign Agricultural Policy in the interest of exploring the effect such measures would have on our agriculture, forestry, and trade has called hearings on July 11, 1973, at 10:00 a.m. in Room 324 of the Russell Senate Office Building.

Specific issues have been raised around the utility of export controls in the present situation. Several of our trading partners have suggested that the imposition of export controls would impair the credibility of the United States as a reliable supplier of food and fiber products. It has been questioned whether export embargoes would have any material effect on food prices at this time. Finally, many individuals have asked whether the current commodity shortages reflect the Administration's farm policy which is opposed to a system of domestic food reserves designed to respond to just such shortages. It is the intention of the Subcommittee to examine these and related issues and to report to the Committee on Agriculture and Forestry and to the Congress on its findings.

Each public witness will be limited to 10 minutes of oral testimony with the understanding that written statements may be of any length for purposes of inclusion in the hearing record in full. Public witnesses wishing to testify should contact the Committee Clerk for purposes of scheduling their appearance.

In the event that requests for appearance exceed the amount of time available for testimony, the record of the hearing will be held open to receive written statements for one week following the hearing date.

FURTHER DELAYS BY PARK SERVICE IN EFFORTS TO PROTECT THE BOX CANYON-THOUSAND SPRINGS AREA IN IDAHO ARE UNACCEPTABLE

Mr. CHURCH. Mr. President, for several years I have had a strong interest in restoring and preserving the Box Canyon-Thousand Springs Area in Idaho.

I have been especially disturbed, in recent months, because of the failure of the Park Service to provide me with materials I have repeatedly requested. Recently I outlined my problems with the Park Service in a letter to the distinguished chairman of the Senate Interior Committee's Subcommittee on Parks and Recreation, ALAN BIBLE. I ask unanimous consent that the text of my letter to Senator BIBLE, together with the supportive material I provided him, appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUNE 12, 1973.

Hon. ALAN BIBLE,
Chairman, Parks and Recreation Subcommittee, Senate Office Building, Washington, D.C.

DEAR ALAN: I have been interested in the restoration of the Thousand Springs and preservation of the Box Canyon area near Hagerman, Idaho for several years. On several occasions during 1971 I spoke both personally and by phone with George Hartzog, Jr., then Director of the National Park Service, describing the area and my interest in its rehabilitation. Director Hartzog agreed to pursue the matter.

As a follow up to our conversations, I wrote to Director Hartzog on December 21, 1971, asking that a study of the area be conducted by the National Park Service. In that letter I requested that the Park Service give consideration to designating the Thousand Springs-Box Canyon Area as a National Monument.

Following receipt of my letter, the National Park Service did order a "reconnaissance" of the area and pledged that it would do its best to program a complete study in fiscal year 1973. Based upon this assurance

I announced in my newsletter to Idaho, mailed in March 1972, my intention to introduce legislation to restore the Thousand Springs-Box Canyon Area.

For nearly a year, I awaited further word from the National Park Service on its activities with regard to the Canyon and the Springs. The only word which I received was that the Park Service hoped to complete a study at an early date. Finally in August of 1972 I again contacted the Park Service calling attention to the unique qualities of the area and reiterating my interest in preserving the area if at all possible. I requested the Service to provide me with their time-table for completion of the report.

On September 21, 1973, over a month after my August 18th request, the Park Service replied that material would be available and a draft bill submitted "early" in the 93rd Congress.

Nine months have passed since that time and, as of this date, no final report and no draft legislation have been submitted to me or to the Interior Committee. To my repeated inquiries the Park Service has wigwagged between two answers (1) there is no final report yet available or (2) there is a final report but the Office of Management and Budget refuses to allow it to be released.

Surely the time has come for the Administration and the Park Service to get the show on the road and get the final report on the Thousand Springs-Box Canyon area before the Senate Interior Committee for consideration.

I most urgently request, Mr. Chairman, that you contact the Park Service in your capacity as Chairman of the Senate Interior Committee's Subcommittee on Parks and Recreation and demand that the Service report to the Committee immediately the status of this report. If the report is completed I feel we should insist upon its release to the Committee immediately. If the report is not yet complete we should strongly urge its completion and presentation to the Committee for its early consideration. There is no reason for our committee to tolerate this prolonged and inexcusable delay in providing this report and legislative recommendations which were promised over a year ago.

For your information I have enclosed copies of the correspondence and materials which I have referred to in my letter.

With all good wishes,

Sincerely,

FRANK CHURCH.

DECEMBER 21, 1971.

GEORGE HARTZOG,
Director, National Park Service,
Department of the Interior,
Washington, D.C.

DEAR GEORGE: I would greatly appreciate it if you would have the National Park Service conduct a study of the Box Canyon-Thousand Springs area near Hagerman, Idaho, with a view toward its designation as a national monument.

Box Canyon, and its related area, is still very much in its natural state, the last canyon and spring of this type on this part of the Snake River. The water is crystal clear, flowing from the underground aquifer of the Snake River. This unique geological phenomenon deserves designation as a national monument.

It would be most desirable if the National Park Service could conduct a study of the Box Canyon-Thousand Springs Area to determine how it could best be managed within the framework of the National Park Service and in view of the public interest in this unique area. Presumably such a study would cover the land to be involved, the method by which the land would be obtained the costs of the land, the ways in which the area would be managed.

I would hope that such a study could be initiated in the near future, no later than FY 1973, in view of the pressures for alternative uses of these unique natural springs.

I have enclosed a letter from the Magic Valley Recreational Council, interested in this proposal, which specifies the areas that should be investigated and also outlines some of the factors that should be taken into consideration.

I look forward to your early reply.

With best wishes,

Sincerely,

FRANK CHURCH.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., December 27, 1971.

Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: Thank you very much for your letter of December 21 requesting a study of the Box Canyon-Thouand Springs area near Hagerman, Idaho, with a view toward its designation as a National Monument.

Our staff has made a preliminary reconnaissance of the area and I am asking our Director of the Pacific Northwest Region, Mr. John A. Rutter, to report his suggestions to me.

We shall do our best to program the study no later than the 1973 fiscal year, as you request. I cannot make a firm commitment for a full study at this time pending a determination of the available funding for such studies in the 1973 fiscal year.

Thank you very much for your continuing interest in, and support of, the programs of the National Park Service.

With warmest personal regards and every good wish for a Joyous Holiday Season, I am

Sincerely yours,

GEORGE B. HARTZOG, Jr., *Director.*

AUGUST 18, 1972.

GEORGE B. HARTZOG, Jr.,
Director, National Park Service, Department of the Interior, Washington, D.C.

DEAR GEORGE: As you will recall, I have discussed earlier with you the possibilities of designating the Thousand Springs-Box Canyon area near Hagerman, Idaho, as a National Monument. The unusual clarity of water and beauty of these springs, coupled with the unique geological aspects of the Snake River aquifer emerging from the side of the bank make this area an attraction that would merit the attention of all Americans.

There is growing sentiment in Idaho in favor of designating the Thousand Springs area as a National Monument and undertaking the rather minor restoration that would be needed to reestablish the area as it was when settlers first came to southern Idaho. The enclosed copy of an article appearing in the Idaho Statesman on August 5, 1972, gives you an idea of the importance that this project can assume in Idaho.

I also thought that you might be interested in an old picture that I found which shows the Thousand Springs as they were before some changes were made by the Idaho Power Company. The picture provides a good idea of what the area might look like if properly restored.

Knowing that you have initiated a study of the potential of the Thousand Springs-Box Canyon area aimed at its possible designation as a National Monument, I would appreciate knowing when it will be completed. I would like to be able to introduce legislation in the Senate following the recess which starts today, if this is at all possible, and this depends on completion of this study.

I look forward to your reply on this matter.

With best wishes,

Sincerely,

FRANK CHURCH.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., September 21, 1972.

Hon. FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: Thank you for your letter of August 18 concerning the study of Thousand Springs in Idaho.

We believe we can have sufficient data on hand to draft a bill per your request quite early in the 1st Session of the 93rd Congress. This, of course, does not mean that by that time we would have had sufficient review of the study data to make recommendations on the merits of the proposal.

Sincerely yours,

STANLEY W. HULETT,
Associate Director.

CAN THOUSAND SPRINGS BE RETURNED TO THEIR FORMER GLORY?

BILL PROPOSED TO RESTORE SPRINGS AREA

Senator Frank Church has plans to introduce legislation to restore Thousand Springs near Hagerman to their former grandeur.

The legislation is being drafted for introduction in the near future.

Thousand Springs, now largely blocked by a small hydroelectric plant built in 1912, are part of the West's most picturesque natural spring system, which also includes the springs in Box Canyon and areas nearby.

Church's legislation would be designed to return Thousand Springs to their original splendor, as the centerpiece for a national restoration site to be administered by the National Park Service.

"These springs," Church said, "were famous back in pioneer days. They were one of the natural wonders of our state, the sparkling fountain-head of Idaho's mammoth underground aquifer. If the concrete were removed, Thousand Springs would live up to the name again, and quickly become a national attraction."

Restoration of the springs, the Senator emphasized, will take more than the introduction of a bill, "It will require the active cooperation of Federal, State, and local governments, the Idaho Power Company, and all interested citizens. I view the bill as a catalyst in this process, and the hearings which will be held on it as the method for making certain that all parties are treated fairly."

Church said preliminary surveys show that the rapid flow of water and the subsequent growth of vegetation would quickly cover any remaining traces of the aqueduct and power plant, once they are removed. He said the site would be ideal for a park and picnic grounds, with viewing points and outdoor recreational facilities provided.

SENATOR RANDOLPH COMMENDS OLDER CITIZENS FOR THEIR CONTRIBUTIONS TO OUR SOCIETY

Mr. RANDOLPH. Mr. President, America is a young Nation, but it is also an aging Nation. At the turn of the century,

there were 3 million individuals aged 65 and above, approximately 4 percent of our total population. By 1970 that number had grown to more than 20 million or approximately 1 of every 10 Americans.

Each day about 4,000 people in the United States celebrate their 65th birthday. These figures represent a national triumph in adding years to life. More importantly, they represent a national challenge to insure that these added years are lived by the elderly as full participants in our society. One of the tests of a great Republic is the respect and compassion shown to its aged.

In our State of West Virginia we are justly proud of our senior citizens and their numerous contributions. Much of the progress we now enjoy is because of their unselfish labor. Elderly West Virginians have also helped to build and improve America in many ways. They have worked diligently and productively in many of our industries, including coal, oil, gas, chemicals, agriculture, glass, steel, and others.

In 1970 there were more than 194,000 West Virginians in the 65-plus age category. Moreover, the percentage of West Virginians over 65 years of age jumped from 9.3 percent of the State's total population in 1960 to 11.1 percent in 1970. As a result, West Virginia now ranks 11th among the States in terms of percentage of individuals age 65 and older.

A recent article in "Age in Action"—an excellent bimonthly publication of the West Virginia Commission on Aging—describes in detail the senior citizen population in West Virginia. The article states that:

> The state's 1970 population was 1,744,237 or 34th nationally, but West Virginia was 11th in the percentage of residents 65 or older. The state's over-65 population is more than 194,000 with the national figure about 20 million.
>
> The percentage of over-65 residents in the nation climbed from 9.2 per cent in 1960 to 9.7 in the last census, but West Virginia's increase was much higher. The state stood 25th in percentage of over-65 residents in 1960, but had soared to No. 11 in the last census.

We owe a debt of gratitude to our senior citizens. I express this appropriate tribute to their many accomplishments.

I reemphasize that we must accelerate our national efforts to improve the living conditions and environment of the increasing numbers of elderly persons—to insure that they are full participants in our society.

It is vital that we recognize also that in our older population we have a wealth of experience and talent which must be utilized to the maximum extent possible to better cope with the many critical problems confronting our Nation.

RETAIL PRICE FREEZE ON AGRICULTURAL PRODUCTS WORKING HARDSHIPS

Mr. ALLEN. Mr. President, the recent freeze on retail prices of agricultural products is working a hardship on producers and processors of such products, because it prevents the passing on of increased production costs. The frozen retail price effectively freezes the price to the producer. Producers of broilers, eggs, milk and milk products, tomatoes, potatoes are especially hard hit and are facing economic ruin. This freeze is causing cutbacks in production which must later be reflected in higher prices to the consumer. Only by increasing production of agricultural products can the price to the consumer be lowered.

Mr. President, the National Broiler Council has prepared an abstract for the Cost of Living Council pointing out the necessity of an adjustment in the regulations governing the price ceilings on broilers. The same principle is involved in the case of some other agricultural products.

I ask unanimous consent that a copy of this abstract and a statement prepared by the National Broiler Council be inserted in the RECORD for the information of all those having an interest in this problem.

There being no objection, the abstract and statement were ordered to be printed in the RECORD, as follows:

ABSTRACT: THE BROILER UNDER THE CURRENT FREEZE PROGRAM

(Prepared by National Broiler Council for Cost of Living Council)

1. Because the broiler industry is integrated, the first sellers of virtually all raw processed broilers also mill their own feed and therefore are subject to the current historically high costs of corn and soybean meal.

2. The first sale of raw processed broilers is exempt from the price freeze under existing regulations.

3. The exemption for broilers is meaningless because almost half of the first sale of the product goes to distributors who have a freeze price approximately 2¢ above the price the processors receive.

4. Because retailers have the option of buying from distributors or processors, the distributors' freeze price minus cost has become a freeze price to broiler producers.

5. Because distributors' prices are frozen, fluctuations in prices to broiler processors cannot be absorbed in retailers average 18.7¢ gross margin, but are constrained by distributors 1½ to 2½¢ gross margins.

6. Lifting price restrictions from broiler distributors while maintaining them at retail would not result in any increase of the C.P.I., but would allow processor price variations to be absorbed in the retailers gross margins.

7. Corn and soybean meal prices during the freeze period were at all time high levels. Even their current levels are not compatible with 40¢/lb. processor price and the maintenance of current production levels.

8. Virtually all broiler processors have current cash production costs in excess of 40¢/lb. delivered Chicago and given historical ingredient price trends, costs of production for some are anticipated to reach nearly 50¢/lb. by the end of the summer.

9. A price ceiling-cost squeeze situation in December 1972 less severe than present circumstances resulted in a 20% increase in breeder slaughter and a 20% decrease in breeder placements. (Broiler production thus far in 1973 is 1.5% below 1972). The results of these and subsequent related actions is that the breeder flock in September 1973 will be 11% smaller than in February 1973 and the smallest since 1964.

THE BROILER INDUSTRY UNDER THE CURRENT FREEZE PROGRAM

(Prepared by National Broiler Council for Cost of Living Council)

More than 95% of the total output of the broiler industry is produced by firms who own and control their own live broilers and their resultant slaughter, processing and marketing. The first sellers of virtually all raw processed broilers are agricultural product producers who mill their own feed and are subject to the current historically high costs of soybean meal and corn (feed accounts for approximately 75% of the cost of producing a live broiler).

The price freeze announced June 13, specifically exempts the first sale of raw processed broilers but due to industry distribution patterns a freeze exists on broiler prices because the prices of poultry distributors are subject to the freeze. Approximately 44% of the industry's first sale of broilers goes to distributors who perform the service of the direct delivery of raw processed poultry to retail stores who do not have their own central warehouse and deliver system.

Poultry distributors gross margins for the delivery of whole chickens are approximately 1½ to 2½c/lb. Although the highest 9-city price during the freeze period was 43.3c/lb. reported on June 11; that price is applicable to commitments made on June 7 and 8 for delivery the following week. Since the freeze regulations stipulate that a transaction "is considered to occur at the time of shipment", the freeze price effective for broilers corresponds to approximately a 40.3c/lb. price to processors. Distributors taking their customary gross margin therefore face freeze prices on whole birds of 41.8 to 42.8c/lb. Because retailers with their own delivery systems can avail themselves of the option of buying from processors or from distributors, prices to broiler processors are therefore limited to a maximum 40.30c/lb. plus the distributors profit, (approximately .5% of sales).

Broilers are frequently used as a highly advertised "loss leader" by retailers. The retailers gross margin during a sale week may be as low as 0% and as high as 42% during a non-sale week. Since the freeze period extends over two pricing periods, most retailers freeze prices on broilers reflect a non-sale week gross margin. (few retailers run loss leader broiler sales for two consecutive weeks). As shown in Table 1 the average highest price at which broilers were sold during the freeze period by 36 retailers was 59c—18.7c higher than the highest price received by broiler processors and 15.2c higher than the highest price received by poultry distributors.

If prices were frozen only at the retail level, the C.P.I. would not increase but fluctuations in broiler prices above 40.3c could be absorbed in the average retailers gross margin of 18.7c/lb. minus cost rather than being constrained by the distributors gross margin of 1½–2½c/lb. minus cost.

EFFECTS OF PRICE CONTROLS ON THE BROILER INDUSTRY

Price controls plus soybean meal costs 86% above year earlier levels and corn costs 30% above year earlier levels in December 1972 resulted in a net reduction in the productive capacity of the broiler industry. (size of the breeder flock) In December 1972, breeder placements were 19.5% below year earlier levels and breeder slaughter during the last two weeks of the month was 47% greater than a year earlier. As broiler price ceilings were lifted and ingredient costs moderated their rate of rise, the level of

breeder placements steadily increased through March 1973. (—6% in January, —2.6% in February, +14.2% in March). A resurgence of cash soybean meal prices in April and particularly in the futures prices for the summer months caused an 8% decline in the level of breeder placements in April.

The recent historical relationship between cash corn and soybean meal prices and the level of breeder placements is shown in Figure 1. The net effect of the cost-price relationship prevailing in late 1972 is that the size of the nations breeder flock in September will reach its lowest level since 1964. Productivity per breeder is up but the industry's production to date is 1.5% lower than one year ago and the breeder flock will consist of 19,436,000 birds in September 1973 as compared to 21,779,000 birds in February 1973. Current costs of production for virtually all processors are above 40c/lb. delivered Chicago and have been projected to reach nearly 50c/lb. by the end of the summer for those producers who have not forward contracted their ingredient needs. It is estimated that out of 180 firms producing broilers, less than 12 are completely covered on ingredient supplies and/or prices until the new crop.

As with any agricultural industry marketing a live product, the productive capacity can easily be reduced by increased slaughter. Increasing the productive capacity inherently involves a biological lag. (breeder chicks must be *ordered* 90 days in advance of delivery) The current cost price relationship and that anticipated through August appears to be a greater inhibitor to the maintenance, much less the expansion, of productive capacity than that faced in December 1972.

The seven year monthly price indices below for corn and soybean meal indicate that the seasonally highest annual ingredient costs particularly for soybean meal are yet to be incurred. There is no freeze on corn prices and the freeze on soybean meal is meaningless because of the price levels it reached during the freeze period.

AVERAGE MONTHLY PRICE INDICES (1964–71) 9-CITY BROILERS, NO. 2 YELLOW CORN CHICAGO, 44 PERCENT SOYBEAN DECATUR

(Annual average price=100)

	USDA 9-city broiler price index	No. 2 corn price index	44 percent soymeal
January	99.4	100.7	100.0
February	103.4	100.6	98.7
March	103.7	101.1	95.4
April	100.2	101.2	95.8
May	102.4	103.2	97.0
June	103.8	103.5	103.5
July	105.6	102.0	107.1
August	101.8	99.5	106.2
September	99.5	98.4	104.1
October	94.6	95.9	97.2
November	94.9	94.2	95.3
December	91.5	99.6	99.7

Also shown by the broiler price index above, broiler prices normally peak during the third quarter. Management in the broiler industry usually anticipates losing money during the fourth quarter and having those losses offset by profits made during the third quarter. With the current cost price relationships, the third quarter is likely to be a loss period requiring substantial cutbacks during the fourth quarter in an attempt to break even and/or offset third quarter losses.

Corn and soybean meal prices are currently rebounding to levels reached during the freeze period. Soybean meal up to $450 per ton and corn at up to $2.45 per bushel are not compatible with a 40c/lb. 9-city price if current production levels are expected to be maintained or increased.

TABLE 1.—RETAIL PRICES OF WHOLE BROILERS ON JUNE 1 AND 8

Chain No.	Region	Annual sales (millions)	Cents per pound June 1	June 8
1	Midwest	$235	59	61
2	East	360	59	59
3	do	560	65	45
4	Midwest	100	59	59
5	East	112	65	65
6	do	105	59	59
7	do	365	59	59
8	do	15	65	65
9	do	25	65	65
10	Midwest	100	59	59
11	do	75	59	59
12	East	360	59	59
13	do	536	65	45
14	Midwest	(1)	59	59
15	do	45	59	59
16	West	(1)	49	49
17	Midwest	360	59	59
18	East	106	63	63
19	do	12	59	41
20	Midwest	175	49	49
21	East	50	59	59
22	do	177	46	46
23	do	179	63	63
24	East	$117	69	69
25	do	360	59	59
26	do	300	59	59
27	do	87	63	63
28	do	42	59	59
29	do	360	63	63
30	West	25	52	52
31	do	110	61	61
32	do	550	47	45
33	do	15	59	59
34	do	17	59	59
35	do	647	69	69
36	do	11	53	53

[1] Not available.

ORDER FOR RECESS UNTIL 9:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:15 a.m. tomorrow.

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

ORDER FOR RESUMPTION OF CONSIDERATION OF THE PENDING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that immediately following the recognition of the two leaders or their designees under the standing order tomorrow, the Senate resume its consideration of the pending bill, S. 1994.

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

ORDER FOR CONSIDERATION OF BILLS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that immediately upon the disposition of S. 1994 tomorrow, the Senate proceed to the consideration of Calendar Order No. 217, S. 1636, the bill to amend the International Economic Policy Act of 1972.

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

Mr. ROBERT C. BYRD. I ask unanimous consent that upon the disposition of S. 1636 tomorrow, the Senate proceed to the consideration of Calendar Order No. 159, S. 925, a bill to establish a Federal financing bank.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9:15 a.m.

After the two leaders or their designees have been recognized under the standing order, the Senate will resume its consideration of the unfinished business, S. 1994, a bill to authorize appropriations to the Atomic Energy Commission. The yeas and nays have been ordered upon passage of the bill, and an order has been entered to vote on the bill at 9:30 a.m. tomorrow.

Upon the disposition of S. 1994, the Senate will take up, under a time limitation, S. 1636, a bill to amend the International Economic Policy Act of 1972. On the disposition of S. 1636, the Senate will proceed, under a time limitation, to consider S. 925, a bill to establish a Federal financing bank.

Other measures may be taken up tomorrow, depending upon what the situation is and what bills are cleared for action by that time. Hopefully, but not to be absolutely sure, S. 2045, a bill to require Senate confirmation of future appointments to the Office of Director and Deputy Director of the Office of Management and Budget, and for other purposes, may be called up tomorrow, if cleared for action by that time. I repeat, other measures on the calendar may also be called up.

Several yea-and-nay votes will likely occur tomorrow.

RECESS UNTIL 9:15 A.M.

Mr. ROBERT C. BYRD. Mr. President, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9:15 a.m. tomorrow.

The motion was agreed to; and at 2:55 p.m. the Senate recessed until tomorrow, Friday, June 22, 1973, at 9:15 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate June 21 (legislative day of June 18), 1973:

FEDERAL TRADE COMMISSION

Mayo J. Thompson, of Texas, to be a Federal Trade Commissioner for the unexpired term of 7 years from September 26, 1968.

(The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)