THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Legal Compilation

Statutes and Legislative History
Executive Orders
Regulations
Guidelines and Reports

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JANUARY 1973

WILLIAM D. RUCKELSHAUS
Administrator

U.S. Environmental Protection Agency
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FOREWORD

It has been said that America is like a gigantic boiler in that once the fire is lighted, there are no limits to the power it can generate. Environmentally, the fire has been lit.

With a mandate from the President and an aroused public concern over the environment, we are experiencing a new American Revolution, a revolution in our way of life. The era which began with the industrial revolution is over and things will never be quite the same again. We are moving slowly, perhaps even grudgingly at times, but inexorably into an age when social, spiritual and aesthetic values will be prized more than production and consumption. We have reached a point where we must balance civilization and nature through our technology.

The U.S. Environmental Protection Agency, formed by Reorganization Plan No. 3 of 1970, was a major commitment to this new ethic. It exists and acts in the public's name to ensure that due regard is given to the environmental consequences of actions by public and private institutions.

In a large measure, this is a regulatory role, one that encompasses basic, applied, and effects research; setting and enforcing standards; monitoring; and making delicate risk-benefit decisions aimed at creating the kind of world the public desires.

The Agency was not created to harass industry or to act as a shield behind which man could wreak havoc on nature. The greatest disservice the Environmental Protection Agency could do to American industry is to be a poor regulator. The environment would suffer, public trust would diminish, and instead of free enterprise, environmental anarchy would result.

It was once sufficient that the regulatory process produce wise and well-founded courses of action. The public, largely indifferent to regulatory activities, accepted agency actions as being for the "public convenience and necessity." Credibility gaps and cynicism make it essential not only that today's decisions be wise and well-founded but that the public know this to be true. Certitude, not faith, is de rigueur.

In order to participate intelligently in regulatory proceedings, the citizen should have access to the information available to the

agency. EPA's policy is to make the fullest possible disclosure of information, without unjustifiable expense or delay, to any interested party. With this in mind, the EPA Compilation of Legal Authority was produced not only for internal operations of EPA, but as a service to the public, as we strive together to lead the way, through the law, to preserving the earth as a place both habitable by and hospitable to man.

WILLIAM D. RUCKELSHAUS
Administrator
U.S. Environmental Protection Agency

PREFACE

Reorganization Plan No. 3 of 1970 transferred 15 governmental units with their functions and legal authority to create the U.S. Environmental Protection Agency. Since only the major laws were cited in the Plan, the Administrator, William D. Ruckelshaus, requested that a compilation of EPA legal authority be researched and published.

The publication has the primary function of providing a working document for the Agency itself. Secondarily, it will serve as a research tool for the public.

A permanent office in the Office of Legislation has been established to keep the publication updated by supplements.

It is the hope of EPA that this set will assist in the awesome task of developing a better environment.

LANE WARD GENTRY, J.D.
Assistant Director for Field Operations
Office of Legislation
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ACKNOWLEDGMENT

The idea of producing a compilation of the legal authority of EPA was conceived and commissioned by William D. Ruckelshaus, Administrator of EPA. The production of this compilation involved the cooperation and effort of numerous sources, both within and outside the Agency. The departmental libraries at Justice and Interior were used extensively; therefore we express our appreciation to Marvin P. Hogan, Librarian, Department of Justice; Arley E. Long, Land & Natural Resources Division Librarian, Department of Justice; Frederic E. Murray, Assistant Director, Library Services, Department of the Interior.

For exceptional assistance and cooperation, my gratitude to: Gary Baise, formerly Assistant to the Administrator, currently Director, Office of Legislation, who first began with me on this project; A. James Barnes, Assistant to the Administrator; K. Kirke Harper, Jr., Special Assistant for Executive Communications; John Dezzutti, Administrative Assistant, Office of Executive Communications; Roland O. Sorensen, Chief, Printing Management Branch, and Jacqueline Gouge and Thomas Green, Printing Management Staff; Ruth Simpkins, Janis Collier, Wm. Lee Rawls, Peter J. McKenna, James G. Chandler, Jeffrey D. Light, Randy Mott, Thomas H. Rawls, John D. Whittaker, John M. Himmelberg, and Richard A. Yarmey, a beautiful staff who gave unlimited effort; and to many others behind the scenes who rendered varied assistance.

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INSTRUCTIONS

The goal of this text is to create a useful compilation of the legal authority under which the U.S. Environmental Protection Agency operates. These documents are for the general use of personnel of the EPA in assisting them in attaining the purposes set out by the President in creating the Agency. This work is not intended and should not be used for legal citations or any use other than as reference of a general nature. The author disclaims all responsibility for liabilities growing out of the use of these materials contrary to their intended purpose. Moreover, it should be noted that portions of the Congressional Record from the 92nd Congress were extracted from the "unofficial" daily version and are subject to subsequent modification.

EPA Legal Compilation consists of the Statutes with their legislative history, Executive Orders, Regulations, Guidelines and Reports. To facilitate the usefulness of this composite, the Legal Compilation is divided into the eight following chapters:

A. General
B. Air
C. Water
D. Solid Waste
E. Pesticides
F. Radiation
G. Noise
H. International

GENERAL

The chapter labeled "General" and color coded red contains the legal authority of the Agency that applies to more than one area of pollution, such as the Reorganization Plan No. 3 of 1970, E.O. 11514, Protection and Enhancement of Environmental Quality, Regulation on Certification of Facilities, Interim Guidelines by CEQ, and Selected Reports. Acts that appear in General are found in full text with their legislative history. When the same Act appears under a particular area of pollution, a cross reference is made back to General for the text.

SUBCHAPTERS

Statutes and Legislative History

For convenience, the Statutes are listed throughout the Compilation by a one-point system, i.e., 1.1, 1.2, 1.3, etc., and Legislative

History begins wherever a letter follows the one-point system. Thusly, any 1.1a, 1.1b, 1.2a, etc., denotes the public laws comprising the 1.1, 1.2 statute. Each public law is followed by its legislative history. The legislative history in each case consists of the House Report, Senate Report, Conference Report (where applicable), the Congressional Record beginning with the time the bill was reported from committee.

Example:

1.4 Amortization of Pollution Control Facilities, as amended, 26 U.S.C. §169 (1969).

1.4a Amortization of Pollution Control Facilities, December 30, 1969, P.L. 91–172, §704, 83 Stat. 667.

(1) House Committee on Ways and Means, H.R. REP. No. 91–413 (Part I), 91st Cong., 1st Sess. (1969).

(2) House Committee on Ways and Means, H.R. REP. No. 91–413 (Part II), 91st Cong., 1st Sess. (1969).

(3) Senate Committee on Finance, S. REP. No. 91–552, 91st Cong., 1st Sess. (1969).

(4) Committee of Conference, H.R. REP. No. 91–782, 91st Cong., 1st Sess. (1969).

(5) Congressional Record, Vol. 115 (1969):

(a) Aug. 7: Debated and passed House, pp. 22746, 22774–22775;

(b) Nov. 24, Dec. 5, 8, 9: Debated and passed Senate, pp. 35486, 38321–37322, 37631–37633, 37884–37888;

(c) Dec. 22: Senate agrees to conference report, p. 40718;*

(d) Dec. 22: House debates and agrees to conference report, pp. 40820, 40900.

This example not only demonstrates the pattern followed for legislative history, but indicates the procedure where only one section of a P.L. appears. You will note that the Congressional Record cited pages are only those pages dealing with the discussion and/or action taken pertinent to the section of law applicable to EPA. In the event there is no discussion of the pertinent section, only action or passage, then the asterisk (*) is used to so indicate, and no text is reprinted in the Compilation. In regard to the

situation where only one section of a public law is applicable, then only the parts of the report dealing with same are printed in the *Compilation.*

Secondary Statutes

Many statutes make reference to other laws and rather than have this manual serve only for major statutes, these secondary statutes have been included where practical. These secondary statutes are indicated in the table of contents to each chapter by a bracketed cite to the particular section of the major Act which made the reference.

Citations

The United States Code, being the official citation, is used throughout the Statute section of the compilation. In four Statutes, a parallel table to the Statutes at Large is provided for your convenience.

TABLE OF STATUTORY SOURCE

	Statutes	Source
1.1	Reorganization Plan No. 3 of 1970, 35 Fed. Reg. 15263.	EPA's originating act.
1.2	The National Environmental Policy Act of 1969, 42 U.S.C. §§4332(2)(c), 4344(5).	In §4332(2)(c) a mandate was made to all Federal agencies as to environmental impact statements. EPA functioning as appropriate agency, and §4344 cited in Reorganization Plan No. 3 of 1970 as a direct transfer to EPA.
1.3	Environmental Quality Improvement Act of 1970, 42 U.S.C. §4371 *et seq.* (1970).	CEQ's originating act.
1.4	Amortization of Pollution Control Facilities, as amended, 26 U.S.C. §169(d). (1969).	Direct reference in sections cited to Clean Air Act, Fed. Water Pollution Control Act which were transferred to EPA by Reorg. Plan No. 3 of 1970. Also the certifying authority was transferred to EPA through the Reorg. Plan No. 3 of 1970.
1.5	Department of Transportation Act, as amended, 49 U.S.C. §1653(f) (1968).	Reorg. Plan No. 3 of 1970 transferred Clean Air Act and the functions of the Secty of Interior pertaining to same to EPA and its Administrator. The Clean Air Act at §1857f—10(b) references 1.5 and requires consultation from the Administrator.

	Statutes	Source
1.6	Federal Aid Highway Act, as amended, 23 U.S.C. §109(h), (i), (j) (1970).	Direct reference made to EPA in sections cited.
1.7	Airport and Airway Development Act, 49 U.S.C. §§1712(f), 1716(c)(4), (e) (1970).	Direct references made to appropriate agency for air, water and noise pollution which is EPA under Reorg. Plan No. 3 of 1970.
1.8	Disaster Relief Act of 1970, 42 U.S.C. §4401 *et seq.* (1970).	The Water Quality Administration was transferred to EPA by Reorg. Plan No. 3 of 1970 and together with E.O. 11490, §§703(3), 11102(1), 11103(2) EPA assumes responsibility.
1.9	Interest on Certain Government Obligations, as amended, 26 U.S.C. §103 (1969).	§103(c)(4)(E) & (F) of the Act provides tax relief on industrial development bonds for sewage or solid waste disposal facilities and air or water pollution control facilities.
1.10	Uniform Relocation Assistance and Real Property Acquisition Polices Act of 1970, 42 U.S.C. §4601 *et seq.* (1970).	Act requires Federal and federally assisted projects and programs to deal uniformly and equitably with persons whose property was taken. EPA promulgated regulation at 40 C.F.R. §§4.1—4.263.
1.11	Departmental Regulations, as revised, 5 U.S.C. §301 (1966).	Bases of EPA regulation 40 C.F.R. §§3.735—101 —3.735—107.
1.12	Public Health Service Act, as amended, 42 U.S.C. §§203, 215, 242, 242b, c, d, f, i, j, 243, 244, 244a, 245, 246, 247, 264 (1970).	Referred to in Clean Air Act., basis for authority in Water, Pesticides, and Radiation functions transferred in Reorg. Plan No. 3 of 1970.
1.13	Davis-Bacon Act, as amended, 40 U.S. C. §276a–276a–5 (1964).	Referenced from Clean Air Act, Fed. Water Pollution Control Act, Solid Waste Disposal Act—all of which were transferred to EPA in Reorg. Plan No. 3 of 1970.
1.14	Public Contracts, Advertisements for Proposals for Purchases and Contracts for Supplies or Services for Government Departments; Application to Government Sales and Contracts to sell and to Government Corporations, as amended, 41 U.S.C. §5 (1958).	Referred to in Clean Air Act, Federal Water Pollution Control Act, and Public Health Service Act—all of which transferred to EPA in Reorg. Plan No. 3 of 1970.
1.15	Per Diem, Travel and Transportation Expenses; Experts and Consultants; Individuals Serving Without Pay, as amended, 5 U.S.C. §5703 (1969).	Referred to in Clean Air Act, Federal Water Pollution Control Act—all of which were transferred to EPA in Reorg. Plan No. 3 of 1970.

	Statutes	Source
1.16	Disclosure of Confidential Information Generally, as amended, 18 U.S.C. §1905.	Referred to in Clean Air Act, and FWPCA which were transferred to EPA both being transferred by the Reorg. Plan No. 3 of 1970.
1.17	Appropriation Bills	Beginning with the Agricultural-Environmental and Consumer Protection Appropriation Act of 1971 each appropriation bill for EPA will appear.

EXECUTIVE ORDERS

The Executive Orders are listed by a two-point system (2.1, 2.2, etc.). Executive Orders found in General are ones applying to more than one area of the pollution chapters.

REGULATIONS

The Regulations are noted by a three-point system (3.1, 3.2, etc.). Included in the Regulations are those not only promulgated by the Environmental Protection Agency, but those under which the Agency has direct contact.

GUIDELINES AND REPORTS

This subchapter is noted by a four-point system (4.1, 4.2, etc.). In this subchapter is found the statutorily required reports of EPA, published guidelines of EPA, selected reports other than EPA's and inter-departmental agreements of note.

UPDATING

Periodically, a supplement will be sent to the interagency distribution and made available through the U.S. Government Printing Office in order to provide an accurate working set of EPA Legal Compilation.

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1.3 ENVIRONMENTAL QUALITY IMPROVEMENT ACT OF 1970

42 U.S.C. §4371 *et seq.* (1970)

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4371. Congressional findings, declarations, and purposes.
4372. Office of Environmental Quality.
(a) Establishment; Director; Deputy Director.
(b) Compensation of Deputy Director.
(c) Employment of personnel, experts, and consultants; compensation.
(d) Duties and functions of Director.
(e) Authority of Director to contract.
4373. Referral of Environmental Quality Reports to standing committees having jurisdiction.
4374. Authorization of appropriations.

§ 4371. Congressional findings, declarations, and purposes

(a) The Congress finds—

(1) that man has caused changes in the environment;

(2) that many of these changes may affect the relationship between man and his environment; and

(3) that population increases and urban concentration contribute directly to pollution and the degradation of our environment.

(b) (1) The Congress declares that there is a national policy for the environment which provides for the enhancement of environmental quality. This policy is evidenced by statutes heretofore enacted relating to the prevention, abatement, and control of environmental pollution, water and land resources, transportation, and economic and regional development.

(2) The primary responsibility for implementing this policy rests with State and local governments.

(3) The Federal Government encourages and supports implementation of this policy through appropriate regional organizations established under existing law.

(c) The purposes of this chapter are—

(1) to assure that each Federal department and agency conducting or supporting public works activities which affect the environment shall implement the policies established under existing law; and

(2) to authorize an Office of Environmental Quality, which, notwithstanding any other provision of law, shall provide the professional and administrative staff for the Council on Environmental Quality established by Public Law 91–190.

Pub.L. 91–224, Title II, § 202, Apr. 3, 1970, 84 Stat. 114.

§ 4372. Office of Environmental Quality—Establishment; Director; Deputy Director

(a) There is established in the Executive Office of the President an office to be known as the Office of Environmental Quality (hereafter in this chapter referred to as the "Office"). The Chairman of the Council on Environmental Quality established by Public Law 91–190 shall be the Director of the Office. There shall be in the Office a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate.

Compensation of Deputy Director

(b) The compensation of the Deputy Director shall be fixed by the President at a rate not in excess of the annual rate of compensation payable to the Deputy Director of the Bureau of the Budget.

Employment of personnel, experts, and consultants; compensation

(c) The Director is authorized to employ such officers and employees (including experts and consultants) as may be necessary to enable the Office to carry out its functions under this chapter and Public Law 91–190, except that he may employ no more than ten specialists and other experts without regard to the provisions of Title 5, governing appointments in the competitive service, and pay such specialists and experts without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no such specialist or expert shall be paid at a rate in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of Title 5.

Duties and functions of Director

(d) In carrying out his functions the Director shall assist and advise the President on policies and programs of the Federal Government affecting environmental quality by—

(1) providing the professional and administrative staff and support for the Council on Environmental Quality established by Public Law 91–190;

(2) assisting the Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government, and those specific major projects designated by the President which do not require individual project authorization by Congress, which affect environmental quality;

(3) reviewing the adequacy of existing systems for monitoring and predicting environmental changes in order to

achieve effective coverage and efficient use of research facilities and other resources;

(4) promoting the advancement of scientific knowledge of the effects of actions and and technology on the environment and encourage the development of the means to prevent or reduce adverse effects that endanger the health and well-being of man;

(5) assisting in coordinating among the Federal departments and agencies those programs and activities which affect, protect, and improve environmental quality;

(6) assisting the Federal departments and agencies in the development and interrelationship of environmental quality criteria and standards established through the Federal Government;

(7) collecting, collating, analyzing, and interpreting data and information on environmental quality, ecological research, and evaluation.

Authority of Director to contract

(e) The Director is authorized to contract with public or private agencies, institutions, and organizations and with individuals without regard to section 529 of Title 31 and section 5 of Title 41 in carrying out his functions.

Pub.L. 91–224, Title II, § 203, Apr. 3, 1970, 84 Stat. 114.

§ 4373. Referral of Environmental Quality Reports to standing committees having jurisdicion

Each Environmental Quality Report required by Public Law 91–190 shall, upon transmittal to Congress, be referred to each standing committee having jurisdiction over any part of the subject matter of the Report.

Pub.L. 91–224, Title II, § 204, Apr. 3, 1970, 84 Stat. 115.

§ 4374. Authorization of appropriations

There are hereby authorized to be appropriated not to exceed $500,000 for the fiscal year ending June 30, 1970, not to exceed $750,000 for the fiscal year ending June 30, 1971, not to exceed $1,250,000 for the fiscal year ending June 30, 1972, and not to exceed $1,500,000 for the fiscal year ending June 30, 1973. These authorizations are in addition to those contained in Public Law 91–190.

Pub.L. 91–224, Title II, § 205, Apr. 3, 1970, 84 Stat. 115.

1.3a ENVIRONMENTAL QUALITY IMPROVEMENT ACT OF 1970

April 3, 1970, P.L. 91-224, Title II, 84 Stat. 114

SHORT TITLE

SEC. 201. This title may be cited as the "Environmental Quality Improvement Act of 1970."

FINDINGS, DECLARATIONS, AND PURPOSES

SEC. 202. (a) The Congress finds—

(1) that man has caused changes in the environment;

(2) that many of these changes may affect the relationship between man and his environment; and

(3) that population increases and urban concentration contribute directly to pollution and the degradation of our environment.

(b) (1) The Congress declares that there is a national policy for the environment which provides for the enhancement of environmental quality. This policy is evidenced by statutes heretofore enacted relating to the prevention, abatement, and control of environmental pollution, water and land resources, transportation, and economic and regional development.

(2) The primary responsibility for implementing this policy rests with State and local governments.

(3) The Federal Government encourages and supports implementation of this policy through appropriate regional organizations established under existing law.

(c) The purposes of this title are—

(1) to assure that each Federal department and agency conducting or supporting public works activities which affect the environment shall implement the policies established under existing law; and

(2) to authorize an Office of Environmental Quality, which, notwithstanding any other provision of law, shall provide the professional and administrative staff for the Council on Environmental Quality established by Public Law 91-190.

OFFICE OF ENVIRONMENTAL QUALITY

SEC. 203. (a) There is established in the Executive Office of the President an office to be known as the Office of Environmental Quality (hereafter in this title referred to as the "Office"). The Chairman of the Council on Environmental Quality established by

Public Law 91–190 shall be the Director of the Office. There shall be in the Office a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The compensation of the Deputy Director shall be fixed by the President at a rate not in excess of the annual rate of compensation payable to the Deputy Director of the Bureau of the Budget.

(c) The Director is authorized to employ such officers and employees (including experts and consultants) as may be necessary to enable the

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Office to carry out its functions under this title and Public Law 91–190, except that he may employ no more than ten specialists and other experts without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and pay such specialists and experts without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no such specialist or expert shall be paid at a rate in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5.

(d) In carrying out his functions the Director shall assist and advise the President on policies and programs of the Federal Government affecting environmental quality by—

(1) providing the professional and administrative staff and support for the Council on Environmental Quality established by Public Law 91–190;

(2) assisting the Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government, and those specific major projects designated by the President which do not require individual project authorization by Congress, which affect environmental quality;

(3) reviewing the adequacy of existing systems for monitoring and predicting environmental changes in order to achieve effective coverage and efficient use of research facilities and other resources;

(4) promoting the advancement of scientific knowledge of the effects of actions and technology on the environment and encourage the development of the means to prevent or reduce adverse effects that endanger the health and well-being of man;

(5) assisting in coordinating among the Federal departments and agencies those programs and activities which affect, protect, and improve environmental quality;

(6) assisting the Federal departments and agencies in the development and interrelationship of environmental quality criteria and standards established through the Federal Government;

(7) collecting, collating, analyzing, and interpreting data and information on environmental quality, ecological research, and evaluation.

(e) The Director is authorized to contract with public or private agencies, institutions, and organizations and with individuals without regard to sections 3618 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5) in carrying out his functions.

REPORT

SEC. 204. Each Environmental Quality Report required by Public Law 91–190 shall, upon transmittal to Congress, be referred to each standing committee having jurisdiction over any part of the subject matter of the Report.

AUTHORIZATION

SEC. 205. There are hereby authorized to be appropriated not to exceed $500,000 for the fiscal year ending June 30, 1970, not to exceed $750,000 for the fiscal year ending June 30, 1971, not to exceed $1,250,000 for the fiscal year ending June 30, 1972, and not to exceed $1,500,000 for the fiscal year ending June 30, 1973. These authorizations are in addition to those contained in Public Law 91–190.

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1.3a(1) HOUSE COMMITTEE ON PUBLIC WORKS

H.R. REP. No. 91-127, 91st Cong., 1st Sess. (1969)

[No Relevant Discussion on Pertinent Section]

1.3a(2) SENATE COMMITTEE ON PUBLIC WORKS

S. REP. No. 91-351, 91st Cong., 1st Sess. (1969)

AMENDING THE FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED, AND FOR OTHER PURPOSES

AUGUST 7 (legislative day, AUGUST 5), 1969.—Ordered to be printed

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Mr. MUSKIE, from the Committee on Public Works, submitted the following

REPORT

[To accompany S. 7]

The Committee on Public Works, to which was referred the bill (S. 7), having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

INTRODUCTION

S. 7, as reported, includes three titles, the first two of which would amend the Federal Water Pollution Control Act, establish an environmental policy for Federal public works projects and provide for the establishment of an Office of Environmental Quality.

Title I of this legislation would provide specific approaches for dealing with particular kinds of water pollution problems and directing that additional studies be made with regard to some of their more complex aspects.

For the first time the President would have power and authority to deal with disastrous oil spills which threaten serious injury to the Nation's waters and beaches.

The bill also breaks new ground by requiring compliance with water quality standards by all activities over which the Federal Government has direct control or for which Federal licenses or permits are required. Discharges of sewage from vessels which foul many of the Nation's marinas, harbors, and ports will be subject to control measures.

Authority would be provided to designate those hazardous substances, the discharge of which into the Nation's waters, presents a substantial endangerment to health and welfare.

Authorizations for continued research under the act are provided as is new authority to solve specific pollution problems caused by eutrophication (the natural process of aging of lakes) and acid mine drainage.

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Title II of this bill sets forth a fundamental procedure to coordinate Federal, and federally assisted public works activities to assure adequate consideration of the environmental policies set by the Water Quality Act, the Air Quality Act, and the Solid Waste Disposal Act. This title of S. 7, as reported, is designed to bring coherent and integrated management of those environmental policies into the programs of the Federal Government.

Title III includes provisions for acquiring land for use of the U.S. Senate.

The provisions, their ramifications and the intent of the committee will be discussed in detail by title.

[p. 2]

TITLE II—ENVIRONMENTAL QUALITY

SUMMARY AND DISCUSSION OF MAJOR PROVISIONS

Our contemporary culture, primed by population growth and driven by technology, has created problems of environmental deg-

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radiation that directly affect all of our senses: noise, odors, and toxins which bring physical pain and suffering, and ugliness, barrenness, and homogeneity of experience which bring emotional and psychological suffering and emptiness. In short, we are jeopardizing our human qualities by pursuing technology as an end rather than a means.

Too often we have failed to ask two necessary questions: First, what human purpose will a given technology or development serve? Second, what human and environmental effects will it have? These questions require responses before we implement and distribute the products of our new technology. The facts are well documented. The committee has studied the application of these problems in the areas of air and water pollution, solid waste, highway construction, water resource development, and economic development.

The message which has emerged from these investigations and from all studies of environmental problems, whatever their origin or focus, is essentially the message of ecology—that we, and all of our activities, are integral parts of a natural system. We cannot consider any human activity independently of this system if we hope to achieve a quality of life worthy of the name.

The Subcommittee on Air and Water Pollution has been instrumental during the last six years in forming a national environmental policy. The subcommittee's work has resulted in the Clean Air Act of 1963, and the 1965 and 1966 amendments; the Air Quality Act of 1967; the Water Quality Act of 1965; the Clean Water Restoration Act of 1966; and the Solid Waste Disposal Act of 1965.

The basis for the legislation is a strong Federal-State-local partnership. The States have been delegated the primary responsibility to protect and enhance the quality of air and water within their boundaries, and, in cooperation with other States, to protect and enhance the quality of air and water within resource areas common to those States. The Federal Government has the responsibility to improve our understanding of environmental threats, the authority to act where States fail or are unable to fulfill their obligations and the obligation to protect the environment in its own activities.

The laws provide Federal support for improved organization of State and local abatement programs, planning activities, and the research, development, and demonstration of new control technologies. The programs authorized under the acts are based on the concept of prevention and are designed to reduce discharges into the atmosphere and public waterways. They are limited only by the effectiveness of existing technology and by the outmoded philosophy of waste disposal rather than waste management and reduction.

The legislation seeks to promote and encourage the development of policies and institutions geared to the regional nature of environmental problems. Whether or not it succeeds depends upon the degree of commitment and cooperation of State and local governments and the taxpayer and citizen. The responsibility is a heavy one.

The committee and the Congress are pledged to a national policy of enhancement of environmental quality, a policy based on the concept that man and his environment are interrelated and that a

quality environment is necessary to the improvement of living standards for all men.

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The committee is committed to a review of legislation under its jurisdiction and expects to initiate review proceedings in all of its subcommittees during this Congress. Sections 201 and 202 of title II of S. 7 are provisions to expedite this review. However, jurisdictional questions in the Congress often frustrate effective review of administrative practices and duplication.

Essentially, institutional fragmentation is a result of legislation that grants authority to conduct, regulate, or otherwise administer a particular environmental program or policy without granting corollary authority and direction to consider such program or policy in the context of the total environmental system.

Institutional fragmentation, however, is subject to remedies other than a modification of statutory authority, once Congress has manifested its will that all authorized activities be undertaken in harmony with environmental quality. With respect to Federal and federally assisted public works projects, it is the committee's judgment, as expressed in section 201(b)(1), that Congress has so expressed its will in prior acts and statements of intent.

Existing pollution control legislation is directed toward the development of an operational national policy. The Environmental Quality Act would extend the Federal government's environmental management effort in several important areas. It would require that all federally supported public works projects and programs be planned and developed in full recognition of their ecological impact. Technological and economic developments which produce short-term benefits at the expense of the long-term health and productivity of the environment would be rejected.

For example, the location, design, and development of the Corps of Engineers civil works projects should be evaluated to take into full account the ecological implications of the decisions involved. Alternatives should be chosen which minimize deleterious effects.

A major need for improved environmental management in relation to public works exists in our Federal-aid highway program. The Interstate Highway System has served to link our urban centers in an ever-increasing flow of commerce, goods, and people. But the roads, and the economy they support, are not ends in themselves. With more environmental planning they can better serve the needs of our people, through respect for the integrity

and future development of communities and by attention to the protection of natural beauty and resources.

Our highways must be brought into harmony with the communities and countrysides they traverse. Too often this need has received little more than lip service. Locations have been chosen to serve the more limited benefits of the user rather than the needs of the community at large.

Cities such as Baltimore and Chicago are attempting to manage the environmental impact of highways by employing urban design concept teams. This approach involves engineers, architects, sociologists, urban planners, economists, and other specialists to form a coordinated team. The team examines the highway corridor in a framework which emphasizes overall community goals and plans.

Although still experimental, this approach has proven worthwhile and will provide criteria to aid others in evaluating urban

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transportation needs in terms of social, esthetic, and economic values. The knowledge gained should yield new methods and techniques of assistance in the solution of complex urban problems.

Ugliness, clutter, litter, the lack of parks and open space, and inadequate recreational opportunities are among the basic components of the crisis in America's cities. An effective response to the urban crisis requires a series of measures responsive to citizens' needs for housing, health and sanitation, education, employment, transportation, and pollution abatement. The committee also feels that provisions must be made for improving the appearance of cities, for new urban parks and more open space, and for creating attractive and diverse recreational experiences.

Federal-aid highway legislation of the 1960's has created highway beautification programs and has strengthened the protection of parklands. It also requires the consideration of social and environmental factors and community goals and objectives in the location of proposed highway projects. Such policies can only be carried out in coordination with other agencies.

Recognizing the need in water resource programs for "developmental planning" rather than "response planning," the Committee on Public Works initiated the first program in this area in the Appalachian Regional Development Act of 1965, which authorizes regional water resources planning programs for the Appalachian region. This concept and this approach should be extended to other regions of the country. Water resources development could be used to reverse the trends of population movement from rural to the

highly urbanized areas. The Appalachian Regional Development Act also provides for the development of programs for mine land reclamation and pollution control.

In shaping these policies the committee has worked to dispel any concept of any component of the environment—air, water, or land—as an infinite reservoir, with an infinite capacity to dilute, disperse, and assimilate waste. Our resources are limited, and we have overdrawn our bank account.

More and more public officials and individual citizens recognize the need for integrated national policies for the environment. This recognition stems from the facts that we are confronted with (1) problems of accelerating environmental degradation; (2) the inadequacy of our government agencies, public and private institutions to deal with environmental degradation; and, (3) a reluctance to make the necessary investments of money and resources to do the job.

The committee has focused on several measures designed to remedy institutional fragmentation in the area of environmental quality. There has been some discussion of reorganizing the Federal executive branch in order to put all environmental agencies under one department. This may or may not be advisable, but, as the committee learned so dramatically from the Santa Barbara incident, the fact that the Geological Survey, the Fish and Wildlife Service, and the Federal Water Pollution Control Administration are located in the same Department did not result in adequate consideration of the environment in the Outer Continental Shelf leasing program.

The committee has concluded that the problems are more urgently management problems than they are organizational prob-

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lems. Therefore, it has proposed under this title an Office of Environmental Quality to provide the President with the management capability necessary to bring coherence and consistency into the environmental activities of the Federal Government. The committee has studied the bills, S. 1818, introduced by Senator Tydings, and S. 2391, as well as other legislative proposals along with the President's establishment of a Cabinet Environmental Council, and has concluded that an independent environmental staff in the Executive Office of the President is necessary if all Federal programs are to be effectively coordinated and administered to carry out the Nation's policy of environmental enhancement.

In creating a Cabinet Council on Environmental Quality, the President established a mechanism that, as described by Dr. Lee DuBridge, Science Adviser to the President, is an action organization to implement Presidential decisions and policies. Such action is commendable. It puts into focus the limited management tools the President has at his disposal to make the Council function effectively and creatively.

The Office of Science and Technology is presently the staffing organization of the President's Council and is the general adviser to the President on matters of environmental quality. Unfortunately, the Office of Science and Technology has widespread responsibilities, is thinly staffed, and, in turn, must look to the departments and agencies of the Federal Government for staff assistance. This, of course, establishes a system in which the advice and assistance the President receives, and on which he instructs or directs the agencies and coordinates their activities, ultimately comes from the agencies themselves. Such a system, no matter how well intentioned, cannot be expected to produce critical and independent review of the Federal establishment, and represents a poor management structure for which the President is dependent on Congress to change.

The problems associated with environmental quality are not entirely scientific and demand a broader range of professional staff than is found in the Office of Science and Technology. Environmental quality issues and answers require legal, economic, social, management, and systems analysis as well as scientific study. Consequently, the present staff and the historical orientation of the Office of Science and Technology may not be adequate to satisfy the demands that proper evaluation of environmental quality present.

One unavoidable product of the technological society in which we live is the occurrence of events or conditions that demand immediate analysis and consideration in the highest levels of government. In recent months there have been several examples of these events: The Santa Barbara disaster, ocean disposal of certain military weapons, and fish kills from pesticides. In each instance, because of insufficient staff, the President has found it necessary to either appoint task forces of Government agency personnel or seek the assistance of private advisers. Private advisers are certainly necessary, but they are not in a position to give the President the depth of continuous staff support he needs for the development of sound policies. An independent staff in the Executive Office with immediate access to all information in the

Federal establishment and with appropriate standing advisory committees will provide the policy guidance necessary for continuous review and advisory services for the President.

In addition, this legislation authorizes the Director of the Office of Environmental Quality to convene, every 2 years, a forum on environmental quality. It is the committee's intent that these forums be organized in a manner to enable the most competent citizens, private or otherwise nonfederally employed, including those who are controversial, to critically analyze and otherwise evaluate the environmental policies, activities and trends of the Nation.

A great weakness in the administration of Federal programs is a management weakness: an information, coordination, consultation, timing, and research hodgepodge. Many agencies have begun to recognize this internally and have taken steps to provide a remedy, such as the establishment of an Assistant Secretary for Urban Systems and Environmental Affairs in the Department of Defense, and a proposed Office of Ecology in the Department of Interior. This growing practice must be complemented by an overall management, review, and analysis function in the Executive Office of the President. More importantly, the functions of these new departmental offices concerned with the quality of the environment need constant and effective coordination. That coordination can be provided by the newly created Council only if independent staff assistance is available.

The most difficult task facing the President and the Congress, is the review and analysis of the administration of the total environmental programs and policies activities of the Federal Government, a function that needs to be coordinated from the vantage point of the Office of the President. This function cannot be carried out on an ad hoc or part-time basis. The committee strongly feels that this function requires a sufficiently large and competent, independent staff, unaffiliated with any other Federal agency. Only in such a manner will the President and the Nation receive a close review and analysis of the environmental activities of the Federal Government.

The President's Executive order establishing the Cabinet-level Environmental Quality Council and the Citizens' Advisory Committee on Environmental Quality provides a mechanism to coordinate the environmental protection programs enacted to date through a policy of comprehensive Federal consideration of all aspects of environmental quality in the utilization of natural resources.

One of the questions raised about the potential effectiveness of the President's Council has been the lack of advice independent of the agencies represented on the Council. As noted above, the committee does not believe the Office of Science and Technology can meet that need. An Office of Environmental Quality would provide the independent staffing required by the Council and would make available to the President the professional competence and facilities necessary to the substantive review and analysis of all matters relating to the environment. In addition, the Office would be required to report on environmental issues to Congress, the Council, and the public.

The bill reported by the committee does not tell the President how to organize his administration to deal with environmental problems. It provides him with staff support for whatever arrangement he determines most appropriate to his approach to the administration of the Executive branch.

One of the principal advantages of this legislation is the recognition that progress can be made in enhancing the quality of the

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environment only if that policy has the full support of both the President and the Congress.

The Office of Environmental Quality should increase the capacity of the President to support that policy, and the Congress needs to give further attention to its capacity to deal with the varied and interrelated problems which comprise our environmental crisis.

Man has now forced his way out of his environment. We continue to flex our muscles and look to further growth, but our world will not grow with us.

In some future time, we may find another environment in which we can live without artificial assistance, but for the foreseeable future man has but one home and one natural environment. If we do not begin a coordinated effort to repair the damage we have caused and prevent greater damage in the future, man may become an ecological orphan—faced with an environment which cannot support simple human existence, much less the growing technology on which we have thrived.

The committee feels that the Environmental Quality Improvement Act of 1969, title II of this legislation, will encourage a focus on this problem and require effective action by Federal agencies which have not lived up to their responsibilities in the past.

EXCERPTS FROM HEARINGS ON ENVIRONMENTAL QUALITY

During the past 6 years, in the course of its work on environmental quality legislation, the Committee on Public Works has become increasingly concerned with the impact of federally aided programs and activities on the environment. The proposed section 16 under title I and title II is a logical extension of that concern and of the findings of the committee, particularly as they relate to the 1968 and 1969 hearings on thermal pollution. The following quotations from hearings and reports illustrate the extent of the committee's concern and underscore the relevance of title II to the legislative program developed by the committee.

> During the 88th Congress, the Senate Committee on Public Works found an increasing amount of its activity shifting from the consideration of traditional project legislation to substantive matters. Increased emphasis on the conservation of air and water resources has been answered by means to prevent pollution. Increased concern for lagging economic growth in certain areas of the Nation has produced public works programs designed to aid economic development. Our highway program is being examined for its total community value.
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> Rivers and harbors measures, themselves, are less and less simple one-purpose projects. Previous Congresses set the stage we are moving onto now where comprehensive planning and multipurpose developments are required. The interrelationship of water resource development with economic growth
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> is becoming more the rule than the exception as demonstrated by the Appalachia bill reported by the committee.
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> The Appalachia bill marks a sharp departure in the responsibilities of the committee which first began with consideration and the passage of the Accelerated Public Works Act.
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> Appalachia is the first extensive legislation identifying dams, reservoirs, roads, sewage treatment plants, sewers, buildings, and other public works as the physical requirements for economic growth. Accelerated public works recognized the value of public works as an antidepression measure. Combined with Appalachia the building of public works pro-

vides not only immediate employment but the means for long-term general improvement.

(Summary of Legislative Activities, Committee on Public Works, U.S. Senate, 88th Cong., p. v.)

AIR AND WATER POLLUTION

The concern of the Committee on Public Works for environmental quality led to the establishment of a special subcommittee on air and water pollution during the 88th Congress on April 30, 1963.

The national water pollution control program has for its primary objective the enhancement of the quality and value of the Nation's water resources. This can only be done by preventing, controlling, and abating water pollution.

The Federal Water Pollution Control Act is the basic statutory authority for Federal participation in the national program. The act authorizes the administration and conduct of programs directed to the achievement of the important national water quality goal. The bill provides for specific expression of the act's purpose to establish a national policy for the prevention, control, and abatement of water pollution through effective administration of its comprehensive authorities.

(Federal Water Pollution Control Act Amendments of 1965, S. Rept. 89–10, p. 4.)

(1) Authorize the initiation and acceleration of a national research and development program for new and improved methods of proper and economic solid waste disposal, reducing the amount of waste and unsalvageable material and recovering and utilizing potential sources of solid waste, and provide technical and financial assistance to State and local governments and interstate agencies in planning, developing, construction, and conduct of solid waste disposal programs.

(2) Provide that not to exceed 25 percent of funds appropriated for this purpose may be made for grants-in-aid, or to contract with, public or private agencies and institutions and to individuals for research and training.

(3) Authorize grants to State, municipality, or intermunicipal or interstate agency for the purpose of assisting in the development of any project which will demonstrate a new or improved method of disposing of solid waste. * * *

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(4) Encourage cooperative activities by States and local governments in connection with solid waste disposal programs, encourage planning, and encourage the enactment of improved, and, so far as practicable, uniform State and local laws governing solid waste disposal.

(5) Authorize up to 10 percent of funds available for the solid waste disposal program to be used in connection with the grants for support of air pollution control programs of the Clean Air Act. Grants would be made in an amount of up to two-thirds of the cost of making surveys of solid waste disposal practices and problems within the jurisdictional areas of appropriate agencies, and development of solid waste disposal plans. * * *

(Clean Air Act Amendments and Solid Waste Disposal Act. S. Rept. 89–192, pp. 2–3.)

* * * requires that any Federal department or agency having jurisdiction over any building, installation, or other property shall discharge waste only in compliance with standards * * *

* * * authorize appropriations to be made to the appropriate Federal departments or agencies for the installation, maintenance, and operation of water pollution control facilities which have been designed to meet standards prescribed * * *

* * * authorizes the Secretary of Health, Education, and Welfare, upon request by a department or an agency, to train personnel to operate and maintain water pollution control systems.

There are provisions in existing law which authorize training in technical matters relating to the cause, prevention, and control of water pollution to personnel of public agencies and other persons of suitable qualifications. However, the committee is concerned that such authority may not be construed or utilized for the purpose of developing skilled personnel to operate and maintain treatment plants, particularly in new facilities.

* * * would provide for a system of reporting to the Secretary of Health, Education, and Welfare by the Federal department or agencies which have jurisdiction over buildings, installations, and other property, and which discharge waste. In addition, the Secretary of Health, Education, and Welfare would report to the President and the Congress with respect

to effectiveness of actions taken by those Federal departments or agencies in controlling water pollution.

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* * * requires that all Federal departments and agencies cooperate with the Department of Health, Education, and Welfare, and with air pollution agencies in controlling air pollution discharges from any Federal building, installation, or property. Further, the Secretary of Health, Education, and Welfare is authorized to establish classes of potential pollution sources for which any Federal department or agency

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would be required to obtain a permit from the Secretary before discharging any matter into the air.

* * * authorize appropriations to be made to the appropriate Federal departments or agencies for the installation and maintenance of air pollution control devices as are certified by the Secretary of Health, Education, and Welfare to be adequate to meet the limitations on emissions prescribed by him. In addition, it directs such Federal departments or agencies to request funds to make necessary installations to meet the limitations for allowable emissions.

* * * require that, after the effective date of this section, no Federal department or agency shall construct, prepare for use, or expand facilities without the inclusion of air pollution control measures which the Secretary of Health, Education, and Welfare considers to be adequate.

* * * authorizes the Secretary of Health, Education, and Welfare, upon request by a department or an agency, to train personnel to operate and maintain devices or other means of preventing or controlling air pollution.

* * * provide that Federal departments or agencies keep the Secretary of Health, Education, and Welfare informed of air pollution control practices in effect at buildings, installations, and other property under their jurisdiction. They are also to inform the Secretary of the absence of, or failure to institute, practices necessary and adequate to correct deficiencies and the reasons therefor. In addition, the Secretary is to report each January to the President and the Congress on status and effectiveness of actions taken.

(Federal Installation, Facilities, and Equipment Control Act. S. Rept. 89–128, pp. 10–11.)

The prime purpose of the proposed legislation is to strengthen the Clean Air Act, to expedite a national program of air quality improvement, and to enhance the quality of the atmosphere to protect the health and welfare of our citizens against long-term hazards and immediate danger. Considerations of technology and economic feasibility, while important in helping to develop alternative plans and schedules for achieving goals of air quality, should not be used to mitigate against protection of the public health and welfare.

The objective of S. 780 as amended is to achieve clean air, and to do so through the establishment of sound objectives and feasible timetables. The committee's hearings indicated that those who contribute to air pollution share with all Americans the objective of cleaning up the air, and that the differences of opinion expressed were addressed primarily to how that objective best could be accomplished. Through a full understanding of the etiology, the probabilities, and the severity of health and welfare hazards involved and with the strengthening of the technological and economic capabilities for abatement in both the public and private sector of our economy, the needs of public health and welfare without serious or excessive economic dislocation can be met.

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This legislation contains imaginative and far-reaching opportunities for air pollution control and abatement, but the bill is complex, as are the problems of environmental control. The problem of air pollution is neither local nor temporary. It is a universal problem, and, so long as our standard of living continues to increase, it will be a permanent threat to human well-being.

S. 780, as amended by the committee, will provide a comprehensive, broad-based attack on the Nation's air pollution problem while expanding the potential of control technology and identifying the health and welfare effects of air pollution. Its objective is the enhancement of air quality and the reduction of harmful emissions consistent with maximum utilization of an expanding capacity to deal with them effectively. At the same time, it provides authority to abate any pollution source which is an imminent danger to health, by whatever means necessary.

(Air Quality Act of 1967, S. Rept. 90–403, p. 2.)

The President's Executive order on water pollution and section II of the Federal Water Pollution Control Act are both directed at water pollution control activities by Federal agencies.

Nuclear powerplants are licensed by a Federal agency and therefore can and should be expected to conform with applicable water quality standards and a concept of water quality enhancement.

But the committee has found that Federal agencies are not assuming the proper leadership role—that often their activities actually condone pollution rather than encourage water quality enhancement.

Thermal pollution is only one case. There are numerous Federal agencies which need to exercise more leadership both in their own activities and in the activities over which they are responsible.

Only in this way can the Federal effort in pollution control appropriately relate to the expanding vigor of the State programs. This expanded Federal role is especially essential, at a time when, because of a serious national budgetary restriction, full Federal funding of construction activities may not be possible.

(Opening statement at hearings of the Senate Committee on Public Works on Thermal Pollution, 1968, pt. 1, pp. 1–2.)

While water quality standards, now set and approved for most interstate waters, will cause installation of such control facilities as are necessary for compliance, serious question has been raised regarding the role of Federal agencies which authorize or assist such activities without requiring compliance with applicable standards.

In order to ascertain the extent to which Federal agencies are conducting such activities, the committee began, early last year, hearings on the role of the Atomic Energy Commission relative to control of waste heat discharges from federally

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licensed nuclear powerplants. The hearings indicated several important problems.

1. The Atomic Energy Commission does not consider its legislative authority sufficient to condition licenses relative to water quality standards for other than radioactive materials;

2. The AEC regulations specifically prohibit intervention or testimony on the subject of pollution other than radioactive discharges;

3. State agencies charged with water pollution control responsibility question their ability to require control of nuclear powerplant waste heat discharges once that plant has been licensed for operation by a Federal agency, believing that the existence of the Federal license might preempt State regulatory authority;

4. Thermal pollution is of sufficient concern to require consideration prior to final selection of a steam electric powerplant site both because of the potential adverse effect of heated water discharges on the receiving streams and because of the land requirements associated with construction of cooling facilities if required; and

5. Waste heat discharges can seriously and adversely affect the ecological balance of the receiving waters and, though much remains to be learned about these effects, a sufficient body of evidence exists to establish standards and require control.

The information received during the hearings suggested a need for the Federal Government to become involved at an early stage in water quality control by entities which receive Federal authorization or assistance.

On September 16, the subcommittee invited comment on the extent to which the electric utilities industry should consider environmental hazards in selecting powerplant sites. This question resulted from information developed during the hearings pointing out—

1. Few utilities have considered ecological effects of waste heat discharges either in relation to site location or operation of thermal generating stations;

2. Little, if any, investigation has been made by most utilities to determine ecological background of receiving waters;

3. Use of existing cooling technology for other than conservation of water has not been considered by utilities until after intense public pressure has been exercised; and

4. The general assumption seems to be that any risk of adverse ecological effects associated with thermal pollution be taken by the public rather than the utility.

However, the correspondence which follows indicates that ecological effects are of significant importance to warrant early consideration in a utility's decision to construct new steam electric generating facilities.

(Summary statement on hearings of the Senate Committee on Public Works on Thermal Pollution, 1968, pt. 3, pp. 975–976.)

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What we are talking about is adding something to the environment that is not now added. Now, if it happens to be harmful we may be doing something that is irrevocable. If it happens to be good, so much the better. But by withholding any discharge or any such addition to the environment we are making no impact and that is the ideal situation to maintain until you get the answers. Unfortunately, we do need the additional energy, so we have the problem of how in the period during which we are trying to find the answers we minimize the possibility of harmful effects.

The fact that in some cases you may get beneficial effects does not necessarily justify taking the risk of harmful effects when you can withhold both until you get the answer.

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We are going to have an argument in each case as to whether or not we know enough to impose a restriction. Well, I think that increasingly we have to take the point of view that if we don't know enough, then we don't know enough to permit the discharge.

If the point that we don't know enough justifies not imposing control, then it seems to me it also justifies not permitting the discharge.

At least I think we ought to take that perspective on every one of these plant location decisions. I don't think we can afford to take a position that until we know specifically what the harmful effects are, we have to assume that there is enough good to build a plant.

I think that is a wrong perspective. I think that we have to enlarge our area of knowledge as fast as we can so that we won't deprive ourselves of the necessary electrical energy, but I don't think we can just leave it an open door to permit this kind of development to continue without any restriction or restraint simply because we don't know all we ought to know about the harmful effects.

There is a change of perspective and I think we have to arm the Federal agencies and the State agencies, as we would under this legislation, with enough restraining authority so we just don't plunge headlong into a lot of problems that will plague us once we begin to know the full implication of what we have done.

(Comment by Senator Muskie at hearings of the Senate Committee on Public Works on Water Pollution, 1969, pt. 1, pp. 42–43.)

Legislation has been enacted to deal separately with the control and abatement of air, water, and land pollution. The enhancement of environmental quality has become a major national goal. The committee has now turned its attention to the need for environmental planning. As existing sources are brought under control, management of wastes and environmental quality can become a reality. As this possibility

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evolves, a policy must be defined relating to the responsibilities and rights in the use of air, water, and land resources.

The need for a policy relating to use of the air, inland, and coastal waters, and land resources is highlighted when it is realized that any single form of waste can be transformed to another form during handling and disposal. Solid waste, for example, may result in gaseous wastes when incinerated, liquid wastes when ground in garbage grinders, or remain as solid waste materials disposed of in landfills. This is but one example which suggests the need for an integrated policy for all forms of wastes rather than separate policies for solid waste disposal, air pollution control, and sewage disposal.

A policy of environmental quality management for all forms of wastes is clearly required. Such a policy need not suggest that the administration of these programs be combined, but in the absence of a combined administration, the need for an overall coordinated policy is even more urgent.

(Summary of Legislative Activities; Committee on Public Works, U.S. Senate, 90th Congress, p. 45.)

Environmental Quality

During the second session, the subcommittee held hearings on "Environmental Quality Management and Waste Management Research." Legislation has been enacted to deal separately with air pollution, water pollution, and solid waste

disposal, but a congressional policy directed at their interrelationship is less precise. These hearings provided an initial look at this interrelationship and the need to define a public policy relating to the responsibilities and rights in the use of air, water, and land resources.

These hearings provided an initial look into two areas. First, is there a need for a policy relating to the use and degradation of the air, inland and coastal waters, and land resources of the United States?

Second, are the current Federal research management policies and practices in air and water pollution, and solid waste disposal adequate to the problem? Enacted legislation requires the establishment and implementation of air and water quality standards on prescribed time schedules. Current technology will reportedly satisfy many immediate objectives such as municipal waste water treatment of control of airborne particulates. These hearings provided an initial look at long-term needs and the adequacy of control technology to insure compliance with prescribed time schedules. Particular attention was given to improvements in Federal research management practices which might expedite development of control technology.

(Summary of Legislative Activities, Committee on Public Works, U.S. Senate, 90th Cong., pp. 61–62.)

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RIVERS AND HARBORS AND FLOOD CONTROL

Public works for many years has been synonymous with flood control. But recently the simplicity of a flood control project has given way to the necessity of considering much more than a single factor when developing a reservoir program. As a result public works is becoming more and more a matter of water resources programing.

The Federal civil works program under jurisdiction of the Corps of Engineers, embraces the works for improving rivers, lakes, coastal areas, and harbors of the United States in the interest of navigation, flood control, hydroelectric power development, water supply, pollution abatement, recreation, beach erosion control, and other allied water purposes, which the committee has approved and the Congress authorized for accomplishment by the Corps of Engineers, Department of the Army.

(Summary of Legislative Activities, Committee on Public Works, U.S. Senate, 88th Cong., p. 5.)

It has long been recognized that flood control is only one of the purposes for which our water resources should be developed. Congress has recognized that full consideration should be given to a desirable improvement for the use and control of all the water resources, in the committee, the projects and basin plans included in this bill give full weight to the navigation possibilities; the development of hydroagricultural uses; the utilization or recreation potentialities in connection with reservoirs; the preservation of fish and wildlife; the abatement of stream pollution; the improvement of water quality; and the provision of improved sanitary facilities. The committee feels that a program for flood control and navigation would not be comprehensive or in the best interests of the Nation unless all these factors were considered.

(River and harbor, beach erosion control, and flood control projects, S. Rept. 87–2258, pp. 3–6.)

We are no longer just concerned with flood prevention—but with the multiple aspects of reservoir development—including water supply hydropower development, recreation, and other multiple uses made possible by large storage dams.

Water is a precious commodity. It is becoming more apparent each year—that we cannot afford to waste, pollute, or in any way destroy this natural resource.

Therefore, it is of paramount importance that in our plans for controlling destructive flood waters, we fully utilize all the waters stored in a manner that will provide releases for conservation purposes—such as power development, industrial and domestic water supply, recreation, and pollution abatement.

The Congress has asked the Corps of Engineers to look into comprehensive river basin planning, as the best means of fully developing our water resources.

(Opening statement at the hearings of the Senate Committee on Public Works, on Public Works Authorizations, 1965, pt. I, pp. 1–2.)

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In this work we are dedicated to the principle of providing the best use, or combination of uses, of these resources in the service of the economic and social welfare of the Nation.

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The disciplines and techniques of economics, political and social science, and public administration, as well as engineering, bear importantly in the solution of the complex resource development problems of our present-day society. In our role as public planners we are striving to provide the insight and leadership necessary to bring all of the pertinent disciplines and techniques into focus on these problems.

The test of any planning lies in the soundness of the action programs it defines. In down-to-earth terms this means that in the field of water-oriented planning we must devise effective ways of meeting needs—both immediate and long term —for domestic, municipal, industrial, and agricultural water supply; water quality control; navigation; hydroelectric power; flood control; land and beach stabilization; drainage and salinity control; hurricane and tidal flood damage control; outdoor recreational activity, including that associated with preservation and enjoyment of open space, green space and wild areas of unique natural beauty or special interest; and fish and wildlife conservation and enhancement. These factors all are considered in our project proposals. * * *

* * * As we approach the borderline between water abundance and water deficiency in many parts of the Nation, and strive to catch up in those areas where we already have crossed this border, it becomes clear that the pace of our planning and development activities must be increased. In addition to the pace imposed by growing demands, there is the added pressure of complexity. With few exceptions the day of single-purpose project planning is a thing of the past. Multiple-purpose planning now is the rule of the day.

(Testimony of Maj. Gen. Jackson Graham, hearings of the Senate Committee on Public Works, on Public Works Authorizations, 1965, pp. 15–16.)

* * * In water development it is not enough to consider measurable market values. We must also look beyond them. Water is related to public health, to outdoor recreation, and to the beauty of the landscape. * * *

If the assessment of values to be taken into account in project design is difficult, so are the technical engineering aspects. A variety of engineering and natural science specialists are required to design and operate a modern water facility. * * *

In my opinion the policies and administrative arrangements which evolved out of the earlier period of our history

have not yet caught up with the kind of water management task now confronting us. * * *

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I am not suggesting that a Federal agency or combination of Federal agencies should be clothed with this kind of authority nor am I suggesting that all water resources management responsibilities be turned over to State or regional organizations. But I am indicating that some combination of policies and administrative arrangements that can institute these measures in a coordinated fashion is essential if water resources management is to provide American society with the full potential benefits inherent in the resources with which we have been endowed.

(Testimony of Irving Fox, Resources for the Future, hearings of the Senate Committee on Public Works on Public Works Authorizations, 1965, pp. 30–31.)

HIGHWAY BEAUTIFICATION

Many millions of us have been disheartened as we have traveled about the country and have seen hillsides stripped of their foliage, roadsides littered with trash, streams polluted. Some citizens, no doubt have felt that "uglification"—this desecration of the land and water—was a necessary price we must pay for industrial progress, and a necessarv byproduct of the tremendous growth in our population. Others, fortunately, have not given up so easily and, in fact, have recognized that our growth in population and our economic development are factors which make it absolutely essential that we take positive action to preserve our natural resources. We have come to realize that we do not have unlimited land and water. Of necessity, many of us are going to be crowded in urban places. We must work together to make these places as pleasant and attractive as possible.

* * * * * * *

Our concern is with damage inflicted unnecessarily, which could be avoided, by consideration of all aspects of the problem, not merely those of the highway engineers.

(Testimony of Louis Prentiss, American Roadbuilders Association, hearing of the Senate Committee on Public Works, on Highway Beautification and Scenic Road Program, 1965, pp. 165–173.)

> It might seem to the casual observer that little harm would result in constructing a superhighway along a stream's course or in straightening a curving section of roadway by crossing and culverting, or channelizing and relocating a stream, or dredging a streambed to secure gravel for aggregate or to straighten and speed up the flow of runoff waters. The effect that most folk overlook is the great damage that accrues from violent disruption of the aquatic habitat.
>
> * * * * * * *
>
> I think engineers, biologists, everyone working with resources of one kind or another, seek public approval, and want to do the best job they can. They often have to persuade some people to look at other values. This is essentially what we are trying to do here, to provide a basic force on the highway engineers and builders to consider these matters seriously so we will have a harmonious balance.
>
> [p. 52]

(Testimony of Richard Stroud, Sport Fishing Institute, hearings of the Senate Committee on Public Works on the Highway Beautification and Scenic Road Program, 1965, pp. 438–455.)

Soil erosion control

> The Committee on Public Works, through the activities of its Subcommittee on Air and Water Pollution, has become increasingly concerned with siltation as a form of water pollution. Suburban home builders and highway builders are among the worst sources of this form of pollution, and yet government, whether Federal, State, or local, can hardly impose control measures on the private construction industry when it ignores prudent soil erosion control measures within its own area of responsibility. The committee therefore urges the Secretary not only to implement the provisions of the committee amendment, but also to take steps to minimize the time in which unsurfaced highway construction projects are subject to the erosion of wind and water.

(Federal-aid Highway Act of 1966, S. Rept. 89–1410, p. 38.)

Preservation of parklands

> [It is] the national policy of the Federal-aid highway programs to preserve Federal, State, and local parklands and historic sites and the beauty and value of such sites. The

secretary is directed not to approve any Federal-aid highway project which requires the use of such lands unless (1) there is no feasible alternative to such use, and (2) the project plans include all possible provisions to minimize harm to affected parkland and historic sites. The committee recommends that this policy be extended to include wildlife refuge areas as well.

(Ibid.)

The committee is firmly committed to the protection of vital parklands, parks, historic sites, and the like. We would emphasize that everything possible should be done to insure their being kept free of damage or destruction, by reason of highway construction. The committee would, however, put equal emphasis on the statutory language which provides that in the event no feasible and prudent alternative exists, that efforts be made to minimize damage. To that end, the amendment contained in section 114 of S. 3418, as reported, which would expand the definition of "construction costs," should be helpful.

The committee would further emphasize that while the areas sought to be protected by section (4)(f) of the Department of Transportation Act and section 138 of title 23 are important, there are other high priority items which must also be weighed in the balance. The committee is extremely concerned that the highway program be carried out in such a manner as to reduce in all instances the harsh impact on people which results from the dislocation and displacement by reason of highway construction. Therefore, the use of park lands properly protected and with damage minimized by the most sophisticated construction techniques is to be preferred to the movement of large numbers of people.

(Federal-aid Highway Act of 1968, S. Rept. 90–1340, pp. 18–19.)

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Urban Impact of Highways

During 1967 the committee reviewed Federal policy relating to urban highway planning, location, and design.

* * * Most people realize how important highways are to the continued social and economic development of our Nation. Highways have proven to be one of the great contributors to our system of communication, as well as transportation. When people are able to move freely, safely, and conveniently

from place to place, the resulting exchange of information, goods, and services works to the benefit of the entire national community.

* * * * * * *

We hope through these hearings to come to an understanding of what is being done and what can be done in urban highway construction to make highways a force for improved environment rather than as a factor which accentuates the already existing elements of decay, disruption, and displacement.

(Opening statement at hearings of the Senate Committee on Public Works, on Urban Highways, 1967, Pt. 1, pp. 1–5.)

First, we must apply to all capital improvement programs a full accounting of their social and environmental costs and build into all of these programs the means of meeting these costs;

And second, we must design all capital improvements to serve more than a single purpose so that full social and environmental benefit is extracted from such public investments.

The application of these two principles to the highway program, I believe, is clear. The cost accounting applied to urban highways until now has been deficient in that the ledger shows the costs of the program only in terms of acquisition, design, and construction. It does not show such real and tangible costs as the additional street and storage capacity required at points of egress; the taking of land from the tax rolls; the dislocation of the people in the highway's path; the reduction in value of adjacent property, the division and disruption of neighborhoods stemming from insensitive location; and the visual blight resulting from insensitive design.

* * * * * * *

I believe, and I will return to the point, that the highway program should include all the costs of building an urban highway, including those that I have itemized, and pay a fair share of these costs. To put it another way, I believe that the highway program, and the highway user, should meet the

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consequences of the powerful and potentially disruptive act of highway building in the city.

(Testimony of William Slayton, Urban America, at hearings of the Senate Committee on Public Works, on Urban Highways, 1967, Pt. 1, pp. 5–21.)

> We had to take available published data, much of it very primitive indeed, but I think any examination clearly must include not only factors of physiographic and slopes and so on, bridge crossings points, but really must include social factors and resource values too, and the development I think of a humane and civilized route selection method will concentrate I think not on engineering considerations but matters of man, institution, and resource values.

(Testimony of Ian McHarg, University of Pennsylvania, at hearings of the Senate Committee on Public Works, on Urban Highways, 1967, Pt. 1, p.61.)

> In the view of the committee, the emphasis of the Federal Highway Administration on the development of multiple land and air rights use, as an integral part of urban highway planning design, is well placed. We encourage the Department of Transportation, the Federal Highway Administration, and individual State highway departments to give continued strong support to this so-called joint development concept.
>
> The significance of the concept's potential value is impressive in terms of savings to the public, of more productive land use in densely populated or highly concentrated urban areas, and of prevention of haphazard development along the highway right-of-way.
>
> The public saves from joint development because, on its behalf, the highway department eliminates costly severance damages associated with acquiring a highway right-of-way through partial takings of land. Instead, the parcels are acquired in their entirety for fair price, and the unused portions either developed or sold for development.

(Federal-aid Highway Act of 1968, S. Rept. 90–1340, p. 8.)

Urban highway planning

> There is almost universal agreement on the need to approach the complexities of urban highway planning and development with all the professional and scientific expertise available. For too long, highways were designed, located, and constructed as single purpose projects. They were built to serve the needs of traffic and, in many cases, without regard to their disruptive effects on urban environment. Use of joint urban development as well as other techniques has done much

to correct the situation. The committee believes that improvement in the overall coordination of highway projects is taking place.

* * * * * * *

It should produce the basic mechanics needed, to provide a better evaluation of urban transportation needs in terms of social, esthetic, and economic values. It must be pointed out,

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however, that the approach must be classified as experimental. The committee is also aware that an approach such as this, will tend to prolong the completion of the Interstate System while these extensive studies take place.

There is no doubt that the knowledge gained in these efforts, will provide a foundation for new methods and techniques to assist in solving our complex urban transportation problems.

(Federal-aid Highway Act of 1968, S. Rept. 90–1340, pp. 11–12.)

ECONOMIC DEVELOPMENT

* * * over the years, the steeply sloped Appalachian farms have remained relatively unproductive and have undergone severe erosion. The resulting denuded slopes have marred the scenic beauty of the land, contributed to widespread siltation of its streams, and have thus impeded the development of the great potential for recreation and tourism.

Most of the small crop farming now practiced in Appalachia is on a marginal basis and too frequently provides only a bare subsistence living for the small farmer. It is, however, unrealistic to expect every small Appalachian farmer to give up his farm immediately—an act which would largely result in simply transforming rural poverty into urban poverty. Also, many of the small farmers of the region, especially the elderly ones, are deeply rooted in the land and prefer to live out their years on the farm, rather than become public welfare clients in the towns and cities. Thus, a coherent and equitable Appalachian development program must provide for restoration of the land under its present inhabitants and enable them to realize what benefits the land can furnish.

(Appalachian Regional Development Act of 1965, S. Rept. 89–13, p. 11.)

Water resources

An abundant annual rainfall in Appalachia gives the region a water resource potential that can be found in few other areas of the country. Unfortunately, this potential has never been fully realized, and all too often, water acts as a curse rather than a blessing in Appalachia.

With proper control and management, Appalachia's water resources can become the region's most precious natural asset, providing almost unlimited opportunities for recreational activities and incentives for industrial development (*18*).

(Appalachian Regional Development Act of 1965, S. Rept. 89–13, p. 15.)

Mine area restoration

Much of the Appalachian landscape has been ravaged by the mining of coal. Former practices of both strip mining and deep mining operations have eroded the hillsides, polluted the streams, and endangered the lives of thousands of people. Though present enlightened management practices have made great progress over former years, the abuses of past coal

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mining practices serve as a major deterrent to industrial and recreational development in Appalachia.

(Appalachian Regional Development Act of 1965, S. Rept. 89–13, p. 16.)

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TITLE II—ENVIRONMENTAL QUALITY

SECTION 201

This section would cite this title as the Environmental Quality Improvement Act of 1969 and make certain congressional findings relative to the national policy set forth in specific statutes for the enhancement of environmental quality.

SECTION 202

Federal Public Works Activities

This section would require each Federal agency conducting or supporting public works activity which affect the quality of the environment to implement the policies established by the President under this Act.

SECTION 203

Office of Environmental Quality

This section would establish in the Executive Office of the President an Office of Environmental Quality.

SECTION 204 ADVISORY COMMITTEES

This section would direct that an advisory committee be established having a broad range of concern of population growth and environmental quality and planning for the future.

SECTION 205

This section would authorize appropriations to carry out the purposes of this title.

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1.3a(3) COMMITTEE OF CONFERENCE

H.R. REP. No. 91-940, 91st Cong., 2d Sess. (1970)

WATER QUALITY IMPROVEMENT ACT OF 1970

MARCH 24, 1970.—Ordered to be printed

Mr. FALLON, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 4148]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4148) to amend the Federal Water Pollution Control Act, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

* * * * * * *

[p. 1]

TITLE II—ENVIRONMENTAL QUALITY

Short Title

Sec. 201. This title may be cited as the "Environmental Quality Improvement Act of 1970."

Findings, Declarations, and Purposes

Sec. 202. (a) The Congress finds—

(1) that man has caused changes in the environment;

(2) that many of these changes may affect the relationship between man and his enviornment; and

(3) that population increases and urban concentration contribute directly to pollution and the degradation of our environment.

(b) (1) The Congress declares that there is a national policy for the environment which provides for the enhancement of environmental quality. This policy is evidenced by statutes heretofore enacted relating to the prevention, abatement, and control of environmental pollution, water and land resources, transportation, and economic and regional development.

(2) The primary responsibility for implementing this policy rests with State and local governments.

(3) The Federal Government encourages and supports implementation of this policy through appropriate regional organizations established under existing law.

(c) The purposes of this title are—

(1) to assure that each Federal department and agency conducting or supporting public works activities which affect the environment shall implement the policies established under existing law; and

(2) to authorize an Office of Environmental Quality, which, not withstanding any other provision of law, shall provide the professional and administrative staff for the Council on Environmental Quality established by Public Law 91–190.

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Office of Environmental Quality

Sec. 203. (a) There is established in the Executive Office of the President an office to be known as the Office of Environmental Quality (hereafter in this title referred to as the "Office"). The Chairman of the Council on Environmental Quality established by Public Law 91–190 shall be the Director of the Office. There shall be in the Office a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The compensation of the Deputy Director shall be fixed by the President at a rate not in excess of the annual rate of compensation payable to the Deputy Director of the Bureau of the Budget.

(c) The Director is authorized to employ such officers and employees (including experts and consultants) as may be necessary to enable the Office to carry out its functions under this title and Public Law 91–190, except that he may employ no more than ten specialists and other experts without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and pay such specialists and experts without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no such specialist or expert shall be paid at a rate in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5.

(d) In carrying out his functions the Director shall assist and advise the President on policies and programs of the Federal Government affecting environmental quality by—

(1) providing the professional and administrative staff and support for the Council on Environmental Quality established by Public Law 91–190;

(2) assisting the Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government, and those specific major projects designated by the President which do not require individual project authorization by Congress, which affect environmental quality;

(3) reviewing the adequacy of existing systems for monitoring and predicting environmental changes in order to achieve effective coverage and efficient use of research facilities and other resources;

(4) promoting the advancement of scientific knowledge of the effects of actions and technology on the environment and encourage the development of the means to prevent or reduce adverse effects that endanger the health and well-being of man;

(5) assisting in coordinating among the Federal departments and agencies those programs and activities which affect, protect, and improve environmental quality;

(6) assisting the Federal departments and agencies in the development and interrelationship of environmental quality criteria and standards established through the Federal Government;

(7) collecting, collating, analyzing, and interpreting data and information on environmental quality, ecological research, and evaluation.

(e) The Director is authorized to contract with public or private agencies, institutions, and organizations and with individuals without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5) in carrying out his functions.

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Report

Sec. 204. Each Environmental Quality Report required by Public Law 91–190 shall, upon transmittal to Congress, be referred to each standing committee having jurisdiction over any part of the subject matter of the Report.

Authorization

Sec. 205. There are hereby authorized to be appropriated not to exceed $500,000 for the fiscal year ending June 30, 1970, not to exceed $750,000 for the fiscal year ending June 30, 1971, not to exceed $1,250,000 for the fiscal year ending June 30, 1972, and not to exceed $1,500,000 for the fiscal year ending June 30, 1973. These authorizations are in addition to those contained in Public Law 91–190.

JOHN A. BLATNIK,
ROBT. E. JONES,
JIM WRIGHT,
GEORGE H. FALLON,
WILLIAM C. CRAMER,
WM. HARSHA,
JAMES R. GROVER, JR.,
Managers on the Part of the House.

EDMUND S. MUSKIE,
JENNINGS RANDOLPH,
BIRCH BAYH,
JOSEPH M. MONTOYA,
J. CALEB BOGGS,
JOHN SHERMAN COOPER,
HOWARD BAKER,
Managers on the Part of the Senate.

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ENVIRONMENTAL QUALITY

Senate amendment

Title II of the Senate amendment, consisting of five sections, relates to environmental quality.

Section 201 would cite this title as the Environmental Quality Improvement Act of 1969 and make certain congressional findings relative to the national policy set forth in specific statutes for the enhancement of environmental quality.

Section 202 would require each Federal agency conducting or supporting public works activity which affect the quality of the environment to implement the policies established by the President under this Act.

Section 203 would establish in the Executive Office of the President an Office of Environmental Quality.

Section 204 would direct that an advisory committee be established having a broad range of concern of population growth and environmental quality and planning for the future.

Section 205 would authorize appropriations to carry out the purposes of this title.

House bill

The House bill contains no comparable provision.

Conference substitute

Title II of the conference substitute relates to environmental quality.

Section 201 cites the title as the "Environmental Quality Improvement Act of 1970."

Section 202 makes certain congressional findings relating to the national policy set forth in existing statutes relating to environmental pollution, control, water, and land resources, transportation, and economic and regional development. It also finds that the primary responsibility for implementing this national policy rests

with the State and local governments, and encourages the implementation of the policy through regional organizations.

The section declares that the purposes of the title are to assure that existing Federal departments and agencies conducting or supporting public works activities affecting the environment shall implement the policies established under existing law and to authorize an Office of Environmental Quality.

Section 203 establishes in the Executive Office of the President an Office of Environmental Quality. The Chairman of the Council on Environmental Quality is to be the Director of this Office. A Deputy Director is authorized to be appointed by the President by and with the advice and consent of the Senate, and his compensation is provided for. The Director is authorized to employ necessary personnel. These personnel would be employed in accordance with the general classification laws and paid in accordance with the General Schedule, except that authority is granted for the employment of not to exceed ten specialists and experts without regard to the provisions of law governing appointment and payment in the competitive service, with the further condition that no such specialist or expert shall be paid at a rate above that of the maximum for GS–18. The conferees expect a report to the Public Works Committees from the Council on Environmental Quality within 90 days after the date of enactment of this Act on their staff needs, in terms of numbers, grades, and functions of temporary and permanent staff personnel.

In carrying out his functions, the Director shall assist and advise the President on policies and programs of the Federal Government affecting environmental quality by—

(1) providing the professional and administrative staff and support for the Council on Environmental Quality;

(2) assisting the Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government which affect environmental quality as well as those specific major projects designated by the President which do not require individual project authorization by Congress and which affect environmental quality;

(3) reviewing the adequacy of existing systems for monitoring and predicting environmental changes in order to achieve effective coverage and efficient use of research facilities and other resources;

(4) promoting the advancement of scientific knowledge of the effects of actions and technology on the environment and

encourage the development of the means to prevent or reduce adverse effects that endanger the health and well-being of man;

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(5) assisting in coordinating among the Federal departments and agencies those programs and activities which affect, protect, and improve environmental quality;

(6) assisting the Federal departments and agencies in the development and interrelationship of environmental quality criteria and standards established through the Federal Government;

(7) collecting, collating, analyzing, and interpreting data and information on environmental quality, ecological research and evaluation.

The Director in carrying out his functions is authorized to contract with public or private agencies, institutions, and organizations and individuals.

Section 204 provides for referral of the Environmental Quality Report to each standing committee of Congress having jurisdiction over any part of its subject matter.

Section 205 authorizes $500,000 for fiscal year 1970, $750,000 for fiscal year 1971, $1,250,000 for fiscal year 1972, and $1,500,000 for fiscal year 1973, in addition to the existing authorizations.

JOHN A. BLATNIK,
ROBT. E. JONES,
JIM WRIGHT,
GEORGE H. FALLON,
WILLIAM C. CRAMER,
WM. HARSHA,
JAMES R. GROVER, JR.,
Managers on the Part of the House.

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1.3a(4) CONGRESSIONAL RECORD

1.3a(4)(a) Vol. 115 (1969), April 16: Passed House, p. 9259;

[No Relevant Discussion on Pertinent Section]

1.3a(4)(b) Vol. 115 (1969), Oct. 7: Amended and passed Senate, pp. 28952–28954, 28956–28957, 28962, 28967, 28969, 28972;

TITLE II—ENVIRONMENTAL QUALITY

SEC. 201. This title may be cited as the "Environmental Quality Improvement Act of 1969".

FINDINGS, DECLARATIONS, AND PURPOSES

SEC. 202. (a) The Congress finds—

(1) that in the pursuit of social and economic advancement man has caused changes in the environment;

(2) that the degree of such changes endangers a harmonious relationship between man and his environment;

(3) that population increases and urban concentration contribute directly to pollution and the degradation of our environment, increasing the severity of the physical, social, psychological, and economic problems of our society; and

(4) that changes in the environment should be restricted, insofar as possible, to avoid adverse effects on man, other species and the environment itself.

[p. 28952]

(b) The Congress declares—

(1) that there is a national policy for the environment which provides for the enhancement of environmental quality, which is enunciated in the—

(A) Federal Water Pollution Control Act;

(B) Clean Air Act;

(C) Solid Waste Disposal Act;

(D) title 23 of the United States Code, relating to highways;

(E) Omnibus Rivers and Harbor and Flood Control Acts;

(F) Appalacian Regional Development Act of 1965;

(G) Public Works and Economic Development Act of 1965; and

(H) Tennessee Valley Authority Act of 1933;

(2) that the primary responsibility for implementing this policy rests with State and local governments;

(3) that the Federal Government shall encourage and support implementation of this policy through appropriate regional organizations; and

(4) that Federal and federally assisted public works programs and projects shall, in all instances, be developed and implemented in a manner consistent with the enhancement of environmental quality.

(c) The purposes of this title are—

(1) to provide for the development of criteria and standards to assure the protection and enhancement of environmental quality in all Federal and federally assisted projects and programs; and

(2) to authorize and to provide staff for an Office of Environmental Quality.

FEDERAL PUBLIC WORKS ACTIVITIES

SEC. 203. Each Federal department or agency conducting or supporting public works activities which affect the environment shall implement the policies established by the President pursuant to this title.

OFFICE OF ENVIRONMENTAL QUALITY

SEC. 204. (a) There is established in the Executive Office of the President an office to be known as the Office of Environmental Quality (herein referred to as the "Office"). There shall be in the Office a Director and a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The compensation of the Director and the Deputy Director shall be fixed by the President at a rate not in excess of the annual rate of compensation payable to the Director and the Deputy Director of the Bureau of the Budget.

(c) The Director is authorized to employ such officers and employees as may be necessary to enable the Office to carry out its functions under this title.

(d) In carrying out the provisions of this section the Director shall—

(1) assist and advise the President on policies and programs of the Federal Government affecting environmental quality;

(2) provide staff and support for any cabinet level council or committee established by the President to coordinate Federal activities which affect the environment;

(3) review and appraise existing and proposed projects, facilities, programs, policies,

and activities of the Federal Government which affect environmental quality and make recommendations thereon;

(4) review the adequacy of existing systems for monitoring and predicting environmental changes in order to achieve effective coverage and efficient use of research facilities and other resources;

(5) promote advancement of scientific knowledge of the effects of actions and technology on the environment and encourage the development of the means to prevent or reduce adverse effects that endanger the health and well-being of man;

(6) develop proposed policies and programs to protect and enhance environmental quality;

(7) recommend priorities with respect to problems involving environmental quality;

(8) assure evaluation of new and changing technologies for their potential effects on the environment prior to their implementation;

(9) review and comment on the coordination of the programs and activities of Federal departments and agencies which affect, protect, and improve environmental quality;

(10) review and comment on the development and interrelationship of environmental quality criteria and standards established through the Federal Government; and

(11) consult with and advise representatives of State and local governments and assist the President in efforts to achieve environmental quality in the community of nations.

(e) In carrying out the provisions of this section, the Director is authorized to contract with public or private agencies, institutions, and organizations, and with individuals, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5) for research and surveys regarding any potential or existing problem of environmental quality.

(f) In carrying out the provisions of this title the Director shall—

(1) not later than six months after the effective date of this Act and not later than January 10 of each calendar year beginning after such date, report to the Congress on measures taken toward implementing the purpose and intent of this title;

(2) collect, collate, analyze, and interpret data and information on environmental quality and issue reports thereon, as he deems appropriate; and

(3) organize and convene a biennial forum on current problems and issues concerning environmental quality, population, and the future, and publish the proceedings thereof, and participants in such forums shall be selected from among representatives of various State, interstate, and local government agencies, of public or private interests concerned with population growth, environmental quality, and planning for the future, and of other public and private agencies demonstrating an active interest, as well as other individuals in the fields of population, biology, psychology, medical sciences, social sciences, ecology, agriculture, economics, law, engineering, and political science who have demonstrated competence with regard to problems of the environment.

ADVISORY COMMITTEES

SEC. 205. (a) In order to obtain assistance and independent advice in the development and implementation of the purposes of this title, the Director of the Office of Environmental Quality shall from time to time establish advisory committees. Committee members shall be selected from among representatives of various State, interstate, and local government agencies, of public or private interests concerned with population growth, environmental quality, and planning for the future, and of the other public and private agencies demonstrating an active interest, as well as other individuals in the fields of population, biology, medical sciences, psychology, social sciences, ecology, agriculture, economics, law, engineering, and political science who have demonstrated competence with regard to problems of the environment.

(b) The members of the advisory committees appointed pursuant to this title shall be entitled to receive compensation at a rate to be fixed by the Director, but not exceeding $100 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 section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

AUTHORIZATION

SEC. 206. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1969, and for each of five succeeding fiscal years, such amounts as may be necessary for the purposes of this title.

[p. 28953]

Mr. MUSKIE.

* * * * *

Title II of S. 7 provides for meaningful consideration of the environmental policies set by the Federal Water Pollution Control Act, the Clean Air Act, and the Solid Waste Disposal Act in all federally supported public works activities. Other provi-

sions of title II are intended to bring those environmental policies into all other programs of the Federal Government.

* * * * *

[p. 28954]

TITLE II

In recent years, and especially since 1963, Congress has developed a strong policy for the enhancement of environmental quality. This policy is based on the knowledge that man and his environment are closely interrelated and that environmental quality is necessary to the improvement of living standards for all men—and, indeed, possibly for the survival of the human race.

The legislation which has formed this broad policy has been developed through the efforts of many congressional committees, including the Senate Committee on Agriculture, Banking and Currency, Commerce, Finance, Government Operations, Interior, Labor and Public Welfare, and Public Works. Participation in this development has been broad-based because the problems of environmental quality transcend artificial divisions of committee jurisdiction.

Much of the substantive legislation in this area has come from the Public Works Committee and its Subcommittee on Air and Water Pollution. The committee's work has resulted in the Clean Air Act of 1963, and the 1965 and 1966 amendments; the Air Quality Act of 1967; the Water Quality Act of 1965; the Clean Water Restoration Act of 1966; and the Solid Waste Disposal Act of 1965.

Originally drafted to meet specific pollution problems which demanded immediate abatement actions, legislation from the Public Works Committee evolved to the point where it is based on the concept of the prevention of pollution and the enhancement of the quality of the air, water, and land environment.

A strong partnership among governmental agencies at the Federal, regional, and State levels is the basis for this broad strategy. The States have been delegated the primary responsibility to protect and enhance the quality of the environment within their jurisdictions and—in cooperation with neighboring States—within river basins and air sheds common to those States. Water and air quality standards are to be adopted, implemented, and enforced at the State and regional levels on the basis of criteria promulgated by the Departments of the Interior and Health, Education, and Welfare. The Federal Government has the responsibility to develop these criteria; to act to set or enforce standards where States do not fulfill their obligations; to conduct research to improve our understanding of environmental threats and develop new means of protection; and to protect the environment in the conduct of its own activities.

The opportunity to act first has been given to the States because the national policy of environmental enhancement recognizes the need to involve individual citizens and communities in any decisions concerning the environment in which they live. The best way to put this policy into practice—to make participation in the decisionmaking process as close to individual citizens as possible, within the guidelines of the criteria.

The committee has emphasized, however, that the opportunities for local control are not open-ended. If the States and regions fail adequately to carry out their responsibilities under these sets or are unable to do so, the Congress has expressly authorized the Federal agencies administering these programs to assume the responsibilities.

The States cannot succeed in meeting their obligations without the complete cooperation of all Federal departments and agencies. The Federal

responsibility to protect the environment in the conduct of its programs which are not subject to State regulation has often gone unmet. This shortcoming is present in every Federal department and agency and is in direct conflict with the Nation's environmental policy and the purposes and provisions of the legislation which has developed that policy.

It is clear that there is no one answer to the problem of environmental regulation of the Federal Government's own activities. The committee believes that it is the responsibility of each standing committee in Congress to examine carefully the activities of those departments and agencies within its jurisdiction and to insist that the policy of the enhancement of environmental quality is strictly followed.

The Public Works Committee is committed to reviewing all legislation and Federal activity under its jurisdiction with these duties in mind and expects to initiate this review during this Congress. Furthermore, title II of S. 7 explicitly requires that all federally supported public works projects and programs be planned, developed, and administered with full consideration of their impact on our air, water, and land and with strict adherence to the national policy of environmental enhancement.

More and more public officials and individual citizens share this concern of the committee and have recognized the need for the integration of environmental consideration in all programs and policies of the Federal Government. We are confronted with problems of accelerating environmental deterioration on the one hand, and the inadequacies of our public and private institutions to deal with these problems on the other.

The Public Works Committee has focussed on several measures designed to remedy these inadequacies and has concluded that the problems of management are even more urgent than the problems of organization. Therefore, the committee has proposed in title II an Office of Environmental Quality in the Office of the President. This office would have the management capability to bring coherence and consistency into the environmental activities of the Federal Government. The committee has given careful study to other proposals and has concluded that an independent environmental staff in the Executive Office of the President is crucial to the effective coordination and administration of all Federal programs in line with the Nation's policy of environmental enhancement.

The Office of Science and Technology presently supplies the staff for the President's Cabinet Council on Environmental Quality. Unfortunately, the Office of Science and Technology has wide-spread responsibilities, is thinly staffed, and must look to the departments and agencies of the Federal Government for staff assistance. Thus, the advice and assistance the President receives concerning the programs and policies of the Federal agencies comes from the agencies themselves. No matter how well intentioned, this arrangement will not produce a critical and independent review of Federal departments and agencies.

No Federal department or agency which is not primarily oriented to environmental matters can be expected to have either the sufficient expertise or the proper perspective to evaluate their own programs satisfactorily by themselves. This assumption is the basis for both section 16 of title I and the provision establishing the Office of Environmental Quality in title II.

The most difficult task facing the President and the Congress in the area of environmental quality is the review and analysis of the administration of the environmental programs and poli-

cies of the Federal Government, a function which should be coordinated from the Office of the President. The committee strongly feels that the President requires a competent, independent staff, not affiliated with any other Federal agency, to accomplish this purpose.

The Office of Environmental Quality would provide the independent staff required by the new Cabinet Level Council and would make available to the President the professional competence to review and analyze all programs and policies relating to the air, water, and land environment. The office would also provide reports on environmental issues to the appropriate

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committees of Congress, the Council, and the public.

The bill reported by the committee does not tell the President how to organize his administration to deal with environmental problems. It provides him with staff for whatever arrangement he determines most appropriate to his approach to the administration of the executive branch.

One of the principal advantages of this legislation is the recognition that progress can be made in enhancing the quality of the environment only if the national policy has the full support of both the President and the Congress. The Office of Environmental Quality should increase the capacity of the President to support that policy.

Mr. President, I conclude what may appear to be a lengthy analysis of the bill, but which, in fact, in the light of its broad coverage, is a brief analysis of the bill.

I would like, at this time, to express my appreciation to all members of the committee, but specifically, to the distinguished Senator from West Virginia (Mr. RANDOLPH), chairman of the full committee, the distinguished Senator from Kentucky (Mr. COOPER), the ranking Republican member of the full committee, and my good friend and longstanding right hand in this fight against pollution, the distinguished Senator from Delaware (Mr. BOGGS), for the excellent cooperation which we have had.

I must say that our experience with this bill has been one of the most reassuring that I have had in my years in the Senate and in my years of dealing with this kind of legislation.

We had long hearings, but, more than that, we had extensive executive sessions beginning in March and continuing through June and July—sessions which were attended most of the time by the full membership of the committee, all of whom participated in the discussion of problems which surfaced in an effort to come to grips with them and solve them soundly, from the legislative point of view, without regard to partisan considerations. I do not believe there is a partisan comma in the bill. It reflects the work of members on both sides of the aisle, and for them I would like to express my appreciation, through Senator BOGGS, to all his colleagues on the Republican side of the committee.

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Mr. RANDOLPH.

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Throughout our entire deliberations on S. 7, the Committee on Public Works showed a single strong thread, which was even through the entire fabric of recent legislation by the committee. This thread is the committee concern for maintaining and enhancing the quality of our environment.

The heart of our concern is the growing awareness that we can no longer fail to take into consideration the effects of our activities on the total environment. As the President's Science Advisory Committee report of 1965, "Restoring the Quality of our Environment," so aptly pointed out:

The public should come to recognize individual rights to quality of living as expressed by the absence of pollution, as it has come to recognize rights to education, to economic advance, and to public recreation . . . There should be no "right" to pollute.

It is this awareness that brought about title II of the Water Quality Act of 1969. Title II weaves together the many strands of environmental quality which make up the pattern for a national policy for environmental quality, to insure that Americans now and in the future have that right to clean water, clean air, clean land, and freedom from physical and psychological insults of all kinds. This concept, I would point out, was embodied originally in S. 2391 which was cosponsored by myself and 41 of our colleagues in the Senate early this year.

Title II of S. 7 provides for more effective coordination of Federal air quality, water quality, and solid waste disposal programs, for the consideration of environmental quality in all public works programs and projects, and for the coordination of all Federal research programs which improve knowledge of environmental modifications resulting from increased population and urban concentration.

What we have come to realize, of course, is that environmental quality goes beyond water and air pollution and solid waste management. Assurance of environmental quality means that every man, woman, and child has the opportunity to live in a world which will in no way insult his body, mind, or spirit.

It is a sad fact that nearly all of the important and critical environmental problems—air and water pollution, the growing pervasiveness of pesticides, mounting solid wastes, the effects of smoking—have emerged as serious health problems only after a series of crises have crystallized public attention. Each of these problems has been an undesired and unforeseen byproduct of goods or services which society has wanted. But it has been our habit to take action only after a crisis develops, rather than to prevent its occurrence. We fail to heed the old saying that an ounce of prevention is worth a pound of cure.

In the past we have relied on what has been termed the "natural assimilative capacity" of nature to reprocess or destroy most of the waste of our civilization, with little concern for its long-term capability to perform this function. Only recently have we become acutely aware of the fact that we are exceeding nature's ability and capacity to reprocess the kinds and qualities of wastes which are being produced by modern technology.

The majority of the Nation's streams and rivers are no longer able to support the life which has for eons processed the wastes of man and the animals and plants upstream. Experiences in the late 1950's and early 1960's with nondegradable detergents dramatically underscored the lack of planning and understanding of our waste systems and the effects of our newly developed materials on vital water resources.

The urgency of finding new solutions to the problems of water pollution is apparent when we reflect that by 1980 this Nation will be producing enough sewage and other waterborne wastes to consume all of the oxygen of all the flow in dry weather in the 22 river systems of the United States. At the same time the need for fresh, clean water will increase from our present consumption rate of 370 billion gallons per day to 600 billion gallons a day. The supply of fresh water is limited. The total daily flow in the United States is about 1,100 billion gallons. By the year 2000, because of population growth and industrial expansion, our withdrawal rate will be almost four-fifths of the total available supply, and we will return approximately two-thirds of the

total available supply with some degree of waste.

Air pollution loomed as a major problem in 1963, when 809 people died in one air pollution catastrophe in New York City, and the Nation suddenly awoke to the perils of tainted air.

The illusion that man has conquered nature through science and technology has been abruptly challenged by nature herself. Only slowly are we beginning to realize that it is not the conquest of nature that we seek to achieve, but a harmonious balance with nature through which we may enhance the quality of human life.

There will never be—on a nationwide basis—absolutely clean air or pristine pure water. There is a necessary and acceptable amount of each pollutant that society will understand and accept. Because of varying uses of land and air and water, the right amount of pollution—the desirable compromise—is not the same everywhere. Some communities may determine the economic and industrial development is more important than fishing, and that some pollution of their streams is acceptable. Others, like the untouched wilderness areas of the great Northwest, will find that low tolerances—but not impossibly low—will be the goal for recreational areas.

The broad problems of solid waste management are just now being recognized as a crisis of gigantic proportions. Americans throw away billions of tons of solid materials each year. From our homes and offices each person contributes almost 5½ pounds of garbage and miscellaneous trash every day to our overstrained and underdesigned refuse system. The cost is more than $4.5 billion a year. And the figure will reach 8 pounds per person a day by 1980. Added to that, industrial solid waste contributes another 3.2 pounds per person per day to the environment; agricultural wastes from animal feedlots, packinghouses, lumbering operations, and related industries produce another 30 pounds per person; and 7 million automobiles are junked each year.

The thrust of these remarks is to remind my colleagues that what is important is not the isolated pollution problem nor the quick solution to an immediate crisis. We are pleased that S. 7 solves some of the problems which we have recently experienced. It clarifies and tightens Federal regulations over water pollution generally and provides rigid penalties for operations like the disastrous oil well blow-out that spilled oil on the beaches around Santa Barbara.

What we must plan for, however, is environmental quality for the future. Today, the Committee on Public Works is working with an official advisory panel of experts—scientists, engineers, and specialists from a variety of disciplines—to help determine the problems of environmental degradation before they become problems. We are assessing the impact of land mismanagement from highway construction, from urban redevelopment, from mining, or from sanitary landfills. We are looking at the question of biological imbalances created by dredging, thermal pollution, pesticides, and air pollution. And we are probing problems connected with flooding and dam construction, the effects of building reservoirs, and the use of nuclear energy for power or construction.

I am aware that the solutions to many of these problems do not now exist and that the search for technology—economically feasible technology—may be a costly one. It is for this reason that I have, as chairman of the Committee on Public Works, emphasized so heavily the importance of Federal coordination and support for research and development in all of these areas.

But the problem is not one of research in itself. Nor can it rest solely on the Federal Government. Industry, the States and local governments must take a big share in the solution, as their share in the product of a clean and wholesome environment will be large.

Today, society places higher priorities on the values of our physical environment, and these priorities must be incorporated in the technology that serves us. Americans are ready, I believe, to improve the environment, and in so doing we will build a better society for ourselves and for future generations.

S. 7—and especially title II—will provide the basis for the long-term enhancement of the quality of the environment for which we are all striving. I urge the speedy adoption of this legislation.

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[p. 28962]

Mr. RANDOLPH.

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It is essential, in addition, that America have a coordinated policy for the quality of the environment—a policy which will insure not only cleaner water, cleaner air, and freedom from solid wastes, but will provide future generations of Americans with the type of environment necessary for good health and well-being.

Title II, entitled the "Environmental Quality Improvement Act of 1969," simply and succintly states that:

> There is a national policy for the environment which provides for the enhancement of environmental quality.

We have come to the point where we can no longer ignore the consequences of our actions in the name of economy. Two hundred years ago, when our country was young and growing and the population was fairly well dispersed, we could afford to turn our backs on the impact of industrial pollution in favor of building our industrial might.

Today, we are more than 200 million, and will be 320 million by the year 2000. Today, industries dot every shore; highways stretch endlessly across the continent; buildings rise where there was once only wilderness. Today, there is little of nature left, except in isolated patches of heretofore unwanted or undevelopable land.

With pollution at the crisis level—air and water pollution, noise pollution, thermal pollution—and space at a premium, it is high time that we squarely face the issue of environmental quality.

Title II of S. 7 intends that all Federal moneys spent on public works activities which affect the environment would be reviewed and found not to be detrimental to the environment. It would establish an Office of Environmental Quality within the Executive Office to assist and advise the President and to help coordinate Federal activities affecting the environment.

There can be no question that this important first step must be taken in the direction of Federal coordination of activities involving our natural environment. We must pledge ourselves to the upgrading of the quality of life—all life—on this planet, now and in the future.

Senator JENNINGS RANDOLPH, chairman of the Committee on Public Works, and the distinguished junior Senator from Maine (Mr. MUSKIE), chairman of the Subcommittee on Air and Water Pollution, deserve the gratitude of all Americans for their outstanding leadership and hard work in formulating the pending bill which is a powerful vehicle for the attack against environmental degradation. I urge its enactment.

[p. 28967]

Mr. COOPER.

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I shall discuss the matter very briefly. S. 7 represents an important step in response to the public's demand that the degradation of our environment be halted and its quality enhanced. S. 7 is a comprehensive bill with provisions dealing with a wide range of difficult water pollution problems. Its provisions relate to nearly every aspect of the water environment and will affect nearly every major industry of our country. In addition to the water quality provisions, S. 7 incorporates in title II a timely contribution to the broad issue of the Federal Government's response to the quest for environmental quality.

The impact of Federal activities is clearly great, especially in the area of public works, and over the years many statutes, agencies, policies, and procedures have been created that, if not running counter to the objective of environmental quality are at least inadequate to meet the challenges that face our environment. Title II will go a long way toward resolving this paradox, and along with other legislation before Congress offers a program to update Federal performance. Such an effort would have great effect beyond the Federal performance and hopefully be duplicated throughout State and local governments as well as the private sector.

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The legislative record from all committees on both sides of Congress has given a wealth of information on the Federal Government, its organization and policies, as they relate to environmental quality. It is obvious there is extreme fragmentation, there is poor communication, there is, in fact contradictory authority. For instance, the Department of the Interior is charged with and has an extensive program in wetland preservation. On the other hand the Department of Agriculture has a program, and expends large amounts of money, for wetland reclamation. These problems have historical components; they have bureaucratic components; they have interest group components, and many others that all combine to make the Federal response to environmental quality one of the most complex problems facing this Congress.

The Committee on Public Works has held hearings on many aspects of environmental quality. It has held testimony from many agencies of government concerning their policies, procedures, and activities. Other committees such as the Committee on Interior and Insular Affairs have received similar testimony, the Committee on Commerce, the Committee on Labor and Public Welfare as well. On the House side the Committee on Merchant Marine and Fisheries, the Committee on Science and Astronautics, the Committee on Government Operations, have all received testimony indicating the depth of this problem.

From all of this testimony, a synthesis or integration can be made and an attempt begun that will enable us to reverse the trend of fragmentation, of overlap, of poor information exchange that now prevails. Title II of S. 7 represents one attempt to learn from all of the experience that is now available to us. It provides that there shall be established in the executive branch in the Office of the Presidency an Office of Environmental Quality. This Office is charged with reviewing the Federal operation and making recommendations to the President to implement through his Council of Environmental Quality, a Cabinet-level action organization designed to implement Presidential decisions and policy.

It is absolutely essential that we avoid placing this kind of responsibility in an agency or office of his-

torical orientation and personnel staffing that would preclude it from operating efficiently in this area. It requires an office in the Executive Office of the President because the problems are found in all agencies and in all departments, therefore, only with the perspective of the Office of the Presidency will it be possible to make the necessary overview and analysis and the proper recommendations. It must be an office, too, that includes staffing of the character that will enable it to consider the broad and diverse issues involved in environmental quality.

These are simply not scientific matters, although there is a scientific component, they are not simply economic matters although there is an economic component, these are not simply fiscal matters although there is a fiscal component; rather these are problems that demand a new approach and orientation that can only be found from a new organization and cannot be found in any existing executive organization.

Many activities of the Federal establishment affecting environmental quality are under the jurisdiction of the Committee on Public Works. These include the rivers and harbors activities of the Corps of Engineers, the Federal highway program, and of course much of the economic development programs. All of these programs must be reviewed for their effect on environmental quality. The Office of Environmental Quality should help perform that review. This does not, however, allow us to escape our responsibilities and I hope that taking the policy enunciated in title II the Committee on Public Works will begin to review the statutory base on which these operations are made, the policies and procedures that have been developed in implementing these statutes, and of course the end product of these activities. It is expected the Committee on Public Works will soon begin a review of all activities within its jurisdiction for an analysis of the effect the operations have for environmental quality.

It is submitted that this Office of Environmental Quality combined with the President's establishment of a Council on Environmental Quality represents a comprehensive program that will contribute to the development of a truly responsive Federal Government.

Mr. President, I close by saying that I echo what the distinguished Senator from Florida (Mr. GURNEY) has said—that this is a landmark bill.

Without a quality environment we will never succeed in developing a quality of life. It is a first priority of this Nation, we cannot escape it and we must face this responsibility. I would hope that all of my colleagues share my concern on these issues because the public demands it and the public deserves it. The matter of environmental quality goes to each individual, rich and poor, white and black. A deteriorating environment does not discriminate, it affects us all and makes all of those problems which we do face much much more difficult. When viewed in this light it becomes urgent that we begin to restore the quality to our environment and we must begin now.

[p. 28972]

1.3a(4)(c) Vol. 116 (1970), March 24: Senate agreed to conference report, pp. 9004–9005; 9009

Mr. COOPER. Mr. President, today the Senate Members of the conference bring back to the Senate and ask approval of a very comprehensive and

excellent water pollution control bill, H.R. 4148. It was a difficult conference, because of the complex nature of the legislation. Simple remedies are not sufficient in environmental legislation. The issues involve intergovernmental relationships, the economic system, technology and appropriate legal measures for enforcement. This bill attempts to chart a course to achieve water quality in the complex of factors I have described.

TITLE II

The last specific provision I would like to touch upon is that establishing in the Executive Office of the President an Office of Environmental Quality. This provision is very closely related to the National Environmental Policy Act, Public Law 91–190, which established the Council on Environmental Quality. It will be recalled that the relationship of these two acts was described prior to the adoption of S. 7 by the Senate on October 8, 1969. The conference bill further supports the Office of Environmental Quality, with particular emphasis on its function of providing a competent professional staff to the Council on Environmental Quality.

The statutory responsibilities placed upon the Council on Environmental Quality and the Office of Environmental Quality are large and broad; without competent staff these responsibilities will not be met. The public's concern over environmental quality, is well known; the President's commitment to achieve it is also well known. Therefore, it was incumbent on us to provide adequate staff authority and I believe the conference

[p. 9004]

will do so. The conference bill also designates that the chairman of the Council on Environmental Quality established by Public Law 91–190 shall serve as the Director of the Office of Environmental Quality. We look forward to the implementation of the authority to establish the office, and believe that together with Public Law 91–190 the authority is at hand to begin the task of responding to the demand for and interest in environmental quality.

[p. 9005]

Mr. MUSKIE. Mr. President, I ask for the yeas and nays on agreeing to the conference report.

The yeas and nays were ordered.

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The result was announced—yeas 80, nays 0, ***.

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So the conference report was agreed to.

[p. 9009]

1.3a(4)(d) Vol. 116 (1970), March 25: House agreed to conference report, pp. 9333–9334;

Mr. FALLON. Mr. Speaker, I have no further requests for time.

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

The previous question was ordered.

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

The question was taken; and there were—yeas 358, nays 0, not voting 72, as follows: ***

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[p. 9333]

So the conference report was agreed to.

[p. 9334]

1.4 AMORTIZATION OF POLLUTION CONTROL FACILITIES, AS AMENDED

26 U.S.C. §169

§ 169. AMORTIZATION OF POLLUTION CONTROL FACILITIES

"(a) ALLOWANCE OF DEDUCTION.—Every person, at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified pollution control facility (as defined in subsection (d)), based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the amortizable basis of the pollution control facility at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such pollution control facility for such month provided by section 167. The 60-month period shall begin, as to any pollution control facility, at the election of the taxpayer, with the month following the month in which such facility was completed or acquired, or with the succeeding taxable year.

"(b) ELECTION OF AMORTIZATION.—The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the facility is completed or acquired, or with the taxable year succeeding the taxable year in which such facility is completed or acquired, shall be made by filing with the Secretary or his delegate, in such manner, in such form, and within such time as the Secretary or his delegate may by regulations prescribe, a statement of such election.

"(c) TERMINATION OF AMORTIZATION DEDUCTION.—A taxpayer which has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary or his delegate before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does

not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such pollution control facility.

"(d) DEFINITIONS.—For purposes of this section—

"(1) CERTIFIED POLLUTION CONTROL FACILITY.—The term 'certified pollution control facility' means a new identifiable treatment facility which is used, in connection with a plant or other property in operation before January 1, 1969, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes, or heat and which—

"(A) the State certifying authority having jurisdiction with respect to such facility has certified to the Federal certifying authority as having been constructed, reconstructed, erected, or acquired in conformity with the State program or requirements for abatement or control of water or atmospheric pollution or contamination; and

"(B) the Federal certifying authority has certified to the Secretary or his delegate (i) as being in compliance with the applicable regulations of Federal agencies and (ii) as being in furtherance of the general policy of the United States for cooperation with the States in the prevention and abatement of water pollution under the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), or in the prevention and abatement of atmospheric pollution and contamination under the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

"(2) STATE CERTIFYING AUTHORITY.—The term 'State certifying authority' means, in the case if water pollution, the State water pollution control agency as defined in section 13(a) of the Federal Water Pollution Control Act and, in the case of air pollution, the air pollution control agency as defined in section 302(b) of the Clean Air Act. The term 'State certifying authority' includes any interstate agency authorized to act in place of a certifying authority of the State.

"(3) FEDERAL CERTIFYING AUTHORITY.—The term 'Federal certifying authority' means, in the case of water pollution, the Secretary of the Interior and, in the case of air pollution, the Secretary of Health, Education, and Welfare.

"(4) NEW IDENTIFIABLE TREATMENT FACILITY.—For purposes of paragraph (1), the term 'new identifiable treatment facility' includes only tangible property (not including a

building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in section 167, which is identifiable as a treatment facility, and which—

(A) is property—

(i) the construction, reconstruction, or erection of which is completed by the taxpayer after December 31, 1968, or

(ii) acquired after December 31, 1968, if the original use of the property commences with the taxpayer and commences after such date, and

(B) is placed in service by the taxpayer before January 1, 1975.

In applying this section in the case of property described in clause (i) of subparagraph (A), there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction, or erection after December 31, 1968.

(e) PROFITMAKING ABATEMENT WORKS, ETC.—The Federal certifying authority shall not certify any property under subsection (d) (1) (B) to the extent it appears that by reason of profits derived through the recovery of wastes or otherwise in the operation of such property, its costs will be recovered over its actual useful life.

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Added Pub.L. 91–172, Title VII, § 704(a), Dec. 30, 1969, 83 Stat. 667, and amended Pub.L. 92–178, Title I, § 104(f) (2), Dec. 10, 1971, 85 Stat. 502.

1.4a AMORTIZATION OF POLLUTION CONTROL FACILITIES

December 30, 1969, P.L. 91–172, §704, 83 Stat. 667

"SEC. 704 AMORTIZATION OF POLLUTION CONTROL FACILITIES

(a) ALLOWANCE.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by striking out section 169 and inserting in lieu thereof the following new section:

"SEC. 169. AMORTIZATION OF POLLUTION CONTROL FACILITIES

"(a) ALLOWANCE OF DEDUCTION.—Every person, at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified pollution control facility (as defined in subsection (d), based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the amortizable basis of the pollution control facility at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such pollution control facility for such month provided by section 167. The 60-month period shall begin, as to any pollution control facility, at the election of the taxpayer, with the month following the month in which such facility was completed or acquired, or with the succeeding taxable year.

"(b) ELECTION OF AMORTIZATION.—The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the facility is completed or acquired, or with the taxable year succeeding the taxable year in which such facility is completed or acquired, shall be made by filing with the Secretary or his delegate, in such manner, in such form, and within such time, as the Secretary or his delegate may by regulations prescribe, a statement of such election.

"(c) TERMINATION OF AMORTIZATION DEDUCTION.—A taxpayer which has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary or his delegate before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does

[p. 667]

not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such pollution control facility.

"(d) DEFINITIONS.—For purposes of this section—

"(1) CERTIFIED POLLUTION CONTROL FACILITY.—The term 'certified pollution control facility' means a new identifiable treatment facility which is used, in connection with a plant or other property in operation before January 1, 1969, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes, or heat and which—

"(A) the State certifying authority having jurisdiction with respect to such facility has certified to the Federal certifying authority as having been constructed, reconstructed, erected, or acquired in conformity with the State program or requirements for abatement or control of water or atmospheric pollution or contamination; and

"(B) the Federal certifying authority has certified to the Secretary or his delegate (i) as being in compliance with the applicable regulations of Federal agencies and (ii) as being in furtherance of the general policy of the United States for cooperation with the States in the prevention and abatement of water pollution under the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), or in the prevention and abatement of atmospheric pollution and contamination under the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

"(2) STATE CERTIFYING AUTHORITY.—The term 'State certifying authority' means, in the case of water pollution, the State water pollution control agency as defined in section 13(a) of the Federal Water Pollution Control Act and, in the case of air pollution, the air pollution control agency as defined in section 302(b) of the Clean Air Act. The term 'State certifying authority' includes any interstate agency authorized to act in place of a certifying authority of the State.

"(3) FEDERAL CERTIFYING AUTHORITY.—The term 'Federal certifying authority' means, in the case of water pollution, the Secretary of the Interior and, in the case of air pollution, the Secretary of Health, Education, and Welfare.

"(4) NEW IDENTIFIABLE TREATMENT FACILITY.—For purposes of paragraph (1), the term 'new identifiable treatment facility' includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in

section 167, which is identifiable as a treatment facility, and which—

"(A) is property—

"(i) the construction, reconstruction, or erection of which is completed by the taxpayer after December 31, 1968, or

"(ii) acquired after December 31, 1968, if the original use of the property commences with the taxpayer and commences after such date, and

"(B) is placed in service by the taxpayer before January 1, 1975.

In applying this section in the case of property described in clause (i) of subparagraph (A), there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction, or erection after December 31, 1968.

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"(e) PROFITMAKING ABATEMENT WORKS, ETC.—The Federal certifying authority shall not certify any property under subsection (d) (1) (B) to the extent it appears that by reason of profits derived through the recovery of wastes or otherwise in the operation of such property, its costs will be recovered over its actual useful life.

"(f) AMORTIZABLE BASIS.—

"(1) DEFINED.—For purposes of this section, the term 'amortizable basis' means that portion of the adjusted basis (for determining gain) of a certified pollution control facility which may be amortized under this section.

"(2) SPECIAL RULES.—

"(A) If a certified pollution control facility has a useful life (determined as of the first day of the first month for which a deduction is allowable under this section) in excess of 15 years, the amortizable basis of such facility shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of such facility, which would be eligible for amortization but for the application of this subparagraph, as 15 bears to the number of years of useful life of such facility.

"(B) The amortizable basis of a certified pollution control facility with respect to which an election under this section is in effect shall not be increased, for purposes of

this section, for additions or improvements after the amortization period has begun.

"(g) DEPRECIATION DEDUCTION.—The depreciation deduction provided by section 167 shall, despite the provisions of subsection (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

"(h) INVESTMENT CREDIT NOT TO BE ALLOWED.—In the case of any property with respect to which an election has been made under subsection (a), so much of the adjusted basis of the property as (after the application of subsection (f)) constitutes the amortizable basis for purposes of this section shall not be treated as section 38 property within the meaning of section 48(a).

"(i) LIFE TENANT AND REMAINDERMAN.—In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

"(j) CROSS REFERENCE.—

"For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see section 1245."

(b) CONFORMING, ETC., AMENDMENTS.—

(1) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 169 and inserting in lieu thereof the following new item:

"Sec. 169. Amortization of pollution control facilities."

(2) The heading and the first sentence of section 642(f) (relating to special rules for credits and deductions of estates and trusts) are amended to read as follows:

"(f) AMORTIZATION DEDUCTIONS.—The benefit of the deductions for amortization provided by sections 168, 169, 184, and 187 shall be allowed to estates and trusts in the same manner as in the case of an individual."

(3) Section 1082(a)(2)(B) (relating to basis for determining gain or loss) is amended by striking out "or 169" and inserting in lieu thereof ",169, 184, 185, or 187".

1.4a(1) HOUSE COMMITTEE ON WAYS AND MEANS

H.R. REP. No. 91-413 (Part I), 91st Cong., 1st Sess. (1969)

TAX REFORM ACT OF 1969
A BILL TO REFORM THE INCOME TAX LAWS

AUGUST 7—Ordered to be printed

Committee on Ways and Means submitted the following

REPORT

[To accompany H.R. 13270]

4. Amortization of pollution control facilities (sec. 704 of the bill and sec. 168 of the code).

Present law.—Under present law a taxpayer may claim an investment credit with respect to pollution control facilities to the extent they involve property of a type for which the investment credit generally is available.

General reasons for provision.—Your committee recognizes that an important challenge facing our Nation today is the problem of environmental pollution. Our rivers, lakes, streams, and air are becoming increasingly polluted. Moreover, this is a problem which affects both the rural sections of our country and also our urban complexes. Industrial and human wastes and sewage are increasingly contaminating our rivers and our air is being increasingly polluted by industrial contaminants.

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Congress has addressed itself to the air and water pollution problem in legislation which it has passed in recent years. This legislation has laid a foundation for dealing with the pollution problem. In order to deal effectively with the Nation's air and water pollution problem, however, a significant part of the task must be met by private industry. In effect, private industry is being asked to make an investment which in part is for the benefit of the general public. Moreover, quite often it costs relatively more to deal with the pollution problem in the case of an existing plant than to plan a new plant in such a way as to reduce its polluting effects. It also has been estimated that factories which efficiently curb pollution through the installation of antipollution equipment may face significant increases in costs. Moreover, ex-

penditures for pollution control equipment generally do not result in any increase in the profitability of a plant.

At the present time companies which install antipollution equipment involving property of a type for which the investment credit is available receive, in effect, an incentive through the investment credit for dealing with the pollution problem. The repeal of the investment credit in this regard could have an undesirable effect on the efforts made by private industry to combat the pollution problem were another type of incentive not made available.

In view of the possible undesired effect on pollution control of repealing the investment credit and the increasing magnitude of the air and water pollution problem facing the Nation today, your committee believes it is appropriate to provide an incentive to private industry for antipollution efforts. However, it believes it is more appropriate to permit the rapid recovery of the costs involved, rather than to permit a return in excess of total costs. Accordingly, your committee's bill provides that the cost of new pollution control facilities (which are appropriately certified by the relevant State and Federal authorities) may be amortized over a 5-year period. Since quite often these facilities have a useful life of 10 to 20 years or more, the usual depreciation deduction each year is relatively small. The larger deduction provided by allowing the recovery of the taxpayer's cost over the shorter 5-year period will provide a greater incentive for the installation of effective pollution control equipment.

Your committee recognizes that the incentive provided in the bill is not a complete answer to the pollution problem. The need for broader and more effective pollution control standards remains. The amortization deduction provided by the bill, however, should be a useful component of the Nation's total efforts to deal with the pollution problem. It will ease the impact on private industry of the additional costs which it must incur for pollution control facilities and, thus, should encourage private industry to cooperate in the required efforts.

Explanation of provision.—Under the provision contained in the bill, a taxpayer (including an estate or trust) would be allowed, at his election (under regulations prescribed by the Treasury Department) to amortize any certified pollution control facility over a period of 60 months. The 60-month period with respect to a facility would begin either with the month after that in which the facility was completed or acquired, or with the next taxable

year, whichever the taxpayer elected. The amortization deduction provided by the bill for any month would be in place of the regular depreciation deduction which would be allowable for that month under section 167 with respect to the facility. A taxpayer who elected the amortization deduction with respect to a facility, however, would still be eligible to receive the additional first-year depreciation allowance provided under section 179 with respect to that facility. However, no investment credit would be available for any facility with respect to which the 5-year amortization deduction had been elected.

The amortization deduction provided by the bill would be available only with respect to a "certified pollution control facility," which generally is defined as that part of any depreciable property which is used to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes or heat, and which is appropriately certified. The amortization deduction would be available only with respect to a facility the construction (reconstruction or erection) of which is completed by the taxpayer after 1968, or which is acquired after 1968, if the original use of the property commences with the taxpayer after that time. Only that portion of the basis of property constructed (reconstructed or erected) by the taxpayer which is properly attributable to construction (reconstruction or erection) after 1968, is to be taken into account for purposes of the amortization deduction.

As indicated, the amortization deduction would be available only with respect to a pollution control facility which is certified by the appropriate State and Federal authorities. In the case of water pollution, the State certifying authority means the State water pollution control agency as defined in the Federal Water Pollution Control Act, and the Federal certifying authority is the Secretary of the Interior. In the case of air pollution, the State authority is the air pollution control agency as defined in the Clean Air Act, and the Federal authority is the Secretary of Health, Education, and Welfare.

Under the certification required by the bill, it would be necessary with respect to any pollution control facility for the State authority to certify to the Federal authority that the facility had been constructed (reconstructed or erected) or acquired in conformity with the State program or requirements regarding the abatement or control of water or air pollution or contamination. It would be further necessary for the Federal authority to certify to the Secretary of the Treasury with respect to any pollution control

facility that the facility (1) met minimum performance standards (which would be required to be promulgated by the Federal authority from time to time for this purpose and which would take technological advances into account and specify the tolerance of such pollutants and contaminants as is appropriate), (2) was in compliance with the applicable regulations of Federal agencies, and (3) was in furtherance of the general policies of the United States for cooperation with the States in the prevention and abatement of water or air pollution under the Federal Water Pollution Control Act or the Clean Air Act, respectively.

The bill further provides that the Federal certifying authority could not certify any facility to the extent it appeared that the costs of the facility would be recovered over its actual useful life through profits arising from the recovery of wastes or otherwise in operating the facility. A certification also could not be made to

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the extent it appeared that the facility would be constructed or acquired without regard to considerations regarding the control or abatement of air or water pollution. These limitations are designed to insure that the incentive for controlling air and water pollution provided by the amortization deduction is not available in situations where it, in effect, would provide a windfall to taxpayers, i.e., where the cost of the facility is recovered through byproducts derived from its operation or where the facility would have been constructed without regard to the abatement of air or water pollution. This latter category would cover, for example, the situation where a new plant contained a facility which had the effect of controlling pollution, such as a special sewer line or smokestack, but which actually was installed for the effective operation of the plant rather than for pollution control purposes.

Where only a part of a plant or other property is appropriately certified as a pollution control facility, the bill provides that the adjusted basis of the property is to be properly allocated between the certified portion and the uncertified portion in accordance with regulations prescribed by the Treasury Department.

As noted above, where a taxpayer elects the amortization deduction provided under the bill for certified pollution control facilities then no investment credit may be claimed with respect to the facility. Thus, if a taxpayer has property which generally would be eligible for the investment credit and part or all of the property also is eligible for rapid amortization, if he claims rapid amortization with respect to the property (or a portion of it) he may not

claim an investment credit with respect to the same property (or portion). This may occur where the construction of a property was completed after 1968 (or acquired after that date) but either because the construction of the property began before, or it was acquired before, April 19, 1968 (or because of the binding contract rule or some other transition rule) the taxpayer generally could claim an investment credit with respect to the property.

With respect to property for which the amortization deduction provided by the bill has been elected, the bill further provides for the recapture of the excess amortization deductions claimed (i.e., excess of those deductions over the deductions which would have been allowable if depreciation had been taken with respect to the property) and also for the application of the regular depreciation recapture rules (whether real or personal property is involved), treating the amortization deductions claimed with respect to the property for this purpose as if they were, in effect, depreciation deductions. In other words, to the extent a gain arising on the disposition of a pollution control facility, with respect to which the amortization deduction has been allowed, is in fact attributable to the allowance of that deduction, the gain is to be treated as ordinary income.

The amortization deduction provided by the bill may be discontinued by a taxpayer at any time. If a taxpayer does discontinue the amortization deduction, then he may depreciate the property starting with the first month to which the amortization deduction is not applicable. A taxpayer who does discontinue the amortization deduction, however, would not be entitled to any further amortization deduction with respect to that facility.

Effective date.—The amendments made by this provision are to be applicable with respect to taxable years ending after 1968.

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Revenue effect.—The revenue loss from this provision is estimated at $40 million in 1970, and it is estimated to rise to $380 million in 1974.

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1.4a(2) HOUSE COMMITTEE ON WAYS AND MEANS

H.R. REP. No. 91-413 (Part II), 91st Cong., 1st Sess. (1969)

TAX REFORM ACT OF 1969

AUGUST 4, 1969—Ordered to be printed

Committee on Ways and Means, submitted the following

SUPPLEMENTAL REPORT

[To accompany H.R. 1327]

SECTION 704. AMORTIZATION OF POLLUTION CONTROL FACILITIES

(*a*) *Allowance.*—Subsection (a) of section 704 of the bill amends part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) by striking out sections 168 and 169 of the code and by adding after section 167 a new section 168.

New section 168 of the code provides for an amortization deduction over a 60-month period for certified pollution control facilities.

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SECTION 168. AMORTIZATION OF POLLUTION CONTROL FACILITIES

Allowance of deduction

Subsection (a) of new section 168 provides that a taxpayer may elect to amortize over a 60-month period, the adjusted basis (for determining gain) of any certified pollution control facility. The deduction in each month to which the election applies shall be computed by dividing the adjusted basis (at the end of such month) of the pollution control facility to be amortized by the number of months remaining in the period. The 60-month period shall begin, at the election of the taxpayer, with the month following the month in which the facility was completed or acquired, or with the succeeding taxable year.

The deduction provided by this section shall be in lieu of any depreciation deduction provided by section 167.

Election of amortization

Subsection (b) of new section 168 describes the manner in which the election provided by subsection (a) shall be made.

Termination of amortization deduction

Subsection (c) of new section 168 provides that a taxpayer who has elected to take the amortization deduction provided by this section may, at any time after making such election, discontinue the amortization deduction for the remainder of the 60-month period by filing a written statement with the Secretary or his delegate before the beginning of the month with respect to which such termination is to be effective. In the event that such election is terminated, the depreciation deduction provided by section 167 shall be allowed beginning with the first month to which the amortization deduction does not apply. However, the election provided by this section shall not be available with respect to facilities for which the election has once been made and subsequently terminated.

Definitions

Subsection (d) of new section 168 defines certain of the terms used in this section.

Paragraph (1) of new section 168(d) defines the term "certified pollution control facility" to mean a new identifiable treatment facility which is used to abate or control water or atmospheric pollution or contamination by certain specified means and which is certified by a State and Federal certifying authority as having met certain requirements.

Paragraph (2) of new section 168(d) defines the term "State certifying authority" to mean a State water pollution control agency as defined in section 13(a) of the Federal Water Pollution Control Act or an air pollution control agency as defined in section 302(b) of the Clean Air Act. The defined terms include any interstate agency authorized to act in place of a certifying authority of the State.

Paragraph (3) of new section 168(d) defines the term "Federal certifying authority" to mean the Secretary of the Interior (in the case of water pollution) and the Secretary of Health, Education, and Welfare (in the case of air pollution).

Paragraph (4) of new section 168(d) defines the term "new identifiable treatment facility" to mean only tangible property (not including a building or a structural component thereof which is other than a building that is exclusively a treatment facility).

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In addition, in order to be a new identifiable treatment facility the property must meet the following requirements:

(1) it must be property of a character subject to the allowance for depreciation provided in section 167,

(2) it must be identifiable as a treatment facility, and

(3) it must be property—

(A) the construction, reconstruction, or erection of which is completed by the taxpayer after December 31, 1968 (and then only that portion of the basis which is properly attributable to such construction, reconstruction, or erection after such date), or

(B) which is acquired by the taxpayer, and the original use of which commences with the taxpayer, after December 31, 1968.

Authorization of Secretaries to set standards, etc.

Paragraph (1) of new section 168(e) provides that the Federal certifying authority shall, from time to time, promulgate minimum performance standards with respect to the prevention or abatement of air or water pollution, taking into account technological advances.

Paragraph (2) of new section 168(e) provides that the Federal certifying authority shall not certify property to the extent it appears that the costs of such property will be recovered (over its actual useful life) by reason of profits derived through the recovery of wastes or otherwise in the operation of such property. This paragraph also provides that property shall not be certified to the extent that it appears that such property would have been constructed, reconstructed, erected, or acquired without regard to the need to abate or control water or atmospheric pollution or contamination.

Allocation of basis

Subsection (f) of new section 168 provides that in the case of property which qualifies only in part for the amortization deduction provided by new section 168, the adjusted basis of such property shall be allocated, under regulations prescribed by the Secretary or his delegate, between the amortizable portion and the portion which does not qualify. The depreciation deduction provided by section 167 shall apply to that portion of the adjusted basis of such property which does not qualify for the amortization deduction under this section.

Investment credit not to be allowed

Subsection (g) of new section 168 provides that the portion of the adjusted basis of property which is amortizable under this

section shall not be treated as section 38 property within the meaning of section 48(a) and, therefore, does not qualify for the investment credit.

Life tenants and remaindermen

Subsection (h) of new section 168 provides that for purposes of this section a life tenant shall be treated as if he were the absolute owner of the property.

(*b*) *Conforming, et cetera, amendments.*—Subsection (b) of section 704 of the bill makes various clerical and conforming amendments to the code which are required as a result of the amendments made by subsection (a) of such section.

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Paragraph (2) of section 704(b) of the bill amends section 642(f) of the code (relating to special rules for credits and deductions of estates and trusts) to provide that the amortization deduction under new section 168 shall be available to trusts and estates.

Paragraph (4)(B) of section 704(b) of the bill amends section 1245 (a) of the code (relating to gain from disposition of certain depreciable property) to provide that the adjusted basis of certain certified pollution control facilities described in new paragraph (3)(D) of section 1245(a) shall be recomputed taking into account adjustments attributable to deductions for amortization allowed under new section 168.

Paragraph (4)(E) of section 704(b) of the bill amends section 1245(a) of the code by adding at the end of paragraph (3) thereof a new subparagraph (D) to provide that so much of any real property (other than property described in sec. 1245(a)(3)(B)) the basis of which reflects adjustments attributable to deductions for amortization under section 168 shall be included in the definition of section 1245 property.

(*c*) *Effective date.*—Subsection (c) of section 704 of the bill provides that the amendments made by subsections (a) and (b) of such section shall apply with respect to taxable years ending after December 31, 1968.

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1.4a(3) SENATE COMMITTEE ON FINANCE

S. REP. No. 91-552, 91st Cong., 1st Sess. (1969)

TAX REFORM ACT OF 1969

NOVEMBER 21, 1969—Ordered to be printed

Committee on Finance, submitted the following

REPORT

[To accompany H.R. 13270]

W. AMORTIZATION OF POLLUTION CONTROL FACILITIES

(Sec. 704 of the bill and sec. 169 of the code)

Present law.—Under present law a taxpayer may claim an investment credit with respect to pollution control facilities to the extent they involve property of a type for which the investment credit generally is available.

General reasons for provision.—The committee recognizes that an important challenge facing our Nation today is the problem of environmental pollution. Our rivers, lakes, streams, and air are becoming increasingly polluted. Moreover, this is a problem which affects both the rural sections of our country and also our urban complexes. Industrial and human wastes and sewage are increasingly contaminating our rivers, and our air is being increasingly polluted by industrial contaminants.

Congress has addressed itself to the air and water pollution problem in legislation which it has passed in recent years. This legislation has laid a foundation for dealing with the pollution problem. In order to deal effectively with the Nation's air and water pollution problem, however, a significant part of the task must be met by private industry. In effect, private industry is being asked to make an investment which in part is for the benefit of the general public. Moreover, it also has been estimated that existing factories which attempt to curb pollution efficiently through the addition of antipollution equipment may face significant increases in capital costs. Moreover, expenditures for pollution control equipment generally do not result in any increase in the profitability of a plant.

At the present time companies which install antipollution equipment involving property of a type for which the investment credit

is available receive, in effect, an incentive through the investment credit for dealing with the pollution problem. The repeal of the investment credit in this regard could have an undesirable effect on the efforts made by private industry to combat the pollution problem were another type of incentive not made available.

In view of the possible undesired effect on pollution control of repealing the investment credit and the increasing magnitude of the air and water pollution problem facing the Nation today, the committee agrees with the House that it is appropriate to provide an incentive to private industry for antipollution efforts. It also believes it is more appropriate to permit the rapid recovery of the

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costs involved, rather than to permit a return in excess of total costs. The House bill provided that the cost of new pollution control facilities (which are appropriately certified by the relevant State and Federal authorities) may be amortized over a 5-year period. Since quite often these facilities have a useful life of 10 to 20 years or more, the usual depreciation deduction each year is relatively small. The larger deduction provided by allowing the recovery of the taxpayer's cost over the shorter 5-year period would provide a greater incentive for the installation of effective pollution control equipment.

The committee has continued the concept of the amortization incentive provided in the House bill but has modified the House provision to limit its application to those situations where there is the greatest need for incentive. Since the cost of modifying an existing plant for pollution control purposes generally is substantially in excess of the cost of incorporating pollution control facilities into a new plant, the committee has limited the scope of the amortization deduction to facilities which are added to the existing plants. In addition, the committee has provided that only the part of the cost of the facility which is attributable to the first 15 years of its useful life may be amortized under this provision. The allowance of a 5-year writeoff for the full cost of long-lived assets would provide an unduly large stimulus to the purchase of these assets vis-a-vis shorter-lived assets.

The committee recognizes that the incentive provided in the bill is not a complete answer to the pollution problem. The need for broader and more effective pollution control standards remains. The amortization deduction provided by the bill, however, should be a useful component of the Nation's total efforts to deal with the

pollution problem. It will ease the impact on private industry of the additional costs which it must incur for pollution control facilities and, thus, should encourage private industry to cooperate in the required efforts.

Explanation of provision.—Under both versions of the bill, a taxpayer (including an estate or trust) is to be allowed, at his election (under regulations prescribed by the Treasury Department) to amortize a certified pollution control facility over a period of 60 months. The committee amendments also limit the amortization deduction to pollution control facilities added to plants (or other properties) which were in operation before January 1, 1969. Thus, the special amortization provision is not to be available in the case of facilities included in new plants built in the future. The committee amendments further limit the 5-year amortization deduction by allowing it only for the proportion of the cost of the property attributable to the first 15 years of its normal useful life. Where a property has a normal useful life of more than 15 years, the taxpayer would in effect treat his facility as if it were two separate facilities. One facility (representing the portion of the total cost attributable to the first 15 years of useful life) would be eligible for the 5-year amortization. The other facility (the remaining cost) would receive regular depreciation based upon the entire normal useful life of the property. If the property has a normal useful life of 15 years or less, the total cost of the property would be eligible for the 5-year amortization.

The 60-month amortization period with respect to a facility is to begin either with the month after that in which the facility was completed or acquired, or with the next year, whichever the tax-

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payer elects. The amortization deduction for any month would be in place of the regular depreciation deduction which would be allowable for that month (under section 167) with respect to the portion of the facility eligible for amortization. A taxpayer who elected the amortization deduction with respect to a facility, however, would still be eligible to receive the additional first-year depreciation allowance (provided under section 179) with respect to that facility. However, no investment credit is to be available for that portion of any facility with respect to which the 5-year amortization deduction had been elected.

If the assets of a corporation are acquired by another corporation in a transaction subject to section 381 (which provides for the carryover of certain items in the case of certain corporate

acquisitions), the acquiring corporation is to be treated for purposes of this provision, as if it were the acquired corporation.

The amortization deduction is to be available only with respect to a "certified pollution control facility," which generally is defined as depreciable property which is a separate identifiable treatment facility used to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes or heat, and which is appropriately certified. A building is not a pollution control facility unless it is exclusively a treatment facility. Thus, a pollution control facility does not include any facility which serves any function other than pollution abatement. Moreover, facilities which only diffuse pollution, as distinct from abating it, are not pollution control facilities. In other words, a pollution control facility is an installation which prevents or minimizes the direct release of pollutants into the air or water in the course of manufacturing operations. For example, a smokestack on a plant whose height was increased to disperse pollutants over a broader area would not be a pollution control facility while a device which is contained in a smokestack and actually abates the emission of pollutants is to be a pollution control facility. In addition, a facility that removes certain elements from fuel (for example, sulphur which would be released as a pollutant when the fuel is burned) would not be a pollution control facility.

The amortization deduction is to be available only with respect to a facility the construction (reconstruction or erection) of which is completed by the taxpayer after 1968, or which is acquired after 1968, if the original use of the property commences with the taxpayer after that time. Only that portion of the basis of property constructed (reconstructed or erected) by the taxpayer which is properly attributable to construction (reconstruction or erection) after 1968, is to be taken into account for purposes of the amortization deduction.

As indicated, the amortization deduction is to be available only with respect to a pollution control facility which is certified by the appropriate State and Federal authorities. In the case of water pollution, the State certifying authority means the State water pollution control agency as defined in the Federal Water Pollution Control Act, and the Federal certifying authority is the Secretary of the Interior. In the case of air pollution, the State authority is the air pollution control agency as defined in the Clean Air Act, and the Federal authority is the Secretary of Health, Education, and Welfare. An interstate agency authorized to act in place of a

State certifying authority is to be treated as the certifying authority of the State.

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Under the certification required by both versions of the bill, it would be necessary with respect to any pollution control facility for the State authority to certify to the Federal authority that the facility had been constructed (reconstructed or erected) or acquired in conformity with the State program or requirements regarding the abatement or control of water or air pollution or contamination. It would be further necessary for the Federal authority to certify to the Secretary of the Treasury with respect to any pollution control facility that the facility (1) was in compliance with the applicable regulations of Federal agencies, and (2) was in furtherance of the general policies of the United States for cooperation with the States in the prevention and abatement of water or air pollution under the Federal Water Pollution Control Act or the Clean Air Act, respectively.

The House bill also required the Federal authority to certify that the facility met minimum performance standards (which would be required to be promulgated by the Federal authority from time to time for this purpose and which would take technological advances into account and specify the appropriate tolerance of such pollutants and contaminants). The committee deleted this provision of the House bill in view of the fact that Congress previously has not granted the Federal Government authority to promulgate national standards of this nature. The committee believes it is appropriate to continue the past policy of allowing the States to set these standards within general guidelines established by the Federal Government.

Both versions of the bill further provide that the Federal certifying authority is not to certify any facility to the extent it appeared that the costs of the facility would be recovered over its actual useful life by reason of profits arising from the recovery of wastes or otherwise in the operation of the facility. This limitation is designed to insure that the incentive for controlling air and water pollution provided by the amortization deduction is not available in situations where it, in effect, would provide a windfall to taxpayers, i.e., where the cost of the facility is recovered through the sale of by-products derived from its operation.

With respect to property for which the amortization deduction provided by the bill has been elected, both versions of the bill further provide for the recapture (under section 1245) of the

amortization deductions claimed with respect to property. In other words, to the extent of the previous amortization deductions, a gain arising on the disposition of a pollution control facility is to be treated as ordinary income.

The amortization deduction may be discontinued by a taxpayer at any time. If a taxpayer does discontinue the amortization deduction, then he may depreciate the property starting with the first month to which the amortization deduction is not applicable. A taxpayer who does discontinue the amortization deduction, however, would not be entitled to any further amortization deduction with respect to that facility.

Under the committee amendments (but not the House bill) the amortization deduction is to be available only for air or water pollution control facilities placed in service before January 1, 1975. This will provide the Congress with an opportunity to evaluate the effectiveness of the program in achieving its objective.

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Effective date.—The amendments made by this provision of the House bill and the committee amendments are to be applicable with respect to taxable years ending after December 31, 1968.

Revenue effect.—The revenue loss from this provision is estimated at $15 million in 1970, and it is estimated to rise to $115 million in 1974.

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1.4a(4) COMMITTEE OF CONFERENCE

H.R. REP. No. 91-782, 91st Cong., 1st Sess. (1969)

TAX REFORM ACT OF 1969

DECEMBER 21, 1969.—Ordered to be printed

Mr. MILLS, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 13270]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13270) to reform the income tax laws, having met, after full and free

conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

[p. 11]

* * * * * * *

Sec. 704. Amortization of Pollution Control Facilities.

(a) Allowance.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by striking out section 169 and inserting in lieu thereof the following new section:

"Sec. 169. Amortization of Pollution Control Facilities.

"(a) Allowance of Deduction.—Every person, at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified pollution control facility (as defined in subsection (d)), based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the amortizable basis of the pollution control facility at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such pollution control facility for such month provided by section 167. The 60-month period shall begin, as to any pollution control facility, at the election of the taxpayer, with the month following the month in which such facility was completed or acquired, or with the succeeding taxable year.

"(b) Election of Amortization.—The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the facility is completed or acquired, or with the taxable year succeeding the taxable year in which such facility is completed or acquired, shall be made by filing with the Secretary or his delegate, in such manner, in such form, and within such time, as the Secretary or his delegate may by regulations prescribe, a statement of such election.

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"(c) Termination of Amortization Deduction.—A taxpayer which has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary or his delegate before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such pollution control facility.

"(d) Definitions.—For purposes of this section—

"(1) Certified pollution control facility.—The term 'certified pollution control facility' means a new identifiable treatment facility which is used, in connection with a plant or other property in operation before January 1, 1969, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes, or heat and which—

"(A) the State certifying authority having jurisdiction with respect to such facility has certified to the Federal certifying authority as having been constructed, reconstructed, erected, or acquired in conformity with the State program or requirements for abatement or control of water or atmospheric pollution or contamination; and

"(B) the Federal certifying authority has certified to the Secretary or his delegate (i) as being in compliance with the applicable regulations of Federal agencies and (ii) as being in furtherance of the general policy of the United States for cooperation with the States in the prevention and abatement of water pollution under the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), or in the prevention and abatement of atmospheric pollution and contamination under the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

"(2) State certifying authority.—The term 'State certifying authority' means, in the case of water pollution, the State water pollution control agency as defined in section 13(a) of the Federal Water Pollution Control Act and, in the case of air pollution, the air pollution control agency as defined in section 302(b) of the Clean Air Act. The term 'State

certifying authority' includes any interstate agency authorized to act in place of a certifying authority of the State.

"(3) Federal certifying authority.—The term 'Federal certifying authority' means, in the case of water pollution, the Secretary of the Interior and, in the case of air pollution, the Secretary of Health, Education, and Welfare.

"(4) New identifiable treatment facility.—For purpose of paragraph (1), the term 'new identifiable treatment facility' includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in section 167, which is identifiable as a treatment facility, and which—

"(A) is property—

"(i) the construction, reconstruction, or erection of which is completed by the taxpayer after December 31, 1968, or

[p. 196]

"(ii) acquired after December 31, 1968, if the original use of the property commences with the taxpayer and commences after such date, and

"(B) is placed in service by the taxpayer before January 1. In applying this section in the case of property described in clause (i) of subparagraph (A), there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction, or erection after December 31, 1968.

"(e) Profitmaking Abatement Works, Etc.—The Federal certifying authority shall not certify any property under subsection (d) (1) (B) to the extent it appears that by reason of profits derived through the recovery of wastes or otherwise in the operation of such property, its costs will be recovered over its actual useful life.

"(f) Amortizable Basis.—

"(1) Defined.—For purposes of this section, the term 'amortizable basis' means that portion of the adjusted basis (for determining gain) of a certified pollution control facility which may be amortized under this section.

"(2) Special rules.—

"(A) If a certified pollution control facility has a useful life (determined as of the first day of the first month

for which a deduction is allowable under this section) in excess of 15 years, the amortizable basis of such facility shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of such facility, which would be eligible for amortization but for the application of this subjaragraph, as 15 bears to the number of years of useful life of such facility.

"(B) The amortizable basis of a certified pollution control facility with respect to which an election under this section is in effect shall not be increased, for purposes of this section, for additions or improvements after the amortization period has begun.

"(g) Depreciation Deduction.—The depreciation deduction provided by section 167 shall, despite the provisions of subsection (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

"(h) Investment Credit Not To Be Allowed.—In the case of any property with respect to which an election has been made under subsection (a), so much of the adjusted basis of the property as (after the application of subsection (f)) constitutes the amortizable basis for purposes of this section shall not be treated as section 38 property within the meaning of section 48(a).

"(i) Life Tenant and Remainderman.—In the case of property held by one person for life with remainderman to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

"(j) Cross Reference.—

"For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see section 1245."

(b) Conforming, Etc., Amendments.—

(1) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 169 and inserting in lieu thereof the following new item:

"Sec. 169. Amortization of pollution control facilities."

[p. 197]

(2) The heading and the first sentence of section 642(f) (relating to special rules for credits and deductions of estates and trusts) are amended to read as follows:

"(f) Amortization Deductions.—The benefit of the deductions for amortization provided by sections 168, 169, 184, and 187 shall be allowed to estates and trusts in the same manner as in the case of an individual."

(3) Section 1082(a)(2)(B) (relating to basis for determining gain or loss) is amended by striking out "or 169" and inserting in lieu thereof "169, 184, 185, or 187".

(4) Section 1245(a) of such Code (relating to gain from disposition of certain depreciable property) is amended—

(A) by inserting after paragraph (2)(C) (added by section 212(a)(1) of this Act) the following new subparagraph:

"(D) with respect to any property referred to in paragraph (3)(D), its adjusted basis recomputed by adding thereto all adjustments attributable to periods beginning with the first month for which a deduction for amortization is allowed under section 169 or 185";

(B) by striking out "168" each place it appears in paragraph (2) and inserting in lieu thereof "168, 169, 184, 185, or 187."

(C) by striking out "section 167" in paragraph (3) and inserting in lieu thereof "section 167 (or subject to the allowance of amortization provided in section 185)";

(D) by striking out "or" at the end of paragraphs (3)(A) and (B);

(E) by striking out the period at the end of paragraph (3)(C) and inserting in lieu thereof ", or"; and

(F) by adding at the end of paragraph (3) the following new subparagraph:

(D) so much of any real property (other than any property described in subparagraph (B)) which has an adjusted basis in which there are reflected adjustments for amortization under section 169 or 185."

(5) Section 1250(b)(3) (relating to depreciation adjustments) is amended by striking out "168" and inserting in lieu thereof "168, 169, or 185".

(c) Effective Date.—The amendments made by this section shall apply with respect to taxable years ending after December 31, 1968.

[p. 198]

4. Amortization of pollution control facilities (sec. 169 of the code)

Under the House bill, a taxpayer is allowed to amortize any certified pollution control facility over a period of 60 months. The amortization replaces the depreciation deduction, but the additional first year 20-percent depreciation allowance still is available.

The Senate amendment made the following changes in the provision of the House bill:

(1) The amendment limits the amortization deduction to pollution control facilities added to plants which were in operation on December 31, 1968.

(2) Under the House provision it is necessary for the appropriate Federal authority to certify to the Treasury Department that the facility meets minimum performance standards which are to be promulgated by the Federal authority from time to time and which must take technological advances into account and specify the tolerance of such pollutants and contaminants as is appropriate. The amendment modifies this to provide that the Federal authorities are not to establish effluent standards for water or emission standards for air but rather are to set national guidelines for the standards to be specified by the States.

(3) The 5-year amortization deduction is to apply only to those facilities placed in service before January 1, 1975.

(4) The 5-year amortization deduction is limited to the proportion of the cost of the property attributable to the first 15 years of its normal useful life. Where property has a normal useful life of more than 15 years one portion of the facility is to be amortized over the 5-year period and the remaining portion is to receive regular depreciation based upon the entire normal useful life of the property.

The conference substitute (sec. 704 of the substitute and sec. 169 of the code) follows the Senate amendment.

[p. 326]

1.4a(5) CONGRESSIONAL RECORD, VOL. 115 (1969)

1.4a(5)(a) Aug. 7: Debated and passed House, pp. 22746, 22774–22775

Mr. KLEPPE.

* * * * *

Fixing the percentage differential at 40 percent will mean that local governments will be able to undertake their large backlog of needed capital projects even when tight money markets prevail. It means that municipal governments will be able to enter the money markets in all phases of the

economic cycle and to obtain funds for the needs of schools, sanitation facilities, antipollution facilities, and streets and highways.

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[p. 22746]

Mr. CONTE.

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I would also note the provision for spreading the cost of pollution control facilities over a 5-year period. I had introduced a somewhat similar bill earlier this year. I think it is a good

[p. 22774]

way to insure investment in antipollution devices.

[p. 22775]

1.4a(5)(b) Nov. 24, Dec. 5, 8, 9: Debated and passed Senate, pp. 35486; 37321–37322; 37631–37633; 37884–37888

Mr. BAYH.

* * * * *

Other provisions of the bill, first, extend the income tax surcharge at a 5-percent rate from January 1, 1970, through June 30, 1970, second, postpone for an additional year the reductions in excise taxes on passenger automobiles and communications services scheduled under present law; third, terminate the investment credit for property where construction, reconstruction, or erection began after April 18, 1969; and fourth, provide 5-year amortization for pollution control facilities and railroad rolling stock.

* * * * *

[p. 35486]

Mr. TYDINGS. Mr. President, I submit an amendment, intended to be proposed by me, to the bill (H.R. 13270) to reform the income tax laws.

This amendment would expand the provisions of section 704 of H.R. 13270 to provide that amortization for certified pollution control facilities shall be available for all of such facilities added after December 31, 1968, to any plant or property. The Finance Committee version of the bill would limit amortization of pollution control facilities wihch are added after December 31, 1968, to plants or property which were in operation on that date. There would seem to be no justification for discriminating against a taxpayer by disallowing amortization for any pollution control facility which he adds to a new plant or property. The Finance Committee recognizes the problems of environmental pollution which affect both the rural and urban sections of the country. Pollution abatement is one of the Nation's highest priority items.

[p. 37321]

Pollution control facilities do not increase earnings and many industries have not been as prompt in their installation as they should be. They are costly to maintain and operate and require funds that otherwise would be available for investments in productive plants and equipment. Thus, amortization for pollution control facilities should be available to facilities added to new as well as existing plants.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

AMENDMENT NO. 377

Mr. TYDINGS. Mr. President, I submit an amendment, intended to be proposed by me, to the bill (H.R. 13270) to reform the income tax laws. The amendment would amend section 704 of H.R. 13270 to provide for amortization of any certified pollution control facility regardless of its use-

ful life. The Finance Committee version of the bill would permit amortization only for that part of the cost of the pollution abatement facility that is attributable to the first 15 years of its useful life. There would seem to be no justification for so limiting the amortization provision. A taxpayer who, because of the nature of his business, is required to add pollution control facilities with a useful life of, say, 20 years should be entitled to recover his capital investment in such facilities in the same manner as another taxpayer who, because of the nature of his business, is required to add a pollution control facility with a useful life of only 15 years. The determination of the useful life of any asset, including pollution control facilities, is at best only an estimate. Technological advances and obsolescence are most difficult to determine for any asset. By limiting the amortization of pollution control facilities to those with a useful life of 15 years could only cause taxpayers to attempt to bring their particular pollution control facilities within the 15-year period, thereby causing extended controversy with Internal Revenue agents. Thus, amortization for pollution control facilities should be available for any facility, irrespective of its useful life.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

AMENDMENT NO. 378

Mr. JAVITS submitted an amendment, intended to be proposed by him, to H.R. 13270, supra, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 379

Mr. TYDINGS. Mr. President, I submit amendments, intended to be proposed by me, to the bill (H.R. 13270) to reform the income tax laws.

The first amendment would amend the provisions of section 703 of H.R. 13270 to provide that certified pollution control facilities will be treated as pretermination property for purposes of the termination of the investment tax credit and thus will continue to qualify for the 7 percent investment credit. The Finance Committee version of the bill provides several categories of pretermination property which continue to qualify for the credit. I believe that certified pollution control facilities should also be included as pretermination property because of the importance of providing incentives for private industry to accelerate capital expenditures for pollution abatement facilities. For Congress to repeal the investment tax credit for air and water pollution control facilities would be particularly unfortunate in the national efforts to curb industrial pollution. Such repeal would be incompatible with the action taken by Congress in 1966 in exempting investments in such facilities from the legislation suspending the investment tax credit. I urge my colleagues to continue the investment tax credit with respect to air and water pollution control facilities.

The second amendment would also amend section 703 of H.R. 13270. That amendment would provide that the investment tax credit shall be available for certified pollution control facilities irrespective of the date when they were placed in service. Under the Senate Finance Committee version of the bill, any property placed in service after December 31, 1978 would not qualify for the investment tax credit.

The third amendment would amend section 704 of H.R. 13270 to provide that the investment tax credit is to be available for certified pollution control facilities which are subject to amortization. Under the Senate Finance Committee version of the bill, the investment tax credit would not be available with respect to such facilities.

The PRESIDING OFFICER. The amendments will be received and printed, and will lie on the table.

[p. 37322]

Mr. GORE.

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POLLUTION CONTROL FACILITIES

The committee bill also provides 5-year rapid amortization for certain pollution control facilities.

The Finance Committee considerably tightened the House version. However, the fact remains that we are utilizing the tax system to grant $120 million to corporations to clean up pollution

[p. 37631]

created by processes on which they have been making profits for the past 100 years or more. This expenditure is inefficient and may well run counter to the most effective means of achieving pollution control.

In 1967 a working committee on economic incentives submitted a report concluding that tax writeoffs are not needed nor are they desirable for achieving pollution control. This working group was made up of representatives of the Bureau of the Budget, the Treasury, the Council of Economic Advisers, the Water Resources Council, the Office of Science and Technology, the Department of the Interior, Department of Commerce, HEW, and Resources for the Future.

I set forth pertient parts of the report:

COST SHARING WITH INDUSTRY?

(Summary Report of the Working Committee on Economic Incentives (Revised), the Working Committee is one of several Committees under the direction of the Federal Coordinating Committee on the Economic Impact of Pollution Abatement, November 20, 1967)

* * * * *

Proposals for assistance

Various proposals for additional assistance to industry beyond obvious improvements or expansion of existing Federal programs were evaluated as follows. Across-the-board assistance for capital investment such as tax write-offs (credits or accelerated depreciation) and grants are unnecessary because the burden of pollution abatement is estimated to be only moderate. Also, this form of subsidy is inefficient because such assistance provides an incentive for excessive use of capital and practically excludes similar assistance to process changes that jointly reduce pollution and increase productivity. Moreover, such aid is likely to be an undesirable precedent for using tax writeoffs for other programs (e.g., education, training, housing, etc.).

* * * * *

Recommendations

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4. Across-the-board cost-sharing in the form of tax writeoffs is not recommended because it distorts the tax structure, causes the total cost of pollution abatement to rise significantly, promotes excessive use of capital equipment and waste treatment facilities, and discourages selectivity in environmental quality management. Across-the-board use of grants and loans is similarly handicapped and, in addition, is subject to fluctuations in Congressional appropriations.

POSSIBLE ADDITIONAL FEDERAL SUBSIDIES

Introduction

It was noted that the Federal Government is now spending $1½ billion per year for both air and water pollution abatement and this amount is forecast to increase markedly during the next five years. The largest proportion of these funds are now funneled through municipalities. Industry also receives considerable assistance from the 7% investment tax credit and allowances for accelerated depreciation—perhaps as high as $50 million annually. The size of current annual expenditures by industry for water pollution abatement is roughly estimated at $2/3 billion for water and an unknown amount for air—or perhaps roughly equal to the current Federal Government expenditure and subsidy for this area. The Government is already carrying a large part of the burden.

The requirement for additional expenditures is a function of water and air quality standards, plant location, topography, stream capacity, meteorology, production processes, and pollutants. Before all of these factors are weighed, only some rough estimates of additional annual cost and burden for manufacturing can be made: $275 million and 0.13% of value-added by manufacturing for water and $354 million for air—or $629

million and 0.29% of value-added for both air and water (excluding thermal-pollution abatement). For individual industries, firms and plants the burden is likely to vary widely.

Finally, it is not clear that pollution abatement need affect the firms' rate of profit insofar as individual firms have considerable flexibility to shift the small increase in the costs from themselves to the purchasers of their products. It is with this summary and introduction in mind that the possible Federal subsidies will be examined.

TAX WRITEOFFS

Numerous proposals in Congress have been made for offering greater assistance to industry through increasing the investment tax credit or accelerating the depreciation allowances on capital expenditures for pollution abatement. Proposals range from increasing the investment tax credit from 7% to 14% or 20% and/or from allowing depreciation allowances normally scheduled over 15 years to be scheduled over five, three or even one year. The additional capital subsidy would range from 7% for raising the investment tax credit to 14% to 33% for implementing a 20% tax credit and a one-year accelerated depreciation schedule. (See Table X). The subsidy would total roughly $296 million for water and $75 million for air for the three-year accelerated depreciation allowance if applied to an estimate of the additional capital required to meet the hypothetical standards considered in this report.

However, the subsidy is in a small part illusory because the assistance would be given for a higher level of expenditure caused by the subsidy creating an incentive to over-use capital to the neglect of operating and maintenance expenditures. This would arise because capital costs are made artificially cheaper by virtue of a tax writeoff. Tax writeoffs are handicapped because they are incapable of providing assistance to all of the costs of abatement. The capital cost accounts for roughly one-third of the total cost for water pollution abatement and one-eighth for air pollution abatement. Of course, with subsidies given to capital alone, the capital cost proportion will tend to rise and unnecessarily consume more resources. The addition of chemicals or supervisory personnel often times is less costly than building additional capacity in order to treat larger waste loads. Fuel substitution alone is estimated to be the least-cost alternative in over 60% of the cases involving air pollution abatement.

Moreover, tax writeoffs are difficult to apply to many changes in the production process which reduce the actual generation of waste loads but which also add to the output of plants. Other studies have shown that some industries find that over 50% of the least-costly opportunities for reducing waste load discharges are found in such process changes.* The Treasury Department would be faced with the difficult task of certifying the proportion or the cost attributable for pollution abatement or disallowing any assistance for this kind of improvement. To the extent of the proportion disallowed, plants would be given an incentive to ignore many improvements which have been shown to be least costly.

Also, the implementation of selective writeoffs for pollution abatement opens the door for other programs to receive similar treatment. Proposals for tax writeoffs for training, education, mining, transportation, housing and others have already been made. The snowballing effect for industry could be, conceivably, a necessary increase in the corporate tax structure or lag in the long-run reduction of corporate tax rates and thus no net benefit to firms facing pollution abatement expenditures. Moreover, public accountability of such subsidies are difficult and would probably create an annoying problem in its removal once social policy dictates a change.

TABLE X.—COMPARISON OF THE ADDITIONAL SUBSIDY TO INDUSTRY THROUGH ALTERNATIVE FORMS OF FEDERAL ASSISTANCE [1]

Type of assistance	Subsidy as percent of capital cost	Subsidy as a percent of annual cost [2]		Rough estimate of likely assistance to industry for capital expenditures to meet hypothetical standards in 5 years 1969–73 [3] (millions)	
		Water	Cost	Water [4]	Air [5]
Accelerated: 5 yrs	13	5	2	$241	$61
Depreciation:					
3 yrs	16	6	3	296	75
1 yr	20	9	4	370	94
Additional (7 plus 7)	18	2	1	130	33
Tax credits (13 plus 7)	25	5	2	251	61

TABLE X.—COMPARISON OF THE ADDITIONAL SUBSIDY TO INDUSTRY THROUGH ALTERNATIVE FORMS OF FEDERAL ASSISTANCE[1]—Continued

Type of assistance	Subsidy as percent of capital cost	Subsidy as a percent of annual cost [2]		Rough estimate of likely assistance to industry for capital expenditures to meet hypothetical standards in 5 years 1969–73 [3] (millions)	
		Water	Cost	Water [4]	Air [5]
Accelerated depreciation and tax credit combined:					
14 percent credit and 3-yr. accelerated depreciation	35	10	5	426	108
20 percent tax credit and 1-yr. accelerated depreciation	46	17	8	611	155
Reduced interest loans:[6]					
6 percent (3 percent below discount rate)	11	4	2	204	52
4 percent (5 percent below discount rate)	17	7	3	315	80

[1] Assume 48 percent effective tax rate, 15-year functional life (straight line) for pollution abatement facilities and 9-percent discount rate. Excluding accelerated depreciation now available in existing tax laws, e.g., sum of digits or double declining balance.

[2] Includes annual capital cost (amortized) and operation and maintenance expenditures, increase in total cost of abatement because of excessive use of artificially cheaper capital costs.

[3] Assuming all capital expenditures are subsidized whether to industry or households. Capital costs would undoubtedly drop after the initial investments are made to achieve standards.

[4] Based on industrial profiles: $1.15 billion additional investment plus $0.7 billion replacement investment which equals $1.85 billion for BOD and suspended solids for hypothetical standard of 85 percent treatment of industrial wastes.

[5] Assuming 20 years of additional capital investment is made in 5 years. The total capital as indicated by the "typical city" study should be $470,000,000 to achieve a hypothetical standard of reducing human exposure by 60–75 percent of SOx and particulates.

[6] 15 years, straight reduction loan, 9 percent discount rate for industry (if assume 6 percent then zero gain for 6 percent interest loan and 7 percent or $71,000,000 gain for 4 percent interest loan).

In summary, clearly tax writeoffs are not needed nor are they a desirable form for offering further assistance to industry.

Mr. President, it is sometimes argued that industry cannot afford to make the expenditures required for pollution control. However, the report shows that the additional cost of achieving Government standards of pollution abatement would only amount

* For example in the case of water, see Kneese, Allen and Lof, George. *The Economics of Water Utilization in the Beet Sugar Industry*, Manuscript, Resources for the Future.

[p. 37632]

to $0.5 billion for all manufacturing concerns annually, or one-half of 1 percent of the value added by manufacturing. The report points out that there are already many Government programs to reduce the cost of pollution control. Indeed, we have recently passed in the Senate a $1 billion antipollution measure. As the report concludes, tax incentives simply are not needed, especially when they produce the unfairness and inequity in the tax system that they in fact do.

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[p. 37633]

Mr. CURTIS.

* * * * *

The provision for 5-year writeoff of the cost of installing air and water pollution control facilities in existing plants also deserves our complete support. Again, this provision has been narrowly limited to achieve a very specific purpose. The revenue cost will reach a maximum of only $120 million in the long run. It applies only to installation of facilities in existing

plants, thereby recognizing that it is much less of a burden on industry to incorporate anti-pollution equipment in plants constructed in the future. It is also limited to the portion of the cost of the facilities that would otherwise have been depreciated over the first 15 years of the life of such equipment, so that it does not provide an undue tax benefit with respect to equipment having a very long life.

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

Mr. CURTIS. May I have 2 additional minutes?

Mr. LONG. I yield 2 additional minutes to the Senator from Nebraska.

Mr. CURTIS. This provision recognizes the absolute need to deal with a major national problem today—environmental pollution. Our rivers, lakes streams, and atmosphere are becoming increasingly "dirty." Smog is no longer a Los Angeles condition;

[p. 37884]

we find it in nearly every major industrial city in the United States. Congress has addressed itself to the problem in a number of ways, but the responsibility and burden must really be placed on private industry. Existing factories which attempt to curb pollution by installation of anti-pollution equipment face significant increases in capital costs, accentuated by repeal of the investment credit. Such expenditures do not result in any increase in profitability; they are in a real sense a total loss to the company. The burden is greatest with respect to existing plants where the equipment cannot be incorporated in the design of the facilities or the productive processes, but must be "added on." The bill recognizes this difference and allows the tax benefit only with respect to existing plants.

Mr. President, the increasing magnitude of our pollution problem fairly demands that we provide some tax benefit, some incentive, for installation of pollution control equipment. The provision of the bill will replace the investment credit in this respect and provide even greater incentive in the narrower and more specific areas to which it will apply.

Mr. President, these three provisions will provide major incentives to private industry to help us meet important national objectives. They will encourage the private sector to shoulder the burden in meeting our housing, transportation, and pollution control needs—three of our most important domestic problems. I strongly urge their adoption.

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

Mr. LONG. I yield 1 additional minute to the Senator from Nebraska.

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

Mr. CURTIS. I yield.

Mr. BOGGS. Mr. President, I commend the distinguished Senator from Nebraska for the position he has taken. I support the committee language on amortization of equipment that will be used for pollution abatement, as well as the other items the Senator has discussed so eloquently.

I wish to ask the Senator one question. It appears to me that there is no danger that this incentive to achieve clean water and clean air would open a loop-hole into which industry could push a new blast furnace or elevator and call it "pollution equipment." The deduction would be available only after the facility was certified as a pollution abatement facility by the appropriate State and Federal agencies. Is that correct?

Mr. CURTIS. The Senator is correct. And it does not apply to new structures, because they can be designed to eliminate the problem.

Mr. BOGGS. Mr. President, the language of the section we are discussing permits industry to amortize the cost of pollution abatement facilities in a 5-year period. It would be applicable

for the full cost of equipment with a normal life of 15 years or less. If the equipment has a normal life beyond 15 years, part of the equipment would be amortized over the regular depreciation basis, part under the accelerated schedule.

This provision, I believe, is a necessary incentive to assure that each of us will find a cleaner and better environment as quickly as possible. To assure that this vital end is accomplished rapidly, the Finance Committee wrote into this section a provision that this amortization would be available only if the abatement equipment is placed into operation by the end of 1974.

There is no danger that this incentive to achieve clean water and clean air would open a loophole into which industry could push a new blast furnace or elevator and call it "pollution equipment." The deduction would be available only after the facility was certified as a pollution abatement facility by the appropriate State and Federal authorities.

Such incentive will implement our national policy of environmental enhancement. This is a policy laid down in large part in legislation that has come from the Subcommittee on Air and Water Pollution, on which I have the honor to serve as ranking Republican.

Let me give two examples. The Federal Water Pollution Control Act declares a "national policy for the prevention, control, and abatement of water pollution." The Clean Air Act was written, according to its language, "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population."

But such improvements cost vast sums of money. This is not a modernization from which industry will profit. It is a modernization for the public health and welfare. Pollution comes from two major sources, industry and government. The Federal Government helps local communities battle pollution. It is only equitable to offer this small advantage to industry.

Our environmental quality standards require industry to meet those standards, or the Government will go into court in an abatement proceeding, seeking to close the plant down. This is a weary and tedious process. I believe it is a far wiser approach to offer the private sector an inducement, such as the committee's proposal. In return for an amortization schedule that would cost the Treasury $15 million in 1970, the private sector will install equipment to give every American a cleaner, healthier, and better environment in which to live.

According to the Cost of Clean Water, a study by the Department of the Interior, private industry faces a cost of as much as $2.6 billion to pay for the backlog of water pollution control facilities in the period from now through 1973. According to estimates prepared by the Department of Health, Education, and Welfare and contained in the study, the Cost of Clean Air, industry faces another 3.2 billion dollar bill for the control of particulate matter and sulfur dioxide emissions into the air we breathe. This cost from next year through 1974 may underestimate in part the full needs, for it was partially based on information for only 85 metropolitan areas and selected industries.

This expense will produce no private profit. Rather, it will produce a public benefit for each and every American. It will clean the air across this Nation. It will improve the quality of life across this Nation. It will enhance the environment in each of the 50 States of our Nation. Rather than providing any private loophole, this provision of the tax bill creates an incentive that will result in a great public benefit.

Mr. LONG. Mr. Presirent, how much time remains?

The PRESIDING OFFICER. The Senator from Louisiana has 8 minutes.

Mr. LONG. How much time remains for the proponents?

The PRESIDING OFFICER. Five minutes.

Mr. LONG. I yield 4 minutes to the Senator from Maine.

Mr. MUSKIE. I thank the Senator from Louisiana.

Mr. President, I rise to oppose that portion of the Gore amendment which has to do with the amortization of pollution control facilities in the case of both air and water.

As chairman of the Subcommittee on Air and Water Pollution, I have been concerned, as have all my colleagues on the subcommittee, including the distinguished Senator from Delaware (Mr. BOGGS), with the problem of stimulating the construction of waste treatment facilities in the public sector.

This year, with the cooperation of the distinguished Senator from Louisiana (Mr. ELLENDER), Congress has approved the appropriation of $800 million for the construction of municipal waste treatment plants. This action on the part of Congress is consistent with the rising surge of interest and concern on the part of the people of America that we deal effectively with the pollution threat to our air and water.

Although in the subcommittee we do not have jurisdiction over tax legislation, the subcommitte—going back to 1966 in the report on the 1966 Clean Water Restoration Act—has advocated tax incentives to mount an industrial effort comparable to the public effort.

Mr. President, I ask unanimous consent that there be included in the RECORD at this point, a statement from that committee report.

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

A number of witnesses testified on the need for tax incentives as a means of reducing the cost of noneconomic pollution control facilities. This is not a matter over which the Senate Public Works Committee has jurisdiction but it affects the overall effort to meet water pollution control and abatement needs. This committee strongly recommends that the appropriate congressional committees give consideration to tax relief proposals for industrial pollution control activities.

For the most part, pollution control does not provide a return on an investment to an industry. Installation of pollution control devices is costly and, in many cases, nonremunerative. The billion dollars of capital investment which will have to be made by the industrial sector for the benefit of the entire society will place a substantial burden on corporate resources, and ultimately on the general public.

Mr. MUSKIE. Mr. President, I ask

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unanimous consent to have printed in the RECORD a letter which I addressed to the distinguished Senator from Louisiana, the chairman of the Committee on finance, with regard to this matter on July 29, 1969.

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

JULY 29, 1969.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee,
New Senate Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to your request for comments and recommendations on pending legislation which would extend the income tax surcharge, I would like to propose changes to Sec. 168 which provides rapid amortization for air and water pollution control facilities investment.

This section has two major faults. First, the section does not take into account the provisions of the Federal Water Pollution Control Act or the Clean Air Act. Second, the requirement for the development of minimum performance standards is inconsistent with existing policy and would delay environmental improvement programs for several years.

As you know, Federal pollution control legislation has recognized the primary responsibility of the states and local government

to control pollution. Federal responsibility is primarily directed to reviewing state standards to assure consistency with the national policy of the enhancement of air and water quality. Federal authority is provided for in those cases where the states have failed to carry out their responsibility to set or enforce standards.

Also, I am sure you are aware that these laws have been in effect for several years, the Water Quality Act since 1965 and the Air Quality Act since 1967. The procedures set forth by these acts are now being implemented by the States.

Any requirement for minimum performance standards would seriously delay effective implementation of these laws during the development of such minimum standards. Furthermore, because the regional approach is an integral part of effective air and water quality programs, minimum national standards would not be relevant to the specific problems of any given region.

Finally, minimum performance standards as defined in H.R. 12290 would be tantamount to national emission standards, a concept carefully evaluated and rejected in favor of the regional approach to air quality in 1967.

I have developed an amendment to Section 168 which I believe assures consistency with the Federal pollution law without jeopardizing the usefulness of special tax incentives for pollution control investment.

My amendment would:

1. Require certification from the state as to conformity with plans for implementation of air or water quality standards;

2. Provide Federal review of state certification to assure consistency with the purposes of the Federal Water Pollution Control Act or the Clean Air Act;

3. Eliminate the requirement for minimum performance standards;

4. Provide for annual state review, during the period of accelerated depreciation, to assure that facilities operate in the manner for which they were certified; and,

5. Disallow use of the tax deduction to the extent that such facilities produce income.

I sincerely hope that members of your Committee will give serious consideration to this amendment.

Sincerely,

EDMUND S. MUSKIE,
U.S. Senator, Chairman, Subcommittee on Air and Water Pollution.

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

Mr. MUSKIE. I yield.

Mr. RIBICOFF. Mr. President, no man in this country has done more in the field of controlling air and water pollution than the Senator from Maine. I am sure the distinguished Senator from Maine would agree that we will never solve the problem of air and water pollution unless we have the cooperation of private industry.

Mr. MUSKIE. I agree wholeheartedly with the Senator.

Mr. RIBICOFF. Is it not a fact that one of the great problems we have is the problem of costly installations and antiquated plants for air and water pollution devices?

Mr. MUSKIE. The Senator is correct.

Mr. RIBICOFF. What it often means is that an old company, which might be required to pay large sums for air and water devices, might determine that it is cheaper to go out of business rather than to undertake the rehabilitation of these old plants in the industrial sections of our Nation. Is that correct?

Mr. MUSKIE. The Senator is correct.

Mr RIBICOFF. It is my understanding that through the landmark work of the Senator, the Congress this year has committed itself for an expenditure of $800 million in the entire field of water pollution alone. As a matter of public policy if we do not have an overall program that involves private industry, our public commitment will not achieve the result we seek. Is that correct?

Mr. MUSKIE. The Senator is correct. Under the Air and Water Quality Control Act we undertook to apply standards of quality in the cities which have air pollution problems, and all streams which have water pollution problems, and there are many of them. To apply those standards we must have the cooperation of industry.

Mr. RIBICOFF. The Senator may be interested in the fact that the act is so written by the Committee on Finance that the amortization deduction is available only when the

facility is certified by the State and Federal agency.

The PRESIDING OFFICER (Mr. BAYH in the chair). The time of the Senator has expired.

Mr. LONG. Mr. President, I yield 1 additional minute.

Mr. RIBICOFF. So we tie up certification with State and Federal agencies.

Mr. MUSKIE. These are not profitmaking facilities. The language to which the Senator referred is part of the language I recommended to the committee to avoid the possibility that these facilities would be profitmaking facilities. What we are concerned with are facilities that deal wholly with control and regulation of pollution; no profit would be made from them, but there is still an investment to be made by the industry.

This tax relief is only a stimulation to industry to make the investments called for by air and water quality standards.

Mr. RIBICOFF. In addition, these amortization tax writeoffs are available only to old plants and not to new plants.

Mr. MUSKIE. The Senator is correct.

Mr. RIBICOFF. Mr. President, each day it is becoming more evident that man is destroying his environment. Each year, he pumps millions of tons of waste into the sky and dumps huge amounts of sewage and contaminants into streams and rivers.

Only the foolish can expect nature to be able to continue to absorb this pollution.

In the last 5 years, Congress has laid the foundation for a national effort against this problem by adopting comprehensive air and water pollution control legislation. And just a few short weeks ago, the Senate voted $1 billion to help our Nation's municipalities construct waste treatment plants.

But, by themselves, these efforts will not be enough.

To launch a truly comprehensive assault against air and water pollution, private industry, which is a major source of this waste, must be encouraged to purchase and utilize the best pollution abatement equipment available.

It has been estimated that it will cost industry $32 billion to control water pollution by the year 2000.

Private industry and municipalities will pollute two-thirds of our streams, the National Academy of Science predicts.

Forty percent of the contaminants in our atmosphere come from industry and utilities.

The bill before us now, will greatly encourage private industry's purchase of equipment to end this destruction of our environment by allowing it to amortize the cost of the equipment over a period of 5 years rather than over the period of the equipment's useful life.

We must be realistic.

Pollution abatement equipment is costly.

Pollution abatement equipment does not add to a company's profits.

Unless industry is encouraged by the enactment of a tax incentive, real progress in ending industrial pollution will take much longer than this Nation can afford.

By asking the public to bear a small share of the cost of abating industrial pollution, we will bring clean air and clean water much sooner to our Nation.

The committee's bill is very tightly drafted to encourage cooperation by industry without creating a loophole.

I support this bill.

The PRESIDING OFFICER. Who yields time?

Mr. GORE. Mr. President, I yield such time as he may use to the senior Senator from Delaware.

Mr. WILLIAMS of Delaware. Mr.

President, in the bill before the Senate we have reduced the rate at which every taxpayer can depreciate his property for tax purposes, and that includes farm buildings and property used by small businesses. This was done by denying the use of the 200-percent declining balance method for all nonresidential property. Thus, taxpayers will only be able to depreciate the property under the 150-percent declining balance method.

That is true with respect to all groups of American taxpayers except

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these three groups mentioned here which had lobbies strong enough to get special consideration to recognize a good argument can be made on any why they should be singled out and one of these proposals, but cannot see allowed to depreciate their property in 5 years when we are making it more difficult for other taxpayers in America.

SPECIAL AMORTIZATION PROVISIONS

The committee bill adds three new special incentive provisions to the tax law. These special provisions allow a 5-year writeoff: for low-cost rental housing rehabilitation expenditures, for pollution control equipment, and for railroad rolling stock. In 1970 these special incentive provisions would cost the Government $155 million. This cost would eventually rise to $555 million a year.

Congress has already authorized an expenditure of $800 million to subsidize the correction of the pollution problem.

The special rehabilitation expenditure provision in the bill allows 5-year amortization of costs incurred in rehabilitating buildings for low cost rental housing—for up to $15,000 of costs per dwelling unit. This provision applies to expenditures before 1975.

It should be pointed out that in this bill, in addition to this provision, under certain conditions we have also allowed these persons to defer the capital gains treatment which would arise when they sell the housing. They could not only depreciate the property in 5 years, but they could sell it and reinvest in other regular property and pay no capital gains tax.

This would open a major loophole which will not benefit those tenants using this low cost housing. It is a landlord's amendment.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. AIKEN. Would it apply to individually owned homes or only to rental housing?

Mr. WILLIAMS of Delaware. No. Only to rental housing.

The special pollution control provision allows 5-year amortization of the costs of pollution control facilities added to existing plants. The amount amortizable is limited to the part of the facility's cost which is proportionate to the first 15 years of its useful life. A facility must be certified by the appropriate State and Federal authorities to be eligible for this special amortization. This provision applies to facilities placed in service before 1975.

The special railroad provision allows 5-year amortization for new railroad rolling stock—including locomotives—placed in service after 1969. The amortization is available either where the rolling stock is owned by a railroad or where it is owned by a person who leases it to a railroad—4-year amortization is allowed for rolling stock placed in service during 1969. If otherwise available, the investment credit also may be claimed on rolling stock subject to this fast amortization. Effective after 1972 the Secretary of the Treasury may determine which classes of rolling stock are no longer in short supply, and these classes will then cease to be eligible for the fast amortization. This provision applies to

rolling stock placed in service before 1975.

The railroad package included in the bill also allows the cost of railroad gradings and tunnel bores, which at present may not be written off, to be amortized over a 50-year period. In addition the package allows railroads to write off rolling stock repair costs up to 20 percent of the rolling stock's original cost each year.

These special incentives included in the bill are an unwarranted and inappropriate use of the tax laws. There has been no adequate showing that these special incentives will, in fact, help to achieve their respective goals. More than likely these special incentives will only serve to provide undue tax benefits to a small number of taxpayers in the eventual large amount of $555 million a year.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. GORE. Mr. President, in the colloquy just engaged in on this side of the aisle by the Senator from Maine (Mr. MUSKIE) and the Senator from Connecticut (Mr. RIBICOFF), both of them made commendable statements about the need for pollution control, but nothing that either one of them said had any bearing on the syndicate loophole. The same example I pointed out in the RECORD with respect to syndicate investment in a railroad locomotive would apply to an investment in machinery for pollution control. The Senator said they make no profit out of this. Of course not. But the syndicate will buy it under this loophole.

Mr. WILLIAMS of Delaware. Mr. President, I do not see why we should make the depreciation rate so much more liberal for these groups while at the same time we are restricting the depreciation rates allowed to all other American taxpayers, whether it be depreciation on a farm in Vermont or a poultry farm in some other State.

I have always felt we should allow more rapid depreciation rates for all buildings and equipment, but depletion rates should apply to all taxpayers, not just to a few select groups.

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

Mr. WILLIAMS of Delaware. I have no time remaining.

Mr. LONG. Mr. President, I yield myself such time as I have remaining.

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. LONG. Mr. President, this amendment should be rejected. There may be some merit to some parts of the Gore amendment but there are other parts that are totally without merit. For example, the House of Representatives sent us a provision that would cost the Treasury $400 million by allowing a 5-year writeoff on pollution-control devices. The Senate committee reduced that to a provision which would cost less than one-third that much—only $120 million a year. The Senate committee would provide a 5-year amortization between now and 1974 for pollution-control devices which are installed, not on the new plants that will be built—they get no advantage—but on existing plants.

As far as people who own and operate plants are concerned, the requirement to install pollution control equipment is nothing more than a burden imposed upon them by Government. They do not want pollution-control devices. We are making them install this equipment under State and Federal law, and we now are allowing them 5 years to write it off. The equipment does not improve the operation of the plant.

It is an added cost to them which they do not want.

We are imposing the burden on them. So we are easing that burden by giving them 5 years to write off

the costs of installing them in existing plants.

With regard to the second item, which would cost more than the other two put together, the $15,000 allowance is for rehabilitation of housing units in slum areas. It would allow no more than $15,000 per unit for rehabilitation of housing in slum areas. That provision was asked for by Secretary Romney of the Department of Housing and Urban Development. It initially was agreed to by the House, and then was approved by the Senate Finance Committee. It is an incentive of $330 million to provide poor people with better housing.

What on earth is wrong with that? I have not yet heard the first argument developed. If we want people living in slums in Washington, New York, Philadelphia, or elsewhere, to have better housing, cleaner housing, fewer rats, and more sanitation, then vote against the Gore amendment.

If the Senator wants to come back and offer his railroad amendment again, he can, but I submit that we need more new railroad rolling stock. The Treasury has recommended it. I think it should be agreed to.

I hope the amendment will be rejected.

The PRESIDING OFFICER. All time on the amendment has now expired.

Mr. GORE. Mr. President, I ask unanimous consent that the time be extended by 4 minutes, with 2 minutes to a side.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee? The Chair hears none, and it is so ordered.

The Senator from Tennessee is recognized for 2 minutes.

Mr. GORE. Mr. President, for the last week, it has been rolling stock. Now it is pollution we hear about. No one defends the change of words. On page 443 of the bill it changes the House requirement from "owned" to "used." This opens up the syndicate loophole. And it is a big one.

Let me read what a committee of experts on pollution recommended. The committee was made up of representatives of the Bureau of the Budget, Treasury Department, Council of Economic Advisers, Water Resources Council, Office of Science and Technology, Department of the Interior, Department of Commerce, De-

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partment of HEW, and the Resources of the Future Committee.

What do they say?

In summary, clearly tax writeoffs are not needed nor are they a desirable form of offering further assistance to industries.

Mr. President, this is not a profit-making undertaking except for the syndicates. That is what the provision in the committee bill makes possible.

Mr. MUSKIE. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. I yield.

Mr. MUSKIE. The report to which the Senator refers was made by the same representatives from the last administration who opposed a continuing grant program for waste treatment.

Mr. LONG. Mr. President, the Senator quoted from a report that considered the proposal relating to new plants as well as existing plants. It was partly because of that logic that the committee said it would not allow a rapid tax writeoff, or any tax advantage, for pollution control equipment in new plants. The people who build new plants will have to do it themselves by designing pollution control equipment and processes into their new plants, and they will receive no special tax advantage. In doing so, we save $280 million out of $400 million. The $120 million we retained applies to any situation where someone is required to add to an exist-

ing plant pollution control devices which are of no productive advantage to them whatever. These are costs which we will let them write off over 5 years.

Mr. MILLER. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I yield.

Mr. MILLER. The Senator from Tennessee read something to the effect that writeoffs would be no incentive. I hope he does not mean by that that the base would not be entitled to regular depreciation or to a double declining balance depreciation for that is another form of writeoff. The quick amortization is another form of writeoff. Thus, I do not see that that is responsive to the problem.

Mr. CURTIS. Mr. President, I ask unanimous consent that a letter from the Acting Secretary of the Treasury concerning the Gore amendment be printed in the RECORD.

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

THE SECRETARY OF THE TREASURY,
Washington, D.C.

HON. CARL T. CURTIS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CURTIS: This is in response to your request for the Treasury Department's views with respect to Amendment No. 389, introduced by Senator Gore. The purpose of the amendment is to strike from the bill the provisions for 5-year amortization for the cost of rehabilitation of low-income housing, railroad rolling stock and pollution control facilities.

The Treasury Department opposes the amendment.

The first of these provisions will encourage the rehabilitation of low-income rental housing units which is needed if we are to provide adequate housing for all our citizens. The provision for amortization of railroad rolling stock will alleviate the critical shortage of railroad cars and has been provided in lieu of any exception to the investment credit. While we have been concerned about the amortization of pollution control facilities, we believe that the provision in the Senate bill has been sufficiently narrowed to prevent abuse.

It is important to note that all three of these provisions expire on January 1, 1975, thereby giving assurances that they will not be continued unless they accomplish the desired purpose.

Sincerely yours,

CHARLES E. WALKER,
Acting Secretary.

CONGRESS SHOULD NOT WEAKEN THE PROGRAM FOR POLLUTION CONTROL

Mr. RANDOLPH. Mr. President, it is vital to the maintenance of national policy of air and water pollution control that the language of section 704 of H.R. 43270, as reported by the Finance Committee, be retained. The investment credit with respect to pollution facilities is essential if we are to maintain and advance our efforts to protect our air and water environment from pollution.

Massive private investment in industrial air and water quality control devices are needed to insure that our production processes do not destroy the environment in which we live. Two recent reports, "The Cost of Clean Water," Senate Document 90–65, presented to the Senate January 10, 1968, and "The Cost of Clean Air," Senate Document 91–40, June 1969, describe in detail the magnitude of the private investment required.

The clean water report indicates that the cash outlays needed to meet industrial waste treatment requirements for fiscal years 1969 through 1973 are between $2.6 and $4.6 billion. The clean air report estimates the cost of control of just particulate emissions and sulfur oxides at beween $266 and $500 million for fiscal years 1971 through 1974.

Until a better method of stimulating needed private investment and Government assistance to private industry in reaching this important public goal is achieved, the investment credit represents the best-known technique. The revenue loss entailed in this approach will be offset many times by the reduction in other public investments to counteract environmental

degradation. Next year, the Committee on Public Works will look into other ways and means of effectively accomplishing the result we seek. In the meantime, the provisions of section 707 of the bill offer the best hope for insuring the full participation of the industrial community in our earnest efforts for a better, cleaner air and water environment.

The PRESIDING OFFICER. All time on the amendment has now expired.

* * * * *

The result was announced—yeas 3, nays 92, ***.

* * * * *

So Mr. GORE's amendment was rejected.

Mr. CURTIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

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1.4a(5)(c) Dec. 22: Senate agrees to conference report, p. 40718

[No Relevant Discussion on Pertinent Section]

1.4a(5)(d) Dec. 22: House debates and agrees to conference report, pp. 40820, 40900

[No Relevant Discussion on Pertinent Section]

1.5 DEPARTMENT OF TRANSPORTATION ACT AS AMENDED

49 U.S.C. §§1651, 1653(f), 1655(g), 1656 (1968)

Sec.

1651. Congressional declaration of purpose.

1652. Establishment of Department.
- (a) Desigation and appointment of Secretary of Transportation.
- (b) Under Secretary; appointment; functions, powers, and duties.
- (c) Assistant Secretaries; General Counsel; appointment; functions, powers, and duties.
- (d) Assistant Secretary for Administration; appointment; functions, powers, and duties.
- (e) Federal Highway Administration; Federal Railroad Administration; Federal Aviation Administration; establishment; Administrators and Deputy Federal Aviation Administrator; appointment, functions, powers and duties; transfer of functions.
- (f) National Traffic Safety Bureau; National Highway Safety Bureau; establishment; appointment of Directors; transfer and continuation of office of Federal Highway Administrator under title of Director of Public Roads.

1653. General provisions.
- (a) Responsibilities of Secretary of Transportation; leadership, consultation, and coordination.
- (b) Congressional policy standards for transportation; prohibition againnst adoption of standards or policy without appropriate Congressional action.
- (c) Judicial review of orders of the Secretary, National Transportation Safety Board, and Administrators.
- (d) Carryover of authority to Secretary, Administrators, and National Transportation Safety Board from departments and agencies formerly exercising functions and duties.
- (e) Safety record of applicants seeking operating authority from Interstate Commerce Commission.
- (f) Maintenance and enhancement of natural beauty of land traversed by transportation lines.
- (g) Consultation with Secretary of Housing and Urban Development; annual report to the President for submission to Congress.

1654. National Transportation Safety Board.
- (a) Establishment.
- (b) Functions, powers, and duties of Board.
- (c) Aircraft accident investigations.
- (d) Transportation safety; investigation of transportation accidents; recommendations.
- (e) Publication of reports, orders, decisions, rules, and regulations.
- (f) Independent status of Board.
- (g) Annual report and recommendations to Congress.
- (h) Membership of Board; appointment and political affiliations of members; fitness; removal for inefficiency, neglect of duty, or malfeasance in office.
- (i) Term of office of members; filling of vacancies.

Sec.

(j) Designation of Chairman and Vice Chairman; administrative authority; three members required for quorum.
(k) Rules and regulations.
(l) Conduct of hearings; issuance of subpenas; oaths; witnesses; reception of evidence.
(m) Delegation of functions.
(n) Employment of investigators, attorneys, hearing examiners, and other employees.
(o) Uses of services, equipment, personnel, and facilities of other agencies; use of state facilities.

1655. Transfer of functions.
(a) Powers and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce relating to highways, ground transportation generally, aircraft, pilotage, and traffic and highway safety generally.
(b) Coast Guard; functions of the Secretary of the Treasury and other offices and officers of the Department of the Treasury relating to the Coast Guard.
(c) Federal Aviation Agency; functions, powers, and duties of Administrator and other offices and officers.
(d) Civil Aeronautics Board; chairman, members, officers, and offices; transfer to National Transportation Safety Board.
(e) Interstate Commerce Commission; functions, powers, and duties relating to safety appliances and equipment on railroad engines and cars, protection of employees and travelers, hours, of service, medals for heroism, explosives and other dangerous articles, standard time zones and daylight saving time; safety of operation and equipment.
(f) Retention by Interstate Commerce Commission of powers and functions not expressly transferred; railroad, pipeline, and motor carrier safety under Federal Railroad and Federal Highway Administrators; review of administrative decisions.
(g) Department of the Army; functions, powers, and duties of the Secretary of the Army relating to water vessel anchorages, drawbridge operating regulations, obstructive bridges, tolls, prevention of pollution of the sea by oil, and location and clearance of bridges and causeways on navigable waters.
(h) Applicability of administrative procedure and judicial review provisions of Title 5.
(i) Alaska Railroad.

1656. Transportation investment standards; promulgation by Secretary of Transportation; use of standards and criteria in surveys, plans, and reports of Federal agencies.

1657. Administrative provisions.
(a) Authority of Secretary to employ personnel and prescribe their authority and duties.
(b) Temporary or intermittent employment of experts and consultants.

Sec.

(c) Detailing of participating military personnel for service in Department of Transportation.
(d) Military personnel assigned to Department of Transportation; annual report to Congress on assignment of personnel.
(e) Delegation and redelegation of powers and functions.
(f) Transfer of personnel, assets, liabilities, contracts, property, records, and unexpended funds of the Federal Aviation Agency to the Secretary of Transportation.
(g) Determination of personnel and property transfers to Secretary of Transportation; transfer of property and funds of Civil Aeronautics Boards to National Transportations Safety Board.
(h) Prohibition against reduction in classification or compensation of transferees for one year.
(i) Lapse of transferred offices and agencies; compensation of executive positions upon continuity of service.
(j) Administrative services; establishment of capital fund; transactions involving the capital fund.
(k) Seal of office.
(l) Authority to provide necessary facilities and services for personnel stationed in remote localities.
(m) Authority to accept and hold gifts and bequests for purposes of aiding or facilitating the work of the Department.
(n) Authority to fill requests for statistical compilations covering Department matters on reimbursable basis.
(o) Advisory committees; appointment, compensation.
(p) Appointment of Coast Guard personnel on active duty to serve with Department; retired Coast Guard personnel.
(q) Contracts with private agencies for research; capabilities of research agency; dissemination of resulting data.

1658. Annual reports.

1659. Separability of provisions.

§ 1651. Congressional declaration of purpose

(a) The Congress hereby declares that the general welfare, the economic growth and stability of the Nation and its security require the development of national transportation policies and programs conducive to the provision of fast, safe, efficient, and convenient transportation at the lowest cost consistent therewith and with other national objectives, including the efficient utilization and conservation of the Nation's resources.

(b) (1) The Congress therefore finds that the establishment of a Department of Transportation is necessary in the public interest and to assure the coordinated, effective administration of the transportation programs of the Federal Government; to facilitate the development and improvement of coordinated transportation service, to be provided by private enterprise to the maximum

extent feasible; to encourage cooperation of Federal, State, and local governments, carriers, labor, and other interested parties toward the achievement of national transportation objectives; to stimulate technological advances in transportation; to provide general leadership in the identification and solution of transportation problems; and to develop and recommend to the President and the Congress for approval national transportation policies and programs to accomplish these objectives with full and appropriate consideration of the needs of the public, users, carriers, industry, labor, and the national defense.

(2) It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

Pub.L. 89–670, § 2, Oct. 15, 1966, 80 Stat. 931.

§ 1652. Establishment of Department—Designation and appointment of Secretary of Transportation

(a) There is hereby established at the seat of government an executive department to be known as the Department of Transportation (hereafter referred to in this chapter as the "Department"). There shall be at the head of the Department a Secretary of Transportation (hereafter referred to in this chapter as the "Secretary"), who shall be appointed by the President, by and with the advice and consent of the Senate.

Under Secretary; appointment; functions, powers, and duties

(b) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary (or, during the absence or disability of the Under Secretary, or in the event of a vacancy in the office of Under Secretary, an Assistant Secretary or the General Counsel, determined according to such order as the Secretary shall prescribe) shall act for, and exercise the powers of the Secretary, during the abence or disability of the Secretary or in the event of a vacancy in the office of Secretary. The Under Secretary shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

Assistant Secretaries; General Counsel; appointment; functions, powers, and duties

(c) There shall be in the Department Four Assistant Secretaries and a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

Assistannt Secretary for Administration; appointment; functions, powers, and duties

(d) There shall be in the Department an Assistant Secretary for Administration, who shall be appointed, with the approval of the President, by the Secretary under the classified civil service who shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.

Federal Highway Administration; Federal Railroad Administration; Federal Aviation Administration; establishment; Administrators and Deputy Federal Aviation Adminstrator; appointment, functions, powers and duties; transfer of functions

(e) (1) There is hereby established within the Department a Federal Highway Administration; a Federal Railroad Administration; and a Federal Aviation Administration. Each of these components shall be headed by an Administrator, and in the case of the Federal Aviation Administration there shall also be a Deputy Administrator. The Administrators and the Deputy Federal Aviation Administrator shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The qualification of the Administrator of the Federal Aviation Agency specified in section 1341(b) of this title, and the qualifications and status of the Deputy Administrator specified in section 1342(b) of this title; shall apply, respectively, to the Administrator and Deputy Administrator of the Federal Aviation Administration. However, nothing in this chapter shall be construed to preclude the appointment of the present Administrator of the Federal Aviation Agency as Administrator of the Federal Aviation Administration in accordance with the provisions of the Act of June 22, 1965, as amended (79 Stat. 171).

(3) In addition to such functions, powers, and duties as are specified in this chapter to be carried out by the Administrators, the Administrators and the Commandant of the Coast Guard shall carry out such additional functions, powers, and duties as the Secretary may prescribe. The Administrators and the Commandant of the Coast Guard shall report directly to the Secretary.

(4) The functions, powers, and duties specified in this chapter to be carried out by each Administrator shall not be transferred elsewhere in the Department unless specifically provided for by reorganization plan submitted pursuant to provisions of chapter 9 of Title 5 or by statute.

National Traffic Safety Bureau; National Highway Safety Bureau; establishment; appointment of Directors; transfer and continuation of office of Federal Highway Administration under title of Director of Public Roads

(f) (1) The Secretary shall carry out the provisions of the

National Traffic and Motor Vehicle Safety Act of 1966 through a National Traffic Safety Bureau (hereafter referred to in this paragraph as "Bureau"), which he shall establish in the Department of Transportation. The Bureau shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate. All other provisions of the National Traffic and Motor Vehicle Safety Act of 1966 shall apply.

(2) The Secretary shall carry out the provisions of the Highway Safety Act of 1966 (including chapter 4 of Title 23) through a National Highway Safety Bureau (hereafter referred to in this paragraph as "Bureau"), which he shall establish in the Department of Transportation. The Bureau shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate. All other provisions of the Highway Safety Act of 1966 shall apply.

(3) The President is authorized, as provided in section 201 of the Highway Safety Act of 1966, to carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 through the Bureau and Director authorized by section 201 of the Highway Safety Act of 1966.

(4) The office of Federal Highway Administrator, created by section 303 of Title 23, is hereby transferred to and continued within the Department under the title Director of Public Roads. The Director shall be the operating head of the Bureau of Public Roads, or any other agency created within the Department to carry out the primary functions carried out immediately before the effective date of this Act by the Bureau of Public Roads. Pub.L. 89–670, § 3, Oct. 15, 1966, 80 Stat. 931, amended Pub.L. 90–83, § 10(b), Sept. 11, 1967, 81 Stat. 224.

§ 1653. General provisions—Responsibilities of Secretary of Transportation; leadership, consultation, and coordination

(a) The Secretary in carrying out the purposes of this chapter shall, among his responsibilities, exercise leadership under the direction of the President in transportation matters, including those affecting the national defense and those involving national or regional emergencies; provide leadership in the development of national transportation policies and programs, and make recommendations to the President and the Congress for their consideration and implementation; promote and undertake development, collection, and dissemination of technological, statistical, economic, and other information relevant to domestic and international transportation; consult and cooperate with the Secretary of Labor in gathering information regarding the status of labor-

management contracts and other labor-management problems and in promoting industrial harmony and stable employment conditions in all modes of transportation; promote and undertake research and development relating to transportation, including noise abatement, with particular attention to aircraft noise; consult with the heads of other Federal departments and agencies on the transportation requirements of the Government, including the procurement of transportation or the operation of their own transport services in order to encourage them to establish and observe policies consistent with the maintenance of a coordinated transportation system; and consult and cooperate with State and local governments, carriers, labor, and other interested parties, including, when appropriate, holding informal public hearings.

Congressional policy standards for transportation; prohibition against adoption of standards or policy without appropriate Congressional action

(b) (1) In carrying out his duties and responsibilities under this chapter, the Secretary shall be governed by all applicable statutes including the policy standards set forth in the Federal Aviation Act of 1958, as amended; the national transportation policy of the Interstate Commerce Act, as amended; Title 23, relating to Federal-aid highways; and Title 14, titles LII and LIII of the Revised Statutes, the Act of April 25, 1940, as amended (54 Stat. 163), and the Act of September 2, 1958, as amended, relating to the United States Coast Guard.

(2) Nothing in this chapter shall be construed to authorize, without appropriate action by Congress, the adoption, revision, or implementation of—

(A) any transportation policy, or

(B) any investment standards or criteria.

(3) In exercising the functions, powers, and duties conferred on and transferred to the Secretary by this chapter, the Secretary shall give full consideration to the need for operational continuity of the functions transferred, to the need for effectiveness and safety in transportation systems, and to the needs of the national defense.

Judicial review of orders of the Secretary, National Transportation Safety Board, and Administrators

(c) Orders and actions of the Secretary or the National Transportation Safety Board in the exercise of functions, powers, and duties transferred under this chapter, and orders and actions of the Administrators pursuant to the functions, powers, and duties specifically assigned to them by this chapter, shall be subject to

judicial review to the same extent and in the same manner as if such orders and actions had been by the department or agency exercising such functions, powers, and duties immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Chapter shall apply to the exercise of such functions by the Secretary, the Administrators, or the National Transportation Safety Board.

Carryover of authority to Secretary, Administrators, and National Transportation Safety Board from departments and agencies formerly exercising functions and duties

(d) In the exercise of the functions, powers, and duties transferred under this chapter, the Secretary, the Administrators, and the National Transportation Safety Board shall have the same authority as that vested in the department or agency exercising such functions, powers, and duties immediately preceding their transfer, and their actions in exercising such functions, powers, and duties shall have the same force and effect as when exercised by such department or agency.

Safety record of applicants seeking operating authority from Interstate Commerce Commission

(e) It shall be the duty of the Secretary—

(1) to promptly investigate the safety compliance records in the Department of each applicant seeking operating authority from the Interstate Commerce Commission (referred to in this subsection as the "Commission") and to report his findings to the Commission;

(2) when the safety record of an applicant for permanent operating authority, or for approval of a proposed transaction involving transfer of operating authority, fails to satisfy the Secretary, to intervene and present evidence of such applicant's fitness in Commission proceedings;

(3) to furnish promptly upon request of the Commission a statement regarding the safety record of any applicant seeking temporary operating authority from the Commission; and

(4) (A) to furnish upon request of the Commission a complete report of the safety compliance of any carrier, (B) to have made such additional inspections or safety compliance surveys which the Commission deem necessary or desirable in order to process an application or to determine the fitness of a carrier, and (C) if the Commission so requests, to intervene and present evidence in any proceeding in which a determination of fitness is required.

Maintenance and enhancement of natural beauty of land traversed by transportation lines

(f) It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites. The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plan and program that include measures to maintain or enhance the natural beauty of the lands traversed. After August 23, 1968, the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use.

Consultation with Secretary of Housing and Urban Development; annual report to the President for submission to Congress

(g) The Secretary and the Secretary of Housing and Urban Development shall consult and exchange information regarding their respective transportation policies and activities; carry on joint planning, research and other activities; and coordinate assistance for local transportation projects. They shall jointly study how Federal policies and programs can assure that urban transportation systems most effectively serve both national transportation needs and the comprehensively planned development of urban areas. They shall, within one year after the effective date of this Act, and annually thereafter, report to the President, for submission to the Congress, on their studies and other activities under this subsection, including any legislative recommendations which they determine to be desirable. The Secretary and the Secretary of Housing and Urban Development shall study and report within one year after the effective date of this Act to the President and the Congress on the logical and efficient organization and location of urban mass transportation functions in the Executive Branch.

Pub.L. 89–670, § 4, Oct. 15, 1966, 80 Stat. 933, amended Pub.L. 90–495, § 18(b), Aug. 23, 1968, 82 Stat. 824.

§ 1654. National Transportation Safety Board—Establishment

(a) There is hereby established within the Department a National Transportation Safety Board (referred to hereafter in this chapter as "Board").

Functions, powers, and duties of Board

(b) There are hereby transferred to, and it shall be the duty of the Board to exercise, the functions, powers, and duties transferred to the Secretary by section 1655 of this title and section 8 of this Act with regard to—

(1) determining the cause or probable cause of transportation accidents and reporting the facts, conditions, and circumstances relating to such accidents; and

(2) reviewing on appeal the suspension, amendment, modification, revocation, or denial of any certificate or license issued by the Secretary or by an Administrator.

Aircraft accident investigations

(c) The Board shall exercise the functions, powers, and duties relating to aircraft accident investigations transferred to the Secretary by section 1655(d) of this title.

Transportation safety; investigation of transportation accidents; recommendations

(d) The Board is further authorized to—

(1) make such recommendations to the Secretary or Administrators on the basis of the exercise of its functions, powers, and duties which, in its opinion, will tend to prevent transportation accidents and promote transportation safety;

(2) conduct special studies on matters pertaining to safety in transportation and the prevention of accidents;

(3) insure that in cases in which it is required to determine cause or probable cause, reports of investigation adequately state the circumstances of the accident involved;

(4) initiate on its own motion or conduct rail, highway, or pipeline accident investigations as the Board deems necessary or appropriate;

(5) make recommendations to the Secretary or Administrators concerning rules, regulations, and procedures for the conduct of accident investigations;

(6) request the Secretary or Administrators to initiate specific accident investigations or conduct further investigations as the Board determines to be necessary or appropriate;

(7) arrange for the personal participation of members or other personnel of the Board in accident investigations conducted by the Secretary or Administrators in such cases as it deems appropriate; and

(8) request from the Secretary or Administrators notification of transportation accidents and reports of such accidents as the Board deems necessary.

Publication of reports, orders, decisions, rules, and regulations

(e) Except as otherwise provided by statute, the Board shall make public all reports, orders, decisions, rules, and regulations issued pursuant to subsections (b) (1) and (b) (2) of this section, and the Board shall also make public—

(1) every recommendation made to the Secretary or an Administrator;

(2) every special study conducted; and

(3) every action of the Board requesting the Secretary or an Administrator to take action,

pursuant to subsections (d) (1), (2), (3), (5), (6), or (8) of this section.

Independent status of Board

(f) In the exercise of its functions, powers, and duties, the Board shall be independent of the Secretary and the other offices and officers of the Department.

Annual report annd recommendations to Congress

(g) The Board shall report to the Congress annually on the conduct of its functions under this chapter and the effectiveness of accident investigations in the Department, together with such recommendations for legislation as it may deem appropriate.

Membership of Board; appointment and political affiliation of members; fitness; removal for inefficiency, neglect of duty, or malfeasance in office

(h) The Board shall consist of five members to be appointed by the President, by and with the advice and consent of the Senate. No more than three members of the Board shall be of the same political party. Members of the Board shall be appointed with due regard to their fitness for the efficient dispatch of the functions, powers, and duties vested in and imposed upon the Board, and may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

Term of office of members; filling of vacancies

(i) Members of the Board shall be appointed for terms of five years, except that (1) any member appointed to fill a vacancy

occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term, and (2) the five members first appointed shall serve for terms (designated by the President at the time of appointment) ending on the last day of the first, second, third, fourth, and fifth calendar years beginning after 1966. Upon the expiration of his term of office, a member shall continue to serve until his successor is appointed and shall have qualified.

Designation of Chairman and Vice Chairman; administrative authority; three members required for quorum

(j) The President shall designate from time to time one of the members of the Board as Chairman and one of the members as Vice Chairman, who shall act as Chairman in the absence or incapacity of the Chairman, or in the event of a vacancy in the office of the Chairman. The Chairman shall be the chief executive and administrative officer of the Board and shall exercise the responsibility of the Board with respect to (1) the appointment and supervision of personnel employed by the Board; (2) the distribution of business among the Board's personnel; and (3) the use and expenditure of funds. In executing and administering the functions of the Board on its behalf, the Chairman shall be governed by the general policies of the Board and by its decisions, findings, and determinations. Three of the members shall constitute a quorum of the Board.

Rules and regulations

(k) The Board is authorized to establish such rules, regulations, and procedures as are necessary to the exercise of its functions.

Conduct of hearings; issuance of subpenas; oaths; witnesses; reception of evidence

(l) In carrying out its functions, the Board (or, upon the authorization of the Board, any member thereof or any hearing examiner assigned to or employed by the Board) shall have the same powers as are vested in the Secretary to hold hearings, sign and issue subpenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate.

Delegation of functions

(m) The Board may delegate to any officer or official of the Board, or, with the approval of the Secretary, to any officer or official of the Department such of its functions as it may deem appropriate, except that—

(1) with respect to aviation, the proviso in section 1441(g)

of this title shall apply to the Secretary, the Federal Aviation Administrator and their representatives, and

(2) the Board shall not delegate the appellate or determination of probable cause functions transferred to it by section 1655(d) of this title.

Employment of investigators, attorneys, hearing examiners, and other employees

(n) Subject to the civil service and classification laws, the Board is authorized to select, appoint, employ, and fix compensation of such officers and employees, including investigators, attorneys and hearing examiners, as shall be necessary to carry out its powers and duties under this chapter.

Use of services, equipment, personnel, and facilities of other agencies; use of state facilities

(o) The Board is authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of the Department and of other civilian or military agencies and instrumentalities of the Federal Government, and to cooperate with the Department and such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Board. The Board is further authorized to confer with and avail itself of the cooperation, services, records, and facilities of State, territorial, municipal, or other local agencies. Pub.L. 89–670, § 5, Oct. 15, 1966, 80 Stat. 935.

§ 1655. Transfer of functions—Powers and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce relating to highways, ground transportation generally, aircraft, pilotage, and traffic and highway safety generally

(a) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce under—

(1) the following laws and provisions of law relating generally to highways:

(A) Title 23.

(B) The Federal-Aid Highway Act of 1966.

(C) The Federal-Aid Highway Act of 1962, as amended.

(D) The Act of July 14, 1960, as amended.

(E) The Federal-Aid Highway Act of 1954, as amended.

(F) The Act of September 26, 1961, as amended.

(G) The Highway Revenue Act of 1956, as amended.

(H) The Highway Beautification Act of 1165, as amended.

(I) The Alaska Omnibus Act, as amended.

(J) The Joint Resolution of August 28, 1965, as amended.

(K) Section 502(c) of the General Bridge Act of 1946, as amended.

(L) The Act of April 27, 1962, as amended.

(M) Reorganization Plan No. 7 of 1949.

(2) the following laws and provisions of law relating generally to ground transportation:

(A) The Act of September 30, 1965, as amended.

(B) The Urban Mass Transportation Act of 1964, as amended.

(3) the following laws and provisions of law relating generally to aircraft:

(A) The Act of September 7, 1957, as amended.

(B) Section 410 of the Federal Aviation Act of 1958, as amended.

(C) Title XIII of the Federal Aviation Act of 1958, as amended.

(4) the following law relating generally to pilotage: The Great Lakes Pilotage Act of 1960, as amended.

(5) the following law to the extent it authorizes scientific and professional positions which relate primarily to functions transferred by this subsection: The Act of August 1, 1947, as amended.

(6) the following laws relating generally to traffic and highway safety:

(A) The National Traffic and Motor Vehicle Safety Act of 1966.

(B) The Highway Safety Act of 1966.

Coast Guard; functions of the Secretary of the Treasury and other offices and officers of the Department of the Treasury relating to the Coast Guard

(b) (1) The Coast Guard is hereby transferred to the Department, and there are hereby transferred to and vested in the Secretary all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury.

(2) Notwithstanding the transfer of the Coast Guard to the Department and the transfer to the Secretary of the functions, powers, and duties, relating to the Coast Guard, of the Secretary

of the Treasury and of other officers and offices of the Department of the Treasury, effected by the provisions of paragraph (1) of this subsection, the Coast Guard, together with the functions, powers, and duties relating thereto, shall operate as a part of the Navy, subject to the orders of the Secretary of the Navy, in time of war or when the President shall so direct, as provided in section 3 of Title 14.

(3) Notwithstanding any other provisions of this chapter, the functions, powers, and duties of the General Counsel of the Department of the Treasury set out in chapter 47 of Title 10 (Uniform Code of Military Justice), are hereby transferred to and vested in the General Counsel of the Department.

Federal Aviation Agency; functions, powers, and duties of Administrator and other offices and officers

(c) (1) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Federal Aviation Agency, and of the Administrator and other officers and offices thereof, including the development and construction of a civil supersonic aircraft: *Provided, however,* That there are hereby transferred to the Federal Aviation Administrator, and it shall be his duty to exercise the functions, powers, and duties of the Secretary pertaining to aviation safety as set forth in sections 306, 307, 308, 309, 312, 313, 314, 1101, 1105, and 1111 and titles VI, VII, IX, and XII of the Federal Aviation Act of 1958, as amended. In exercising these enumerated functions, powers, and duties, the Administrator shall be guided by the declaration of policy in section 103 of the Federal Aviation Act of 1958, as amended. Decisions of the Federal Aviation Administrator made pursuant to the exercise of the functions, powers, and duties enumerated in this subsection to be exercised by the Administrator shall be administratively final, and appeals as authorized by law or this chapter shall be taken directly to the National Transportation Safety Board or to the courts, as appropriate.

(2) Nothing in this chapter shall affect the power of the President under section 1343(c) of this title to transfer, to the Department of Defense in the event of war, any functions transferred by this chapter from the Federal Aviation Agency.

Civil Aeronautics Board: chairman, members, officers, and offices; transfer to National Transportation Safety Board

(d) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Civil Aeronautics Board, and of the Chairman, members, officers, and offices thereof under titles VI and VII of the Federal Aviation Act of 1958, as

amended: *Provided, however,* That these functions, powers, and duties are hereby transferred to and shall be exercised by the National Transportation Safety Board. Decisions of the National Transportation Safety Board made pursuant to the exercise of the functions, powers, and duties enumerated in this subsection shall be administratively final, and appeals as authorized by law or this chapter shall be taken directly to the courts.

Interstate Commerce Commission; functions, powers, and duties relating to safety appliances and equipment on railroad engines and cars, protection of employees and travelers, hours of service, medals for heroism, explosives and other daangerous articles, standard time zones and daylight saving time; safety of operation and equipment

(e) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Interstate Commerce Commission, and of the Chairman, members, officers, and offices thereof, under—

(1) the following laws relating generally to safety appliances and equipment on railroad engines and cars and protection of employees and travelers:

(A) The Act of March 2, 1893, as amended.
(B) The Act of March 2, 1903, as amended.
(C) The Act of April 14, 1910, as amended.
(D) The Act of May 30, 1908, as amended.
(E) The Act of February 17, 1911, as amended.
(F) The Act of March 4, 1915, as amended.
(G) Reorganization Plan No. 3 of 1965.
(H) Joint Resolution of June 30, 1906, as amended.
(I) The Act of May 27, 1908, as amended.
(J) The Act of March 4, 1909, as amended.
(K) The Act of May 6, 1910, as amended.

(2) the following law relating generally to hours of service of employees: The Act of March 4, 1907, as amended.

(3) the following law relating generally to medals for heroism: The Act of February 23, 1905, as amended.

(4) the following provisions of law relating generally to explosives and other dangerous articles: Sections 831–835 of Title 18.

(5) the following laws relating generally to standard time zones and daylight saving time:

(A) The Act of March 19, 1918, as amended.
(B) The Act of March 4, 1921, as amended.
(C) The Uniform Time Act of 1966, as amended.

(6) the following provisions of the Interstate Commerce Act, as amended—

(A) relating generally to safety appliances methods and systems: Section 25.

(B) relating generally to investigation of motor vehicle sizes, weights, and service of employees: Section 226.

(C) relating generally to qualifications and maximum hours of service of employees and safety of operation and equipment: Sections 204(a) (1) and (2), to the extent that they relate to qualifications and maximum hours of service of employees and safety of operation and equipment; and sections 204(a) (3), (3a), and (5).

(D) to the extent they relate to private carriers of property by motor vehicle and carriers of migrant workers by motor vehicle other than contract carriers: Sections 221(a), 221(c), and 224.

Retention by Interstate Commerce Commission of powers and functions not expressly transferred; railroad, pipeline, and motor carrier safety under Federal Railroad and Federal Highway Administrators; review of administrative decisions

(f) (1) Nothing in subsection (e) shall diminish the functions, powers, and duties of the Interstate Commerce Commission under sections 1(6), 206, 207, 209, 210a, 212, and 216 of the Interstate Commerce Act, as amended, or under any other section of that Act not specifically referred to in subsection (e).

(2) (A) With respect to any function which is transferred to the Secretary by subsection (e) and which was vested in the Interstate Commerce Commission preceding such transfer, the Secretary shall have the same administrative powers under the Interstate Commerce Act as the Commission had before such transfer with respect to such transferred function. After such transfer, the Commission may exercise its administrative powers under the Interstate Commerce Act only with respect to those of its functions not transferred by subsection (e).

(B) For purposes of this paragraph—

(i) the term "function" includes power and duty, and

(ii) the term "administrative powers under the Interstate Commerce Act" means any functions under the following provisions of the Interstate Commerce Act, as amended: Sections 12, 13(1), 13(2), 14, 16(12), the last sentence of 18(1), sections 20 (except clauses (3), (4), (11), and (12) thereof), 204(a) (6) and (7), 204(c), 204(d), 205(d), 205(f), 220 (except subsection (c) and

the proviso of subsection (a) thereof), 222 (except subsections (b) (2) and (b) (3) thereof), and 417(b) (1).

(3) (A) The Federal Railroad Administrator shall carry out the functions, powers, and duties of the Secretary pertaining to railroad and pipeline safety as set forth in the statutes transferred to the Secretary by subsection (e) of this section.

(B) The Federal Highway Administrator shall carry out the functions, powers, and duties of the Secretary pertaining to motor carrier safety as set forth in the statutes transferred to the Secretary by subsection (e) of this section.

(C) Decisions of the Federal Railroad Administrator and the Federal Highway Administrator (i) which are made pursuant to the exercise of the functions, powers, and duties enumerated in subparagraphs (A) and (B) of this paragraph to be carried out by the Administrators, and (ii) which involve notice and hearing required by law, shall be administratively final, and appeals as authorized by law or this chapter shall be taken directly to the National Transportation Safety Board or the courts, as appropriate.

Department of the Army; functions, powers, and duties of the Secretary of the Army relating to water vessel anchorages, drawbridge operating regulations, obstructive bridges, tolls, prevention of pollution of the sea by oil, and location and clearance of bridges and causeways on navigable waters

(g) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army under—

(1) the following law and provisions of law relating generally to water vessel anchorages:

(A) Section 7 of the Act of March 4, 1915, as amended.

(B) Article 11 of section 1 of the Act of June 7, 1897, as amended.

(C) Rule 9 of section 1 of the Act of February 8, 1895, as amended.

(D) Rule numbered 13 of section 4233 of the Revised Statutes, as amended.

(2) the following provision of law relating generally to drawbridge operating regulations: Section 5 of the Act of August 18, 1894, as amended.

(3) the following law relating generally to obstructive bridges: The Act of June 21, 1940, as amended.

(4) the following laws and provisions of law relating generally to the reasonableness of tolls:

(A) Section 4 of the Act of March 23, 1906, as amended.

(B) Section 503 of the General Bridge Act of 1946, as amended.

(C) Section 17 of the Act of June 10, 1930, as amended.

(D) The Act of June 27, 1930, as amended.

(E) The Act of August 21, 1935, as amended.

(5) the following law relating to prevention of pollution of the sea by oil: The Oil Pollution Act, 1961, as amended.

(6) the following laws and provision of law to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States:

(A) Section 9 of the Act of March 3, 1899, as amended.

(B) The Act of March 23, 1906, as amended.

(C) The General Bridge Act of 1946, as amended.

Applicability of administrative procedure and judicial review provisions of Title 5

(h) The provisions of subchapter II of chapter 5 and of chapter 7 of Title 5, shall be applicable to proceedings by the Department and any of the administrations or boards within the Department established by this chapter except that notwithstanding this or any other provision of this chapter, the transfer of functions, powers, and duties to the Secretary or any other officer in the Department shall not include functions vested by subchapter II of chapter 5 of Title 5, in hearing examiners employed by any department, agency, or component thereof whose functions are transferred under the provisions of this chapter.

Alaska Railroad

(i) The Administration of the Alaska Railroad, established pursuant to the Act of March 12, 1914, as amended, and all of the functions authorized to be carried out by the Secretary of the Interior pursuant to Executive Order Numbered 11107, April 25, 1963 (28 F.R. 4225), relative to the operation of said Railroad, are hereby transferred to and vested in the Secretary of Transportation who shall exercise the same authority with respect thereto as is now exercised by the Secretary of the Interior pursuant to said Executive order. Pub.L. 89–670, § 6, Oct. 15, 1966, 80 Stat. 937.

§ 1656. Transportation investment standards; promulgation by Secretary of Transportation; use of standards and criteria in surveys, plans, and reports of Federal agencies

(a) The Secretary, subject to the provisions of section 1653 of this title, shall develop and from time to time in the light of experience revise standards and criteria consistent with national transportation policies, for the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities or equipment, except such proposals as are concerned with (1) the acquisition of transportation facilities or equipment by Federal agencies in providing transportation services for their own use; (2) an inter-oceanic canal located outside the contiguous United States; (3) defense features included at the direction of the Department of Defense in the design and construction of civil air, sea, and land transportation; (4) programs of foreign assistance; (5) water resource projects; or (6) grant-in-aid programs authorized by law. The standards and criteria developed or revised pursuant to this subsection shall be promulgated by the Secretary upon their approval by the Congress.

The standards and criteria for economic evaluation of water resource projects shall be developed by the Water Resources Council established by Public Law 89–80. For the purpose of such standards and criteria, the primary direct navigation benefits of a water resource project are defined as the product of the savings to shippers using the waterway and the estimated traffic that would use the waterway; where the savings to shippers shall be construed to mean the difference between (a) the freight rates or charges prevailing at the time of the study for the movement by the alternative means and (b) those which would be charged on the proposed waterway; and where the estimate of traffic that would use the waterway will be based on such freight rates, taking into account projections of the economic growth of the area.

The Water Resources Council established under section 1962a of Title 42 is hereby expanded to include the Secretary of Transportation on matters pertaining to navigation features of water resource projects.

(b) Every survey, plan, or report formulated by a Federal agency which includes a proposal as to which the Secretary has promulgated standards and criteria pursuant to subsection (a) shall be (1) prepared in accord with such standards and criteria and upon the basis of information furnished by the Secretary with respect to projected growth of transportation needs and traffic in the affected area, the relative efficiency of various modes of trans-

port, the available transportation services in the area, and the general effect of the proposed investment on existing modes, and on the regional and national economy; (2) coordinated by the proposing agency with the Secretary and, as appropriate, with other Federal agencies, States, and local units of government for inclusion of his and their views and comments; and (3) transmitted thereafter by the proposing agency to the President for disposition in accord with law and procedures established by him. Pub.L. 89–670,§ 7, Oct. 15, 1966, 80 Stat. 941.

§ 1657. Administrative provisions—Authority of Secretary to employ personnel and prescribe their authority and duties

(a) In addition to the authority contained in any other Act which is transferred to and vested in the Secretary, the National Transportation Safety Board, or any other officer in the Department, the Secretary is authorized, subject to the civil service and classification laws, to select, appoint, employ, and fix the compensation of such officers and employees, including investigators, attorneys, and hearing examiners, as are necessary to carry out the provisions of this chapter and to prescribe their authority and duties.

Temporary or intermittent employment of experts and consultants

(b) The Secretary may obtain services as authorized by section 3109 of Title 5 but at rates not to exceed $100 per diem for individuals unless otherwise specified in an appropriation Act.

Detailing of participating military personnel for service in Department of Transportation

(c) The Secretary is authorized to provide for participation of military personnel in carrying out the functions of the Department. Members of the Army, the Navy, the Air Force, or the Marine Corps may be detailed for service in the Department by the appropriate Secretary, pursuant to cooperative agreements with the Secretary of Transportation.

Military personnel assigned to Department of Transportation; annual report to Congress on assignment of personnel

(d) (1) Appointment, detail, or assignment to, acceptance of, and service in any appointive or other position in the Department under the authority of subsections (c) and (p) of this section shall in no way affect status, office, rank, or grade which officers or enlisted men may occupy or hold or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, nor shall any member so appointed, detailed, or assigned be charged against any statutory limitation on grades or strengths applicable to the Armed Forces. A person

so appointed, detailed, or assigned shall not be subject to direction by or control by his armed force or any officer thereof directly or indirectly with respect to the responsibilities exercised in the position to which appointed, detailed, or assigned.

(2) The Secretary shall report annually in writing to the appropriate committees of the Congress on personnel appointed and agreements entered into under subsection (c) of this section, including the number, rank, and positions of members of the armed services detailed pursuant thereto.

Delegation and redelegation of powers and functions

(e) (1) Except where this chapter vests in any administration, agency or board, specific functions, powers, and duties, the Secretary may, in addition to the authority to delegate and redelegate contained in any other Act in the exercise of the functions transferred to or vested in the Secretary in this chapter, delegate any of his residual functions, powers and duties to such officers and employees of the Department as he may designate, may authorize such successive redelegations of such functions, powers, and duties as he may deem desirable, and may make such rules and regulations as may be necessary to carry out his functions, powers, and duties.

(2) In addition to the authority to delegate and redelegate contained in any other Act, in the exercise of the functions transferred to or specified by this chapter to be carried out by any officer in the Department, such officer may delegate any of such functions, powers, and duties to such other officers and employees of the Department as he may designate; may authorize such successive redelegations of such functions, powers, and duties as he may deem desirable; and may make such rules and regulations as may be necessary to carry out such functions, powers, and duties.

(3) The Administrators established by section 1652(e) of this title may not delegate any of the statutory duties and responsibilities specifically assigned to them by this chapter outside of their respective administrations.

Transfer of personnel, assets, liabilities, contracts, property, records, and unexpended funds of the Federal Aviation Agency to the Secretary of Transportation

(f) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of the Federal Aviation Agency, and of the head and other officers and offices thereof, are hereby transferred to the Secretary: *Provided, however,* That the person-

nel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available, or to be made available in carrying out the duties and functions transferred by this chapter to the Secretary which are specified by this chapter to be carried out by the Federal Aviation Administrator shall be assigned by the Secretary to the Federal Aviation Administrator for these purposes.

Determination of personnel and property transfers to Secretary of Transportation; transfer of property and funds of Civil Aeronautics Boards to National Transportation Safety Board

(g) So much of the positions, personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available in connection with the functions, powers, and duties transferred by sections 1655 of this title (except subsection (c) thereof) and section 8(d) and (e) of this chapter as the Director of the Bureau of the Budget shall determine shall be transferred to the Secretary: *Provided, however,* That the positions, personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available, or to be made available, by the Civil Aeronautics Board in carrying out the duties transferred by this chapter to be exercised by the National Transportation Safety Board shall be transferred to the National Transportation Safety Board. Except as provided in subsection (h), personnel engaged in functions, powers, and duties transferred under this chapter shall be transferred in accordance with applicable laws and regulations relating to transfer of functions.

Prohibition against reduction in classification or compensation of transferees for one year

(h) The transfer of personnel pursuant to subsections (f) and (g) of this section shall be without reduction in classification or compensation for one year after such transfer.

Lapse of transferred offices and agencies; compensation of executive positions upon continuity of service

(i) In any case where all of the functions, powers, and duties of any office or agency, other than the Coast Guard, are transferred pursuant to this chapter, such office or agency shall lapse. Any person who, on the effective date of this chapter, held a position compensated in accordance with the Executive Schedule, and who, without a break in service, is appointed in the Department to a

positon having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position, for the duration of his service in his new position.

Administrative services; establishment of capital funds; transactions involving the capital fund

(j) The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interest of economy and efficiency in the Department, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are hereby authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain said fund.

Seal of office

(k) The Secretary shall cause a seal of office to be made for the Department of such device as he shall approve, and judicial notice shall be taken of such seal.

Authority to provide necessary facilities and services for personnel stationed in remote localities

(l) In addition to the authority contained in any other Act which is transferred to and vested in the Secretary, the National Transportation Safety Board, or other officer in the Department,

as necessary, and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote localities:

(1) Emergency medical services and supplies;

(2) Food and other subsistence supplies;

(3) Messing facilities;

(4) Motion picture equipment and film for recreation and training;

(5) Reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons; and

(6) Living and working quarters and facilities.

The furnishing of medical treatment under paragraph (1) and the furnishing of services and supplies under paragraphs (2) and (3) of this subsection shall be at prices reflecting reasonable value as determined by the Secretary, and the proceeds therefrom shall be credited to the appropriation from which the expenditure was made.

Authority to accept and hold gifts and requests for purpose of aiding or facilitating the work of the Department

(m) (1) The Secretary is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Secretary. Property accepted pursuant to this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(2) For the purpose of Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift or bequest to or for use of the United States.

(3) Upon the request of the Secretary, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in paragraph (1). Income accruing from such securities, and from any other property held by the Secretary pursuant to paragraph (1) shall be deposited to the credit of the fund, and shall be disbursed upon order of the Secretary.

Authority to fill requests for statistical compilations covering Department matters on reimbursable basis

(n) (1) The Secretary is authorized, upon the written request

of any person, or any State, territory, possession, or political subdivision thereof, to make special statistical studies relating to foreign and domestic transportation, and special studies relating to other matters falling within the province of the Department, to prepare from its records special statistical compilations, and to furnish transcripts of its studies, tables, and other records upon the payment of the actual cost of such work by the person or body requesting it.

(2) All moneys received by the Department in payment of the cost of work under paragraph (1) shall be deposited in a separate account to be administered under the direction of the Secretary. These moneys may be used, in the discretion of the Secretary, for the ordinary expenses incidental to the work and/or to secure in connection therewith the special services of persons who are neither officers nor employees of the United States.

Advisory committees; appointment, compensation

(o) The Secretary is authorized to appoint, without regard to the civil service laws, such advisory committees as shall be appropriate for the purpose of consultation with and advice to the Department in performance of its functions. Members of such committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Secretary, may be paid compensation at rates not exceeding those authorized for individuals under subsection (b) of this section, and while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5, for persons in the Government service employed intermittently.

Appointment of Coast Guard personnel on active duty to serve with Department; retired Coast Guard personnel

(p) (1) Notwithstanding any provision of this chapter or other law, a member of the Coast Guard on active duty may be appointed, detailed, or assigned to any position in the Department other than Secretary, Under Secretary, and Assistant Secretary for Administration.

(2) Subject to the provisions of Title 5, a retired member of the Coast Guard may be appointed to any position in the Department.

Contracts with private agencies for research; capabilities of research agency; dissemination of resulting data

(q) (1) The Secretary is authorized to enter into contracts with educational institutions, public or private agencies or organizations, or persons for the conduct of scientific or technological

research into any aspect of the problems related to the programs of the Department which are authorized by statute.

(2) The Secretary shall require a showing that the institutions, agencies, organizations, or persons with which he expects to enter into contracts pursuant to this subsection have the capability of doing effective work. He shall furnish such advice and assistance as he believes will best carry out the mission of the Department, participate in coordinating all research initiated under this subsection, indicate the lines of inquiry which seem to him most important, and encourage and assist in the establishment and maintenance of cooperation by and between the institutions, agencies, organizations, or persons and between them and other research organizations, the Department, and other Federal agencies.

(3) The Secretary may from time to time disseminate in the form of reports or publications to public or private agencies or organizations, or individuals such information as he deems pertinent on the research carried out pursuant to this section.

(4) Nothing contained in this subsection is intended to amend, modify, or repeal any provisions of law administered by the Department which authorize the making of contracts for research. Pub.L. 89–670, § 9, Oct. 15, 1966, 80 Stat. 944.

§ 1658. Annual reports

The Secretary shall, as soon as practicable after the end of each fiscal year, make a report in writing to the President for submission to the Congress on the activities of the Department during the preceding fiscal year. Pub.L. 89–670, § 11, Oct. 15, 1966, 80 Stat. 949.

§ 1659. Separability of provisions

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of this chapter, and the application of such provision to other persons or circumstances shall not be affected thereby. Pub.L. 89–670, § 13, Oct. 15, 1966, 80 Stat. 950.

1.5a Department of Transportation Act

October 15, 1966, P.L. 89-670, §2, 4(f), (g), 6, 7, 80 Stat. 931

DECLARATION OF PURPOSE

Sec. 2. (a) The Congress hereby declares that the general welfare, the economic growth and stability of the Nation and its security require the development of national transportation policies and programs conducive to the provision of fast, safe, efficient, and convenient transportation at the lowest cost consistent therewith and with other national objectives, including the efficient utilization and conservation of the Nation's resources.

(b) (1) The Congress therefore finds that the establishment of a Department of Transportation is necessary in the public interest and to assure the coordinated, effective administration of the transportation programs of the Federal Government; to facilitate the development and improvement of coordinated transportation service, to be provided by private enterprise to the maximum extent feasible; to encourage cooperation of Federal, State, and local governments, carriers, labor, and other interested parties toward the achievement of national transportation objectives; to stimulate technological advances in transportation; to provide general leadership in the identification and solution of transportation problems; and to develop and recommend to the President and the Congress for approval national transportation policies and programs to accomplish these objectives with full and appropriate consideration of the needs of the public, users, carriers, industry, labor, and the national defense.

(2) It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

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GENERAL PROVISIONS

Sec. 4.

* * * * * * *

(f) The Secretary shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed. After the effective date of this Act, the Secretary shall not approve any program or project which requires the use of any land from a public park, recreation

area, wildlife and waterfowl refuge, or historic site unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use.

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TRANSFERS TO DEPARTMENT

Sec. 6.

(g) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army under—

(1) the following law and provisions of law relating generally to water vessel anchorages:

(A) Section 7 of the Act of March 4, 1915, as amended (38 Stat. 1053; 33 U.S.C. 471).

(B) Article 11 of section 1 of the Act of June 7, 1897, as amended (30 Stat. 98; 33 U.S.C. 180).

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(C) Rule 9 of section 1 of the Act of February 8, 1895, as amended (28 Stat. 647; 33 U.S.C. 258).

(D) Rule numbered 13 of section 4233 of the Revised Statutes, as amended (33 U.S.C. 322).

(2) the following provision of law relating generally to drawbridge operating regulations: Section 5 of the Act of August 18, 1894, as amended (28 Stat. 362; 33 U.S.C. 499).

(3) the following law relating generally to obstructive bridges: The Act of June 21, 1940, as amended (54 Stat. 497; 33 U.S.C. 511 et seq.).

(4) the following laws and provisions of law relating generally to the reasonableness of tolls:

(A) Section 4 of the Act of March 23, 1906, as amended (34 Stat. 85; 33 U.S.C. 494).

(B) Section 503 of the General Bridge Act of 1946, as amended (60 Stat. 847; 33 U.S.C. 526).

(C) Section 17 of the Act of June 10, 1930, as amended (46 Stat. 552; 33 U.S.C. 498a).

(D) The Act of June 27, 1930, as amended (46 Stat. 821; 33 U.S.C. 498b).

(E) The Act of August 21, 1935, as amended (49 Stat. 670; 33 U.S.C. 503 et seq.).

(5) the following law relating to prevention of pollution of the sea by oil: The Oil Pollution Act, 1961, as amended (75 Stat. 402; 33 U.S.C. 1001 et seq.).

(6) the following laws and provision of law to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States:

(A) Section 9 of the Act of March 3, 1899, as amended, (30 Stat. 1151; 33 U.S.C. 401).

(B) The Act of March 23, 1906, as amended (34 Stat. 84; 33 U.S.C. 491 et seq.).

(C) The General Bridge Act of 1946; as amended (60 Stat. 847; 33 U.S.C. 525 et seq.).

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TRANSPORTATION INVESTMENT STANDARDS

Sec. 7. (a) The Secretary, subject to the provisions of section 4 of this Act, shall develop and from time to time in the light of experience revise standards and criteria consistent with national transportation policies, for the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities or equipment, except such proposals as are concerned with (1) the acquisition of transportation facilities or equipment by Federal agencies in providing transportation services for their own use; (2) an interoceanic canal located outside the contiguous United States; (3) defense features included at the direction of the Department of Defense in the design and construction of civil air, sea, and land transportation; (4) programs of foreign assistance; (5) water resource projects; or (6) grant-in-aid programs authorized by law. The standards and criteria developed or revised pursuant to this subsection shall be promulgated by the Secretary upon their approval by the Congress.

The standards and criteria for economic evaluation of water resource projects shall be developed by the Water Resources Council established by Public Law 89–80. For the purpose of such standards and criteria, the primary direct navigation benefits of a water resource project are defined as the product of the savings to shippers using the waterway and the estimated traffic that would use the waterway; where the savings to shippers shall be construed to mean the difference between (a) the freight rates or charges prevailing at the time of the study for the movement by the alternative means and (b) those which would be charged on the proposed waterway; and where the estimate of traffic that would use the waterway will be based on such freight rates, taking into account projections of the economic growth of the area.

The Water Resources Council established under section 101 of

Public Law 89–80 is hereby expanded to include the Secretary of Transportation on matters pertaining to navigation features of water resource projects.

(b) Every survey, plan, or report formulated by a Federal agency which includes a proposal as to which the Secretary has promulgated standards and criteria pursuant to subsection (a) shall be (1) prepared in accord with such standards and criteria and upon the basis of information furnished by the Secretary with respect to projected growth of transportation needs and traffic in the affected area, the relative efficiency of various modes of transport, the available transportation services in the area, and the general effect of the proposed investment on existing modes, and on the regional and national economy; (2) coordinated by the proposing agency with the Secretary and, as appropriate, with other Federal agencies, States, and local units of government for inclusion of his and their views and comments; and (3) transmitted thereafter by the proposing agency to the President for disposition in accord with law and procedures established by him.

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1.5a(1) HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

H.R. REP. No. 1701, 89th Cong., 2d Sess. (1966)

ESTABLISHING A DEPARTMENT OF TRANSPORTATION, AND FOR OTHER PURPOSES

SEPTEMBER 27, 1966.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on Government Operations, submitted the following

REPORT

[To accompany H.R. 15963]

The Committee on Government Operations, to which was referred the bill (H.R. 15963), to establish a Department of Transportation, and for other purposes, having considered the same, reports thereon without recommendation.

The committee, in ordering H.R. 15963 reported without recommendation, calls attention to the fact that it has reported favorably S.3010, the Senate version of this legislation.

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1.5a(2) SENATE COMMITTEE ON GOVERNMENT OPERATIONS

S. REP. No. 1659, 89th Cong., 2d Sess. (1966)

DEPARTMENT OF TRANSPORTATION ACT

JULY 15, 1966.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. DAWSON, from the Committee on Government Operations, submitted the following

REPORT

[To accompany H.R. 15963]

The Committee on Government Operations, to whom was referred the bill (H.R. 15963) to establish a Department of Transportation, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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SUMMARY AND PURPOSE OF THE BILL (AS AMENDED)

H.R. 15963 was introduced by Congressman Chet Holifield to carry out a recommendation made to Congress by the President to establish a new executive Department of Transportation to bring together major Federal agencies and activities involving transportation promotion and safety, but not economic regulation which would remain with the appropriate regulatory agencies. H.R. 15963 is a clean bill that represents a substantial rewriting by the committee of H.R. 13200, originally introduced.

In his message to Congress on transportation of March 2, 1966 (H. Doc. 89–399), the President urged the creation of such a Department to serve the growing demands of this great Nation, to

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satisfy the needs of our expanding industry and to fulfill the rights of our taxpayers to maximum efficiency and frugality in Government operations. The new Department would bring together almost 100,000 employees and $6 billion of Federal funds presently devoted annually to transportation.

The Department will be headed by a Secretary, an Under Secretary, four Assistant Secretaries, an Assistant Secretary for Administration, and a General Counsel. The principal operating divisions will be a Federal Highway Administration, a Federal Railroad Administration, a Federal Maritime Administration, a Federal Aviation Administration, each headed by an Administrator appointed by the President and confirmed by the Senate, and the Coast Guard, headed by the Commandant. There will also be an Office of Accident Investigation, whose primary responsibility will be to investigate major aircraft accidents. This office will be independent of the Federal Aviation Administration.

The bill will create, within the Department, a National Transportation Safety Board to review investigations of accidents and to determine their causes. It will make reports to the Secretary and to Congress, including recommendations for safety legislation. Specifically, the Board will carry out the functions transferred directly to it by the bill to decide the cause or probable cause of transportation accidents and to review, on appeal, the amendment, suspension, modification, revocation, or denial of certificates or licenses issued by the Secretary. The Board will have the authority to require the Secretary to conduct further investigations, or take such other measures as the Board believes are required to develop all facts and circumstances surrounding an accident. The Board will also have the authority to require the Secretary to initiate specific accident investigations. It will make special studies of safety and accident prevention, and may arrange for the personal participation of its members or employees in the investigation of accidents by the Department.

The following agencies and functions are being transferred to the new Department:

1. The Office of the Under Secretary of Commerce for Transportation, and its policy, program, emergency transportation, and research staffs.

2. The Bureau of Public Roads and the Federal-aid highway program it administers—to become a principal element of the Federal Highway Administration.

3. The Federal Aviation Agency with its functions in aviation

safety, promotion, development, and grant programs—to become the Federal Aviation Administration.

4. The Coast Guard, whose principal peacetime activities relate to transportation and marine safety—to be transferred as a unit from the Treasury Department. As in the past, the Coast Guard will operate as part of the Navy in time of war.

5. The Maritime Administration, with its construction and operating subsidy programs—to become the Federal Maritime Administration.

6. The functions of the CAB to determine the probable cause of aircraft accidents and its appellate functions related to safety certificates and licenses are transferred to the National Transportation Safety Board. The CAB's function of investigating aircraft

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accidents is transferred to the Secretary and will be delegated to the Office of Accident Investigation.

7. The safety functions of the Interstate Commerce Commission, principally the inspection and enforcement of safety regulations for railroads, motor carriers, and pipelines.

8. The Great Lakes Pilotage Administration, and certain minor transportation-related activities of other agencies. In his message on transportation, the President stated that the St. Lawrence Seaway Development Corporation and the Alaska Railroad would be transferred to the Department by Executive order.

The bill will also require the Secretary of Transportation to develop standards and criteria, consistent with national transportation policies, for the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities or equipment with certain exceptions listed in the bill. standards and criteria involving water resources projects and grant-in-aid programs including highway and airport construction were among those excepted.

Nothing in the bill authorizes the Secretary, without appropriate action by Congress, to adopt or revise a national transportation policy.

HEARINGS

Hearings on the bill were held by the Subcommittee on Executive and Legislative Reorganization at which time representatives of the administration, officials of the affected agencies, representatives of industry and labor groupings and transportation experts, among others, testified. The hearings consumed 11 days. Virtually

all points of view were presented and carefully considered by the subcommittee. The printed record contains approximately 1,200 pages. (See "Hearings on H.R. 13200, Creating a Department of Transportation," vols. 1 and 2, Committee on Government Operations, House of Representatives, 89th Cong., 2d sess., cited hereafter as "Hearings.")

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(10) *Federal investment standards will be developed for balanced progress in transportation.*—Throughout our history, public investment in transportation facilities has been common, often on a massive scale. Inconsistencies in Federal policies governing public investment decisions have been cited repeatedly by analysts and critics in the transportation field. The underlying cause of these inconsistencies appears to be a lack of clear standards for preparation and evaluation of investment proposals.

The Secretary of Transportation would be required to develop standards and criteria, subject to Presidential approval, to be used in the formulation and economic evaluation of proposals for the investment of Federal funds in transportation facilities or equipment. The committee views this authority conferred upon the Secretary of Transportation as a means of obtaining a more rational allocation of Government resources as determined by Federal investment. The analytic tools and statistical information for making such public investment decisions will improve in the years ahead, but the effort springs from the commonsense requirement which the Congress has put upon reclamation and other water resource projects for many years; namely, that the benefits exceed the cost.

Responsibility to develop investment standards for water resource projects now is assigned by law to the Water Resources Council. The Secretary of Transportation would exercise an analogous function in his field. The committee recognizes that since water resource projects may have transportation features, there will be areas of overlap or mutual interest on the part of the Council and the Secretary. Although the bill originally attempted to define the relationship between the two in areas of mutual interest, a committee amendment exempts water resource projects from the Secretary's purview, so far as promulgating standards and criteria is concerned. In executing its own responsibilities, the Water Resources Council is required by Public Law 89–80 to consult with Federal agencies when appropriate. Since the President

must approve standards and criteria to be promulgated, whether by the Council or the Secretary, there is nothing in the bill to prevent the President from seeking advice and recommendations from either source in regard to proposed projects in which there is mutual interest.

The exemption of water resource projects reflects the concern of some that in developing investment standards for the transportation features of such projects, the Secretary might alter the procedures for referral of Corps of Engineers reports to the Congress. The committee wishes to make it clear that Corps referral procedures are in no way altered under the bill. To reaffirm congressional prerogatives, the committee has written language into the bill which makes it clear that any policies prescribed by the Congress itself in existing or future acts must be observed by the Secretary in developing standards and criteria for economic evaluation of transportation proposals and projects. And to remove any doubt on that score, the bill provides that the Secretary cannot promulgate investment standards or criteria contrary to or incon-

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sistent with acts of Congress relating to this subject. Finally, the Secretary is enjoined from adopting or revising a national transportation policy without appropriate action by the Congress.

Besides these safeguards, there are specific exceptions from the Secretary's authority to promulgate standards and criteria for economic evaluation: (1) Procurement of transportation facilities or equipment by Federal agencies in providing transportation for their own use; (2) grants-in-aid programs authorized by law; (3) interoceanic canal outside the continental United States; (4) defense features in design and construction of civil transportation; (5) programs of foreign assisance; and (6) water resource projects. The grants-in-aid exception gives added assurance, if any is needed, that the highway trust fund will be administered as the Congress has provided and will not be subject to diversions by any decision of the Secretary.

Before the Secretary presents standards and criteria to the President for approval, he must publish a notice in the Federal Register and provide an opportunity for interested persons to present their views. This requirement also will afford an opportunity for interested congressional committees to inquire into the proposed standards and criteria.

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EXPLANATION OF AMENDMENTS

4. The committee voted to drop from H.R. 15963 the two sentences in subsection 7(a) dealing with the Water Resources Council and standards and criteria for economic evaluation of transportation features of water resource projects. Related to this deletion was the committee's action to add "water resource projects" to the list of categories of investment proposals specifically excepted from the authority given the Secretary to develop standards and criteria for Federal investments in transportation facilities or equipment. The effect of these amendments is to remove water resource projects from the Secretary's authority to establish standards and criteria.

The development of standards and criteria for formulating and evaluating Federal water resource projects is an involved and many-sided subject with a long and still evolving history extending as far back as the River and Harbor Act of 1902. The committee decided, through the above-mentioned amendments, to remove this subject matter from the operation of the bill, feeling, in any event, that its retention was not necessary in order to preserve the purpose and effectiveness of the bill.

Among the factors and circumstances contributing to the committee's decision to adopt the amendments are the following:

(*a*) The numerous Federal water resource projects involve enormous investments of Federal funds. The projects are constructed by a number of different agencies. A great many of such projects incorporate transportation features either as principal or incidental works. Congress has always been keenly interested in the policies, standards, and procedures used by these agencies to formulate and evaluate proposed water resource projects prior to their submission for legislative consideration. Many of these policies, procedures, and standards are, in fact, statutory; while others, of administrative origin, reflect basic policies laid down by Congress. The committee recognizes that this is an area with which not

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merely the Government Operations Committee, but other committees of Congress are deeply concerned.

(*b*) H.R. 15963, as introduced, would have directed the establishment by the Secretary of Transportation of economic standards and criteria for the evaluation of transportation features of water resource projects, with the requirement

that they be compatible with the standards and criteria for nontransportation features of such projects. H.R. 15963 would, in effect, have split off transportation features of water resource projects from other features and given them a separate status.

At present, all Federal water development projects are being formulated and evaluated in accordance with policies, standards and procedures promulgated by the President in May 1962 (printed as S. Doc. No. 97, 87th Cong.). However, under the Water Resources Planning Act of July 22, 1965 (Public Law 89-80), the Water Resources Council was created comprising the Secretaries of the Interior, the Army, Agriculture, and Health, Education, and Welfare as well as the Chairman of the Federal Power Commission. One of the Council's chief duties under the 1965 act is to establish "principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects." The Council has not yet established such principles, standards and procedures. Of course, how these might follow or depart from those of Senate Document No. 97 cannot now be ascertained.

(*c*) Reorganization Plan No. 2 of 1966 transferred certain water pollution control functions from the Secretary of Health, Education, and Welfare to the Secretary of the Interior. This plan became effective May 10, 1966. While the Secretary of Health, Education, and Welfare retains some public health functions concerning this subject matter, most of his former functions relating to water pollution prevention, control, and abatement are now vested in the Secretary of the Interior. Thus the role of the Secretary of the Interior on the Water Resources Council is to that extent enhanced. Furthermore, the President has appointed the Secretary of the Interior as Chairman of the Council.

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PRINCIPAL DIFFERENCES BETWEEN H.R. 13200 AND H.R. 15963 AS REPORTED

* * * * * * *

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11. Subsection 7(a) of H.R. 13200 provided that there should be consultation between the Secretary and the Water Resources Council with respect to standards and criteria for economic evalu-

ation of the transportation features of multipurpose water resource projects and that these standards and criteria should be compatible with those applicable to nontransportation features of such projects. This provision was deleted by the committee. In a related change, the committee added in subsection 7(a) a sixth category to the list of excepted categories of investment proposals; namely, water resource projects. Further discussion of the changes may be found supra under the heading "Explanation of Committee Amendments."

12. Subsection 7(b) has been changed to provide that among the data supplied by the Secretary to be used by Federal agencies in formulating individual proposals or projects shall be information regarding the general effect of the proposed investments on the overall transportation system of the area. The purpose of this change is to require that a broad view be taken of the overall transportation system and needs of an area in formulating plans for Federal investment in transportation projects relating to it.

13. Section 7(b) has also been amended to eliminate the requirement that all individual projects and proposals for Federal investments in transportation be channeled automatically through the President. Instead, the bill would now require the agency, after securing the necessary clearances, to transmit the plan for disposition in accordance with law and with procedures established by the President. This change is designed to preserve the direct transmission of projects from an agency to Congress where it may now be required by law, and to eliminate the requirement that the President give consideration to thousands of individual plans, proposals, and projects.

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COMMENT ON OBJECTIONS MADE TO DEPARTMENT OF TRANSPORTATION BILL

(*c*) Fears that the Secretary might in some way impede the development of water resource projects have been taken care of by eliminating water resource projects from section 7 of the bill and by preserving the direct reference of project proposals from the Corps of Engineers to the Congress. These actions are discussed on pages 16 and 22, supra.

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1.5a(3) SENATE COMMITTEE ON GOVERNMENT OPERATIONS

S. REP. No. 1660, 89th Cong., 2d Sess. (1966)

ESTABLISHING A DEPARTMENT OF TRANSPORTATION, AND FOR OTHER PURPOSES

SEPTEMBER 27, 1966.—Ordered to be printed
Filed under authority of the order of the Senate of September 27, 1966

Mr. MCCLELLAN, from the Committee on Government Operations, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 3010]

The Committee on Government Operations, to which was referred the bill (S. 3010) to establish a Department of Transportation, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is in the nature of a substitute.

PURPOSE

The purpose of S. 3010 as amended, is to centralize in one new Cabinet-level department the responsibility for leadership in the development, direction, and coordination of the principal transportation policies, functions, and operations of the Federal Government which are now carried on by some 100,000 Federal employees in several departments, agencies, and independent regulatory agencies and elements thereof, involving annual expenditures approximating $6 billion; and to provide within the Federal Government a focal point of responsibility for transportation safety.

The bill as amended seeks to accomplish this objective by establishing a Department of Transportation to which would be transferred the major transportation agencies and functions of the Federal Government, other than the economic regulatory func-

tions of the Interstate Commerce Commission, the Civil Aeronautics Board, the Federal Maritime Commission, and the Federal

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Power Commission; and by transferring to the Secretary, modal Administrators, and a newly created National Transportation Safety Board all of the transportation safety responsibilities which are now vested in agencies throughout the Government. Although some 35 Federal agencies currently have transportation responsibilities, only those agencies or functions would be transferred which are more closely related to the major purpose of the Department of Transportation than they are to their principal organizational bases.

S. 3010 was introduced by Senator Warren G. Magnuson at the request of the President of the United States, in order to implement one of the principal proposals contained in the President's transportation message, dated March 2, 1966, proposing, among other things, the establishment of a Department of Transportation and a National Transportation Safety Board.

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HEARINGS

The committee held 9 days of hearings on S.3010, receiving testimony from 58 witnesses representing the executive branch, independent regulatory agencies, industry, labor, and the public. In addition, 36 exhibits and 50 statements and communications were incorporated into the hearing record which is contained in 4 volumes totaling 743 pages.

The principal issues which emerged from the hearings related primarily to (1) clarification of the respective roles of the Secretary and the Department of Transportation and the Congress with respect to national transportation policy; (2) assurance of the operational continuity and integrity of the agencies transferred; (3) provision for Presidential appointment with Senate confirmation of the heads of the modal operating agencies within the Department; (4) assurance of complete independence of the National Transportation Safety Board with respect to its adjudicatory and appellate functions; (5) the continued separation of accident investigations and determination of probable cause in major air accidents from the operating agency; (6) assurance of the application of the Administrative Procedures Act to the issuance of safety regulations and other quasi-legislative and

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quasi-judicial actions by the Secretary of Transportation, the Administrators, the Maritime Board, and the National Transportation Safety Board, as provided in existing law; (7) transfer of all mass transit functions and responsibilities from the Department of Housing and Urban Development to the Department of Transportation; (8) the retention by the Interstate Commerce Commission of all of its car-service functions including those relating to the supply of freight cars, distribution and fixing of per diem and demurrage rates; and (9) the effect of transportation investment standards on certain programs, such as the multipurpose water resource projects of the Corps of Engineers.

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POLICY AND PURPOSE

* * * * * * *

An additional amendment was added to section 2 declaring it to be national policy that, in carrying out the provisions of this act, special effort be made to preserve the national beauty of the countryside and public park and recreational lands, wildlife and waterfowl refuges and historic sites.

Subsection 4(a) of S. 3010, as introduced, details the specific duties and areas of responsibility of the Secretary with respect to various transportation policies and programs and requires him to *develop* such policies and programs and make recommendations for their implementation. In order to clarify the respective roles of the Secretary and the Congress, the committee amended this language so as to require the Secretary *to provide leadership* in the development of such policies and programs, and to make recommendations for their implementation to the President and the Congress.

Additional amendments to subsection 4(a) require the Secretary to (1) include noise abatement, with particular reference to aircraft noise, in connection with his responsibility for the promotion and undertaking of research and development in all modes and types of transportation services and facilities; and (2) to consult with the heads of other Federal departments and agencies engaged in the procurement of transportation or the operation of their own transport services to encourage them to establish and observe policies consistent with the maintenance of a coordinated transportation system operated by private enterprise.

The noise abatement provision was deemed necessary in view of the increasing use of jet aircraft in and around urban and subur-

ban areas, resulting in a large volume of complaints concerning the noise from local residents. The consultation amendment was added in order to insure maximum coordination with respect to transportation policies among Government agencies.

* * * * * * *

A new subsection 4(f) was added which requires the Secretary of Transportation to cooperate and consult with the Secretaries of the Interior; Health, Education, and Welfare; Agriculture and with the States in all transportation plans and programs; and, after the effective date of the act, the Secretary would not be

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permitted to approve the project or plan requiring the use of land from a public park, recreational area, wildlife and waterfowl refuges, historical sites, unless there is no feasible alternative to the use of such land and such plans include all possible planning to minimize harm to such area. This, and the policy statement in section 2, are designed to insure that in planning highways, railroad rights-of-way, airports and other transportation facilities, care will be taken, to the maximum extent possible, not to interfere with or disturb established recreational facilities and refuges.

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TRANSPORTATION INVESTMENT STANDARDS

Subsection 7(a) of S.3010, as introduced, would have required the Secretary of Transportation to develop standards and criteria for the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities or equipment, with certain stated exceptions (purchase of transportation facilities for agency use, an interoceanic canal, defense features included at the direction of the Department of Defense and foreign aid). The standards and criteria for economic evaluation of the transportation features of multipurpose water resource projects were to be developed by the Secretary after consultation with the Water Resources Council and were required to be compatible with the standards and criteria for economic evaluation applicable to nontransportation features of such projects. Standards and criteria developed pursuant to this subsection were to be promulgated by the Secretary upon their approval by the President.

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Subsection 7(b) required that every survey, plan or report formulated by a Federal agency which includes a proposal as to which the Secretary has issued standards and criteria pursuant to subsection (a), be prepared in accordance with those standards and criteria and on the basis of transportation data furnished by the Secretary of Transportation and coordinated by the proposing agency with the Secretary and other Government agencies before transmission to the President for appropriate disposition.

During the hearings, considerable concern was expressed by witnesses, as well as by committee members, regarding the effect of this section on congressionally-approved transportation investment projects, in general, and upon the future of multipurpose water resource projects, in particular. Questions were also raised as to the effect of section 7 on the present role of the Corps of Engineers in the planning and development of multipurpose water resource projects. Finally, the committee received testimony to the effect that the authority to establish standards and criteria for the evaluation of water resources projects has been placed by the Congress in the Water Resources Council, when it enacted Public Law 89–80; and that since November 1964, when the Bureau of the Budget changed the criteria for the economic evaluation of water resources projects from the current rates to water-compelled rates, not a single project has been approved.

The committee recognizes that there is a need for orderly procedures within the Federal Government in the determination of allocations of Federal funds for investment in transportation facilities and equipment. Therefore, it was decided to retain this section, after amending it so as to correct its defects and omissions, despite the fact that the House of Representatives eliminated it from the House-passed act. Accordingly, the committee adopted amendments to subsection 7(a) which (1) added water resource projects as a fifth exemption from the Secretary's authority to establish standards and criteria for the economic evaluation of Federal transportation investments; (2) provided for approval by the Congress, instead of by the President, of standards and criteria developed by the Secretary prior to their promulgation; (3) provided for the development by the Water Resources Council of standards and criteria for the economic evaluation of water resource projects; (4) established a definition of primary direct navigation benefits of water resource projects, thus restoring the criteria followed by the Corps of Engineers prior to November 1964, when the Bureau issued new criteria for the evaluation of such projects; and (5) includes the Secretary of

Transportation as a member of the Water Resources Council on matters pertaining to navigation features of water resource projects.

By way of explanation, the committee adopted the first amendment, exempting water resource projects from the criteria to be established by the Secretary of Transportation because navigation is a major function of any total concept of water resource development and, therefore, other phases of water resource development should not be influenced by standards and criteria established for application to problems related solely to transportation. The second amendment struck out the specific language relating to the transportation features of multipurpose water resource projects, since the previous amendment exempted water resource projects from the Secretary's authority.

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The third amendment, requiring congressional instead of Presidential approval of the standards and criteria developed or revised pursuant to this subsection, prior to their promulgation by the Secretary, was intended to retain within the Congress its constitutional authority to regulate commerce among the several States. A blanket delegation of such widespread authority to the executive branch of the Government is considered unwise. The result of this amendment is to place upon the Secretary of Transportation the responsibility for developing the standards and criteria, but the final responsibility for their approval is retained in the Congress.

The fourth amendment would continue the authority of the Water Resources Council to establish standards and criteria for the evaluation of water resource projects where it was placed by the Congress last year when the Council was established by section 101 of Public Law 89–80. In addition, it would set forth a definition of primary navigation benefits which the committee deemed necessary in order to insure that future projects will be evaluated on the same basis as those which have resulted in the development of this Nation's outstanding system of inland navigation which has served so well in peace and war. After providing that the standards and criteria for economic evaluation of water resource projects shall be developed by the Water Resources Council, the amended language provides:

> For the purpose of such standards and criteria, the primary direct navigation benefits of a water resource project are defined as the product of the savings to shippers using the waterway and the estimated traffic that would use the water-

mean the difference between (a) the freight rates or charges prevailing at the time of the study for the movement by the alternative means and (b) those which would be charged on the proposed waterway; and where the estimate of traffic that would use the waterway will be based on such freight rates, taking into account projections of the economic growth of the area.

The fifth amendment which merely expands the membership of the Water Resources Council to include the Secretary of Transportation in matters pertaining to navigation features of water resource projects, is entirely consistent with the intent of section 101 of Public Law 89–80, which established the Council.

In connection with the definition of primary direct benefits, contained in the fourth amendment and set forth above, the committee desires to make it abundantly clear that in estimating navigation benefits, the Corps of Engineers is to use the rates prevailing in the area under consideration in the survey report and is not to introduce a freight rate applied in some other area, even though it may have limited application in the transportation of commodities from other regions to an area that could be served by the proposed development.

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SECTION-BY-SECTION ANALYSIS OF S. 3010

SECTION 1. SHORT TITLE

This section provides that the act may be cited as the "Department of Transportation Act."

SECTION 2. DECLARATION OF PURPOSE

The first paragraph of this section declares the need for *development* of national transportation policies and programs. Such policies are to be evolved to provide a coordinated transportation system, permitting travelers and goods to move conveniently and efficiently from one means of transportation to another, consistent with national transportation policy standards, conservation, and efficient utilization of our national resources.

The second paragraph of this section finds a need for the establishment of a Department of Transportation in order to assure coordination of Federal transportation programs; to facilitate the development and improvement of coordinated transportation service, to be provided by private enterprise to the maximum extent feasible; to encourage cooperation in achieving national transpor-

tation objectives by Federal, State, and local governments, carriers, labor and other interested parties; to stimulate technological

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advances in transportation; to provide general leadership in the identification and solution of transportation problems; and to develop and recommend to the President and the Congress changes in national transportation policies and programs to accomplish these objectives.

The third paragraph of this section declares as a national policy that in implementing the provisions of this act, special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

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SECTION 4. GENERAL PROVISIONS

This section enumerates specific duties of the Secretary in carrying out the purposes of this act. Subsection (a) directs the Secretary to exercise leadership under the direction of the President in transportation matters, including those affecting the national or regional emergencies; provide general leadership in the development of national transportation policies and programs, and make recommendations to the President and the Congress for their implementation; promote and undertake development, collection, and dissemination of technological, statistical, economic and other transportation information; promote and undertake research and development in and among all modes and promote and undertake the research and development with respect to types of transportation services and facilities; noise abatement, with particular attention to aircraft noise; and, consult with the heads of other departments and agencies engaged in the transportation of Government goods and personnel or operating their own transport services, to encourage these departments and agencies to establish and observe transportation policies consistent with the objectives of this act.

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Subsection (4) (f) directs the Secretary to cooperate and consult with the Secretaries of the Interior, Housing and Urban Development and Agriculture, and with the States, and to include all transportation plans and programs measures to maintain or en-

hance the natural beauty of the lands traversed by transportation agencies. The Secretary shall not approve any program or project after the effective date of this act requiring the use of such lands or sites unless (1) there is no feasible alternative to the use of such land and (2) such program includes all possible planning to minimize harm to such areas resulting from such use.

Subsection (g) directs the Secretary and the Secretary of Housing and Urban Development to consult and exchange information on their respective transportation policies and activities; to carry on joint planning, research, and other activities; and, to coordinate assistance for local transportation projects. They are to undertake joint studies to determine how Federal policies and programs can best assure that urban transportation systems serve both national transportation and urban development needs. Within 1 year after the act, and annually thereafter, they shall report their studies and activities to the President, for submission to the Congress, along with any legislative recommendations they deem desirable.

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SECTION 6. TRANSFERS TO DEPARTMENT

* * * * * * *

Subsection (g) transfers to and vests in the Secretary all functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army as to certain laws and provisions of law relating generally to (1) water vessel anchorages; (2) drawbridge operating regulations; (3) obstructive bridges; (4) the reasonableness of tolls; (5) the prevention of pollution of the sea by oil; and (6) the location and clearance of bridges and causeways in the navigable waters of the United States.

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SECTION 7. TRANSPORTATION INVESTMENT STANDARDS

Subsection (a) directs the Secretary to develop and, in the light of experience, to revise standards and criteria consistent with the national transportation policies, for the formulation and economic evaluation of all proposals except such proposals as are concerned with (1) the investment of Federal funds in transportation facilities or equipment by Federal agencies in providing transportation

services for their own use; (2) an interoceanic canal located outside the contiguous United States; (3) defense features included at the direction of the Department of Defense in the design and construction of civil air, sea, and land transportation; (4) programs of foreign assistance; or (5) water resource projects. These standards or criteria as developed or revised shall be promulgated by the Secretary upon their approval by the Congress.

Subsection (a) also provides that the standards and criteria for economic evaluation of water resource projects shall be developed by the Water Resources Council. The Water Resources Council is expanded to include the Secretary of Transportation on matters pertaining to navigation features of water resources projects. For the purpose of such standards and criteria, this subsection defines "the primary direct navigation benefits of a water resource project as the product of the savings to shippers using the waterway and the estimated traffic that would use the waterway." The term "savings to shippers" is construed to mean the difference between (*a*) the freight rates or charges prevailing at the time of the study for the movement by the alternative means and (*b*) those which would be charged on the proposed waterway. The estimate of traffic that would use the waterway is to be based on such freight rates, taking into account projections of the economic growth of the area.

Subsection (b) directs that every survey, plan, or report formulated by a Federal agency which includes a proposal as to

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which the Secretary has promulgated standards and criteria pursuant to subsection (a) shall be prepared in accord with such standards and criteria and upon the basis of information furnished by the Secretary with respect to (1) projected growth of transportation needs and traffic in the affected area; (2) the relative efficiency of various modes of transport; (3) the available transportation services in the area; and (4) the general effect of the proposed investment on existing modes, and on the regional and national economy. Every such survey, plan, or report shall also be coordinated by the proposing agency with the Secretary and appropriate Federal agencies, States, and local units of government for inclusion of their comments; and, thereafter, transmitted by the proposing agency to the President for disposition in accord with law and procedures established by him.

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1.5a(4) COMMITTEE OF CONFERENCE

H.R. REP. No. 2236, 89th Cong., 2d Sess. (1966)

DEPARTMENT OF TRANSPORTATION ACT

OCTOBER 12, 1966.—Ordered to be printed

Mr. HOLIFIELD, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 15963]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15963) to establish a Department of Transportation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Department of Transportation Act."

Declaration of Purpose

Sec. 2. (a) The Congress hereby declares that the general welfare, the economic growth and stability of the Nation and its security require the development of national transportation policies and programs conducive to the provision of fast, safe, efficient, and convenient transportation at the lowest cost consistent therewith and with other national objectives, including the efficient utilization and conservation of the Nation's resources.

(b) (1) The Congress therefore finds that the establishment of a Department of Transportation is necessary in the public interest and to assure the coordinated, effective administration of the transportation programs of the Federal Government; to facilitate the development and improvement of coordinated transportation service, to be provided by private enterprise to the maximum

extent feasible; to encourage cooperation of Federal, State, and local governments, carriers, labor, and other interested parties toward the achievement of national transportation objectives; to stimulate technological advances in transportation; to provide

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general leadership in the identification and solution of transportation problems; and to develop and recommend to the President and the Congress for approval national transportation policies and programs to accomplish these objectives with full and appropriate consideration of the needs of the public, users, carriers, industry, labor, and the national defense.

(2) It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

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General Provisions

Sec. 4. * * *

(f) The Secretary shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed. After the effective date of this Act, the Secretary shall not approve any program or project which requires the use of any land from a public park, recreation area, wildlife and waterfowl refuge, or historic site unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use.

(g) The Secretary and the Secretary of Housing and Urban Development shall consult and exchange information regarding their respective transportation policies and activities; carry on joint planning, research and other activities; and coordinate assistance for local transportation projects. They shall jointly study how Federal policies and programs can assure that urban transportation systems most effectively serve both national transportation needs and the comprehensively planned development of urban areas. They shall, within one year after the effective date of this Act, and annually thereafter, report to the President, for submission to the Congress, on their studies and other activities under

this subsection, including any legislative recommendations which they determine to be desirable. The Secretary and the Secretary of Housing and Urban Development shall study and report within one year after the effective date of this Act to the President and the Congress on the logical and efficient organization and location of urban mass transportation functions in the Executive Branch.

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Transfers to Department

Sec. 6. (a) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce under—

(1) the following laws and provisions of law relating generally to highways:

(A) Title 23, United States Code, as amended.

(B) The Federal-Aid Highway Act of 1966 (80 Stat. 766).

(C) The Federal-Aid Highway Act of 1962, as amended (76 Stat. 1145; 23 U.S.C. 307 note).

(D) The Act of July 14, 1960, as amended (74 Stat. 526: 23 U.S.C. 313 note).

(E) The Federal-Aid Highway Act of 1954, as amended (68 Stat. 70).

(F) The Act of September 26, 1961, as amended (75 Stat 670).

(G) The Highway Revenue Act of 1956, as amended (70 Stat. 387; 23 U.S.C. 120 note).

(H) The Highway Beautification Act of 1965, as amended (79 Stat. 1028; 23 U.S.C. 131 et seq. notes).

(I) The Alaska Omnibus Act, as amended (73 Stat. 141; 48 U.S.C. 21 note prec.).

(J) The Joint Resolution of August 28, 1965, as amended (79 Stat. 578; 23 U.S.C. 101 et seq. notes).

(K) Section 502(c) of the General Bridge Act of 1946, as amended (60 Stat. 847; 33 U.S.C. 525(c)).

(L) The Act of April 27, 1962, as amended (76 Stat. 59).

(M) Reorganization Plan No. 7 of 1949 (63 Stat. 1070; 5 U.S.C. 133z–15 note).

(2) the following laws and provisions of law relating generally to ground transportation:

(A) *The Act of September 30, 1965, as amended (79 Stat. 893; 49 U.S.C. 1631 et seq.).*

(B) *The Urban Mass Transportation Act of 1964, as amended (78 Stat. 306, 49 U.S.C. 1607).*

(3) *the following laws and provisions of law relating generally to aircraft:*

(A) *The Act of September 7, 1957, as amended (71 Stat. 629; 49 U.S.C. 1324 note).*

(B) *Section 410 of the Federal Aviation Act of 1958, as amended (72 Stat. 769; 49 U.S.C. 1380).*

(C) *Title XIII of the Federal Aviation Act of 1958, as amended (72 Stat. 800; 49 U.S.C. 1531 et seq.).*

(4) *the following law relating generally to pilotage: The Great Lakes Pilotage Act of 1960, as amended (74 Stat. 259; 46 U.S.C. 216 et seq.).*

(5) *the following law to the extent it authorizes scientific and professional positions which relate primarily to functions transferred by this subsection: The Act of August 1, 1947, as amended (61 Stat. 715; 5 U.S.C. 1161).*

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(6) *the following laws relating generally to traffic and highway safety:*

(A) *The National Traffic and Motor Vehicle Safety Act of 1966 (80 Stat. 718).*

(B) *The Highway Safety Act of 1966 (80 Stat. 731).*

(b) (1) *The Coast Guard is hereby transferred to the Department, and there are hereby transferred to and vested in the Secretary all functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury.*

(2) *Notwithstanding the transfer of the Coast Guard to the Department and the transfer to the Secretary of the functions, powers, and duties, relating to the Coast Guard, of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury, effected by the provisions of paragraph (1) of this subsection, the Coast Guard, together with the functions, powers, and duties relating thereto, shall operate as a part of the Navy, subject to the orders of the Secretary of the Navy, in time of war or when the President shall so direct, as provided in section 3 of title 14, United States Code, as amended.*

(3) *Notwithstanding any other provision of this Act, the functions, powers, and duties of the General Counsel of the Depart-*

ment of the Treasury set out in chapter 47 of title 10, United States Code, as amended (Uniform Code of Military Justice), are hereby transferred to and vested in the General Counsel of the Department.

(c) (1) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Federal Aviation Agency, and of the Administrator and other officers and offices thereof, including the development and construction of a civil supersonic aircraft: Provided, however, That there are hereby transferred to the Federal Aviation Administrator, and it shall be his duty to exercise the functions, powers, and duties of the Secretary pertaining to aviation safety as set forth in sections 306, 307, 308, 309, 312, 313, 314, 1101, 1105, and 1111, and titles VI, VII, IX, and XII of the Federal Aviation Act of 1958, as amended. In exercising these enumerated functions, powers, and duties, the Administrator shall be guided by the declaration of policy in section 103 of the Federal Aviation Act of 1958, as amended. Decisions of the Federal Aviation Administrator made pursuant to the exercise of the functions, powers, and duties enumerated in this subsection to be exercised by the Administrator shall be administratively final, and appeals as authorized by law or this Act shall be taken directly to the National Transportation Safety Board or to the courts, as appropriate.

(2) Nothing in this Act shall affect the power of the President under section 302(e) of the Federal Aviation Act of 1958 (72 Stat. 746, 49 U.S.C. 1343(c)) to transfer, to the Department of Defense in the event of war, any functions transferred by this Act from the Federal Aviation Agency.

(d) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Civil Aeronautics Board, and of the Chairman, members, officers, and offices thereof under titles VI (72 Stat. 775; 5 U.S.C. 1421 et seq.) and VII (72 Stat. 781; 49 U.S.C. 1441 et seq.) of the Federal Aviation Act of 1958, as amended: Provided, however, That these functions, powers, and duties are hereby transferred to and shall be exercised by the National Transportation Safety Board. Decisions of the National Transportation Safety Board made pursuant to the exercise of the

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functions, powers, and duties enumerated in this subsection shall be administratively final, and appeals as authorized by law or this Act shall be taken directly to the courts.

(e) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Interstate Commerce Commission, and of the Chairman, members, officers, and offices thereof, under—

(1) the following laws relating generally to safety appliances and equipment on railroad engines and cars, and protection of employees and travelers:

(A) The Act of March 2, 1893, as amended (27 Stat. 531; 45 U.S.C. 1 et seq.).

(B) The Act of March 2, 1903, as amended (32 Stat. 943; 45 U.S.C. 8 et seq.).

(C) The Act of April 14, 1910, as amended (36 Stat. 298; 45 U.S.C. 11 et seq.).

(D) The Act of May 30, 1908, as amended (35 Stat. 476; 45 U.S.C. 17 et seq.).

(E) The Act of February 17, 1911, as amended (36 Stat. 913; 45 U.S.C. 22 et seq.).

(F) The Act of March 4, 1915, as amended (38 Stat. 1192; 45 U.S.C. 30).

(G) *Reorganization Plan No. 3 of 1965 (79 Stat. 1320).*

(H) Joint Resolution of June 30, 1906, as amended (34 Stat. 838; 45 U.S.C. 35).

(I) The Act of May 27, 1908, as amended (35 Stat. 325; 45 U.S.C. 36 et seq.).

(J) The Act of March 4, 1909, as amended (35 Stat. 965; 45 U.S.C. 37).

(K) The Act of May 6, 1910, as amended (36 Stat. 350; 45 U.S.C. 38 et seq.).

(2) the following law relating generally to hours of service of employees: The Act of March 4, 1907, as amended (34 Stat. 1415; 45 U.S.C. 61 et seq.).

(3) the following law relating generally to medals for heroism: The Act of February 23, 1905, as amended (33 Stat. 743; 49 U.S.C. 1201 et seq.).

(4) the following provisions of law relating generally to explosives and other dangerous articles: Sections 831–835 of title 18, United States Code, as amended.

(5) the following laws relating generally to standard time zones and daylight saving time:

(A) The Act of March 19, 1918, as amended (40 Stat. 450; 15 U.S.C. 261 et seq.).

(B) *The Act of March 4, 1921, as amended (41 Stat. 1446; 15 U.S.C. 265).*

(C) *The Uniform Time Act of 1966, as amended (80 Stat. 107).*

(6) the following provisions of the Interstate Commerce Act, as amended—

(A) *relating generally to safety appliances methods and systems: Section 25 (49 U.S.C. 26).*

(B) *relating generally to investigation of motor vehicle sizes, weights, and service of employees: Section 226 (49 U.S.C. 325).*

[p. 10]

(C) *relating generally to qualifications and maximum hours of service of employees and safety of operation and equipment: Sections 204(a) (1) and (2), to the extent that they relate to qualifications and maximum hours of service of employees and safety of operation and equipment; and sections 204(a) (3), (3a), and (5) (49 U.S.C. 304).*

(D) *to the extent they relate to private carriers of property by motor vehicle and carriers of migrant workers by motor vehicle other than contract carriers: Sections 221(a), 221(c), and 224 (49 U.S.C. 321 et seq.).*

(f) (1) Nothing in subsection (e) shall diminish the functions, powers, and duties of the Interstate Commerce Commission under sections 1(6), 206, 207, 209, 210a, 212, and 216 of the Interstate Commerce Act, as amended (49 U.S.C. 1(6), 306 et seq.), or under any other section of that Act not specifically referred to in subsection (e).

(2) (A) With respect to any function which is transferred to the Secretary by subsection (e) and which was vested in the Interstate Commerce Commission preceding such transfer, the Secretary shall have the same administrative powers under the Interstate Commerce Act as the Commission had before such transfer with respect to such transferred function. After such transfer, the Commission may exercise its administrative powers under the Interstate Commerce Act only with respect to those of its functions not transferred by subsection (e).

(B) for purposes of this paragraph—

(i) the term "function" includes power and duty, and

(ii) the term "administrative powers under the Interstate Commerce Act" means any functions under the following pro-

visions of the Interstate Commerce Act, as amended: Sections 12, 13(1), 13(2), 14, 16(12), the last sentence of 18(1), sections 20 (except clauses (3), (4), (11), and (12) thereof), 204(a) (6) and (7), 204(c), 204(d), 205(d), 205(f), 220 (except subsection (c) and the proviso of subsection (a) thereof), 222 (except subsections (b)(2) and (b)(3) thereof), and 417(b)(1) (49 U.S.C. 12 et seq., 304 et seq., and 1017).

(3)(A) The Federal Railroad Administrator shall carry out the functions, powers, and duties of the Secretary pertaining to railroad and pipeline safety as set forth in the statutes transferred to the Secretary by subsection (e) of this section.

(B) The Federal Highway Administrator shall carry out the functions, powers, and duties of the Secretary pertaining to motor carrier safety as set forth in the statutes transferred to the Secretary by subsection (e) of this section.

(C) Decisions of the Federal Railroad Administrator and the Federal Highway Administrator (i) which are made pursuant to the exercise of the functions, powers, and duties enumerated in subparagraphs (A) and (B) of this paragraph to be carried out by the Administrators, and (ii) which involve notice and hearing required by law, shall be administratively final, and appeals as authorized by law or this Act shall be taken directly to the National Transportation Safety Board or the courts, as appropriate.

[p. 11]

(g) There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Secretary of the Army and other officers and offices of the Department of the Army under—

(1) the following law and provisions of law relating generally to water vessel anchorages:

(A) Section 7 of the Act of March 4, 1915, as amended (38 Stat. 1053;33 U.S.C. 471).

(B) Article 11 of section 1 of the Act of June 7, 1897, as amended (30 Stat. 98; 33 U.S.C. 180).

(C) Rule 9 of section 1 of the Act of February 8, 1895, as amended (28 Stat. 647; 33 U.S.C. 258).

(D) Rule numbered 13 of section 4233 of the Revised Statutes, as amended (33 U.S.C. 322).

(2) the following provision of law relating generally to drawbridge operating regulations: Section 5 of the Act of August 18, 1894, as amended (29 Stat. 362; 33 U.S.C. 499).

(3) the following law relating generally to obstructive bridges: The Act of June 21, 1940, as amended (54 Stat. 497; 33 U.S.C. 511 et seq.).

(4) the following laws and provisions of law relating generally to the reasonableness of tolls:

(A) Section 4 of the Act of March 23, 1906, as amended (34 Stat. 85; 33 U.S.C. 494).

(B) Section 503 of the General Bridge Act of 1946, as amended (60 Stat. 847; 33 U.S.C. 526).

(C) Section 17 of the Act of June 10, 1930, as amended (46 Stat. 552; 33 U.S.C. 498a).

(D) The Act of June 27, 1930, as amended (46 Stat. 821; 33 U.S.C. 498b).

(E) The Act of August 21, 1935, as amended (49 Stat. 670; 33 U.S.C. 503 et seq.).

(5) the following law relating to prevention of pollution of the sea by oil: The Oil Pollution Act, 1961, as amended (75 Stat. 402; 33 U.S.C. 1001 et seq.).

(6) the following laws and provision of law to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States:

(A) Section 9 of the Act of March 3, 1899, as amended (30 Stat. 1151; 33 U.S.C. 401).

(B) The Act of March 23, 1906, as amended (34 Stat. 84; 33 U.S.C. 491 et seq.).

(C) The General Bridge Act of 1946; as amended (60 Stat. 847; 33 U.S.C. 525 et seq.).

(h) The provisions of subchapter II of chapter 5 and of chapter 7 of title 5, United States Code, shall be applicable to proceedings by the Department and any of the administrations or boards within the Department established by this Act except that notwithstanding this or any other provision of this Act, the transfer of functions, powers, and duties to the Secretary or any otner officer in the Department shall not include functions vested by subchapter II of chapter 5 of title 5, United States Code, in hearing examiners employed by any department, agency, or component thereof whose functions are transferred under the provisions of this Act.

[p. 12]

(i) The administration of the Alaska Railroad, established pursuant to the Act of March 12, 1914, as amended (38 Stat. 308), and all of the functions authorized to be carried out by the Secretary of the Interior pursuant to Executive Order Numbered 11107, April 25, 1963 (28 F.R. 4225), relative to the operation of said Railroad, are hereby transferred to and vested in the Secretary of Transportation who shall exercise the same authority with respect thereto as is now exercised by the Secretary of the Interior pursuant to said Executive order.

Transportation Investment Standards

Sec. 7. (a) The Secretary, subject to the provisions of section 4 of this Act, shall develop and from time to time in the light of experience revise standards and criteria consistent with national transportation policies, for the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities or equipment, except such proposals as are concerned with (1) the acquisition of transportation facilities or equipment by Federal agencies in providing transportation services for their own use; (2) an interoceanic canal located outside the contiguous United States; (3) defense features included at the direction of the Department of Defense in the design and construction of civil air, sea, and land transportation; (4) programs of foreign assistance; (5) water resource projects; or (6) grant-in-aid programs authorized by law. The standards and criteria developed or revised pursuant to this subsection shall be promulgated by the Secretary upon their approval by the Congress.

The standards and criteria for economic evaluation of water resource projects shall be developed by the Water Resources Council established by Public Law 89–80. For the purpose of such standards and criteria, the primary direct navigation benefits of a water resource project are defined as the product of the savings to shippers using the waterway and the estimated traffic that would use the waterway; where the savings to shippers shall be construed to mean the difference between (a) the freight rates or charges prevailing at the time of the study for the movement by the alternative means and (b) those which would be charged on the proposed waterway; and where the estimate of traffic that would use the waterway will be based on such freight rates, taking into account projections of the economic growth of the area.

The Water Resources Council established under section 101 of Public Law 89–80 is hereby expanded to include the Secretary of

Transportation on matters pertaining to navigation features of water resource projects.

(b) Every survey, plan, or report formulated by a Federal agency which includes a proposal as to which the Secretary has promulgated standards and criteria pursuant to subsection (a) shall be (1) prepared in accord with such standards and criteria and upon the basis of information furnished by the Secretary with respect to projected growth of transportation needs and traffic in the affected area, the relative efficiency of various modes of transport, the available transportation services in the area, and the general effect of the proposed investment on existing modes, and on the regional and national economy; (2) coordinated by the proposing agency with the Secretary and, as appropriate, with other Federal agencies, States, and local units of government for inclusion of his and their views and comments; and (3) transmitted thereafter by the proposing agency to the President for disposition in accord with law and procedures established by him.

[p. 13]

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15963) to establish a Department of Transportation, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate amendment strikes out all of the House bill after the enacting clause and inserts a substitute. The House recedes from its disagreement to the amendment of the Senate, with an amendment which is a substitute for both the House bill and the Senate amendment. The differences between the House bill and the substitute agreed to in conference are noted below except for clerical corrections, incidental changes made necessary by reason of agreements reached by the conferees, and minor drafting and clarifying changes.

Declaration of purpose

Section 2 of the Senate amendment contained a paragraph not included in the House bill which declared it to be the national policy that in carrying out the provisions of the act, special effort

should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

The conference substitute conforms to the Senate amendment with a minor drafting change.

[p. 23]

In section 4(f) the Senate amendment contained language requiring the Secretary of Transportation to cooperate and consult with the Secretaries of Interior, Housing and Urban Development, and Agriculture and with the States in developing transportation plans and programs that carry out the policy of preserving the natural beauty of the countryside and public park and recreation land, wildlife and waterfowl refuges, and historic sites. The Secretary was prohibited from approving programs or projects requiring the use of any such land unless there is no feasible alternative and all possible planning to minimize harm is taken.

The conference substitute amendment adopts the Senate amendment language except for adding the words "and prudent" after the word "feasible".

In section 4(g) the Senate amendment required the Secretary and the Secretary of Housing and Urban Development to consult and exchange information regarding their transportation policies and activities and to carry on the joint planning, research, and other activities and coordinate assistance for local projects. The amendment required the two Secretaries to study Federal policies and programs, to see how they can assure that urban transportation systems will effectively serve both local and national needs and to report within 1 year and annually thereafter to the President for submission to Congress on their studies and other activities, including legislative recommendations.

The conference substitute amendment conforms to the Senate amendment and adds thereto the clause previously deleted by the Senate which would require the two Secretaries to report within 1 year on the logical and efficient organization and location of urban mass transportation functions in the executive branch.

[p. 25]

Transfers to the Department

In section 6(a)(5) the Senate amendment contained language not found in the House bill which transfers to the new Secretary, merchant marine and maritime functions and provides for their

exercise by a Federal Maritime Administrator and a Maritime Board.

The conference substitute amendment deletes all reference to maritime functions, a Federal Maritime Administrator and the Maritime Board.

In section 6(c) which transfers to the Secretary all functions, powers and duties of the Federal Aviation Agency and of the Administrator and other officers thereof, the Senate amendment added the language "including the development and construction of a civil supersonic aircraft." The Senate amendment also further transferred to the Federal Aviation Administrator the duties of the Secretary under section 6(c) pertaining to aviation safety as set forth in certain sections of the Federal Aviation Act of 1958. The Senate amendment made decisions of the Federal Aviation Administrator in exercising these functions administratively final with appeals as authorized by law and this act to be taken directly to the National Transportation Safety Board or to the courts as appropriate. The Senate amendment deleted a provision specifically reserving the power of the President to transfer any of the aviation functions to the Department of Defense in time of war.

The substitute conference amendment restores the wartime transfer power of the President as provided in the House bill and otherwise conforms to the Senate amendment.

In section 6(d) the Senate amendment retransfers to the National Transportation Safety Board all of the Civil Aeronautics Board safety functions which are transferred by the act to the Secretary under section 6(d) and provides that decisions of the National Transportation Board made pursuant to the exercise of these functions, powers, and duties shall be administratively final and appeals taken directly to the courts.

The conference substitute amendment conforms to the Senate amendment.

In section 6(f) the Senate amendment provided that the Federal Railroad Administrator and the Federal Highway Administrator shall carry out the functions, powers, and duties of the Secretary pertaining to railroad and pipeline safety and to motor carrier safety which were transferred from the Interstate Commerce Commission to the Secretary. The decisions of the two Administrators pursuant to the exercise of these functions were made administratively final, with appeals to be taken to the National Transportation Safety Board or the courts.

The substitute conference amendment specifically limits the administrative finality of the two Administrators' decisions to proceedings which involve notice and hearings required by law, and otherwise conforms to the Senate amendment.

In section 6(h) the Senate amendment provides that the Administrative Procedure Act shall be applicable to proceedings by the Departments and its subordinate units.

The substitute conference amendment conforms to the Senate amendment. Complementary House language was restored in section 4(c).

[p. 26]

In section 6(i) the Senate amendment transferred the administration of the Alaska Railroad to the new Department. The House report had contemplated that this would be accomplished by Executive order.

The substitute conference amendment conforms to the Senate amendment.

Transportation investment standards

The Senate amendment contains language in section 7 which was not in the House bill. This requires the Secretary to develop standards and criteria for the formulation and economic evaluation and proposals for the investment of Federal funds in transportation facilities or equipment. The Senate amendment contains six major exceptions to this authority among which were water resources projects and grant-in-aid programs authorized by law. The Senate amendment requires approval by the Congress before the Secretary may promulgate standards and criteria. It makes the Secretary a member of the Water Resources Council on matters pertaining to navigation features of water resource projects and provides that all surveys, plans, and reports involving projects formulated by the various Federal agencies must conform to the standards and criteria, must utilize certain types of information relating to transportation supplied by the Secretary and must be coordinated by the Secretary. The Senate amendment also contained a formula to govern the determination of the navigation benefits of water resources projects.

The conference substitute amendment conforms to the Senate amendment.

[p. 27]

1.5a(5) CONGRESSIONAL RECORD, VOL. 112 (1966)

1.5a(5)(a) Aug. 30: Debated, amended and passed House, pp. 21236–21237; 21275

AMENDMENT OFFERED BY MR. HARSHA

Mr. HARSHA. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. HARSHA: On page 23, following line 13, insert the following new subsection and reletter subsection "(h)" as subsection "(i)":

"(h) Notwithstanding the transfer of the functions, powers, and duties to the Secretary under subsection (g), the Secretary shall not exercise any function, power, or duty under subsections (g)(2), (3), (4)(A), and (6), relating to the operation of drawbridges, the obstruction of bridges, and the location and clearances of bridges and causeways, until he obtains the concurrence of the Secretary of the Army."

The CHAIRMAN. The gentleman from Ohio is recognized for 5 minutes.

Mr. HARSHA. Mr. Chairman, under existing law, the Secretary of the Army, acting through the Chief of Engineers, is responsible for investigations and improvements of rivers, harbors, and other waterways and for prevention of obstructions to the navigable capacity of such waters—section 540, title 33, United States Code. Also, existing law prohibits the building of any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, or other structures in any navigable water of the United States, or to excavate or fill, or in any manner alter a course, location, condition, or capacity, of any such water, except on plans recommended by the Chief of Engineers and authorized by the Secretary of the Army—section 403, title 23, United States Code. All of these functions, powers, and duties will remain with the Secretary of the Army after enactment of H.R. 15963.

Under the provisions of this bill, however, certain functions of the Secretary of the Army relating to drawbridge operating regulations, obstruc-

[p. 21236]

tive bridges, and the location and clearance of bridges and causeways are transferred to the Secretary of Transportation. In spite of the transfer of this authority to the Secretary of Transportation, we continue to require the Secretary of the Army to exercise the authority under section 502 of title 33, United States Code, to prosecute criminally all who impede the navigability of waterways through bridge obstructions.

This borders on the ridiculous unless the Secretary of the Army has some authority with respect to bridge clearances in the first instance. My amendment provides that the Secretary of Transportation shall not exercise any functions without first obtaining the concurrence of the Secretary of the Army.

Since the Secretary of the Army is the Federal official primarily responsible for preserving and improving the navigability of the waters of the United States, it is logical that his concurrence should be obtained before action is taken by the Secretary of Transportation relative to the operation of drawbridges, the location and clearance of new bridges and causeways to be constructed, and the elimination of obstructions created by existing bridges.

If this is not done, action taken by the Secretary of Transportation in this limited area may be inconsistent with action taken or being contemplated by the Secretary of the Army with respect to the planning and construction of projects for navigation im-

provement of the waterway or the issuance of permits for the construction of other facilities on the waterway.

My amendment would not deny or take away from the Secretary of Transportation those functions that the bill would transfer to him, but in the interest of the free flow of commerce on our navigable waters it would require him to coordinate with the Secretary of the Army and, in turn, to benefit from the expertise, specialized knowledge, and experience of the Corps of Engineers in this field.

Mr. Chairman, I urge adoption of my amendment.

Mr. HOLIFIELD. Mr. Chairman, I rise in opposition to the amendment. On April 7, Lt. Gen. William F. Cassidy, Chief of Engineers, Corps of Engineers, of the U.S. Army, appeared before the committee. I read from his testimony, carried on page 102—part 1—of the hearings as follows:

> The regulatory functions that would be transferred to the new Department under section 6(f) include the authority to regulate the location of vessels at anchor, to prescribe drawbridge operating regulations, to require alteration of existing bridges considered to be unreasonably obstructive to navigation, to review and determine reasonableness of tolls charged for crossing bridges, to administer the act for the prevention of the pollution of the sea by oil, and to control the location and clearances of bridges over navigable waters. These are considered to be proper functions of the contemplated Department of Transportation and their transfer would be in accord with accepted tenets of good organization and administrative management.

Mr. Chairman, I recognize that the intent of the gentleman's amendment is good, but in my opinion this would create confusion from an administrative standpoint. We have had the head of the Army Corps of Engineers, the man who has charge of these functions, testify before the committee that this is a proper function of the new Secretary of Transportation.

Therefore, I ask that the amendment be voted down.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, I am not trying to take these functions we are transferring to the Secretary of Transportation away from him. I go along with the statement of the gentleman that these are proper functions for the Secretary of Transportation to have within his jurisdiction. But, because of the problems involved in prosecuting the violation of these, and because the responsibility for the navigability of the waters of the country rests on the Corps of Engineers, it would seem to me it would be proper that before any changes in these regulations are made by the Secretary of Transportation, he should correlate these with the same body that is responsible for the prosecution and for insuring the navigability of these streams. That is the intent of my amendment.

Mr. HOLIFIELD. Mr. Chairman, I understand the intent of the gentleman's amendment, but it brings in another administrative body. It would cause delay in putting through programs.

There is no doubt in my mind that there will be informal conferences with the people who are involved. I cannot conceive of a responsible Secretary of a Cabinet-level department going in and upsetting the procedures of the Army. Therefore, I believe that the amendment is unnecessary and I believe that good administrative management and the tenets of good organization require us to leave this in the hands of the Secretary of this Cabinet-level department. I therefore ask that it be voted down.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendment

offered by the gentleman from Ohio [Mr. HARSHA].

The question was taken, and on a division (demanded by Mr. HARSHA) there were—ayes 16, nays 35.

So the amendment was rejected.

[p. 21237]

The SPEAKER. The question is on the passage of the bill.

Mr. HOLIFIELD. Mr. Speaker, on that I demand the yeas and nays.

* * * * *

The question was taken; and there were—yeas 336, nays 42, not voting 54 ***.

* * * * *

So the bill was passed.

[p. 21275]

1.5a(5)(b) Sept. 29: Amended and passed Senate, pp. 24374–24375, 24402–24403

Mr. McCLELLAN. Mr. President, when the Government Operations Committee opened hearings on S. 3010 I stated that we would study this bill—that we would examine it carefully—and try to do a constructive job of revising and improving it. I fully realized that to do this would take time, perhaps a long time. The committee had this measure under active consideration for the better part of 6 months. We examined and considered this bill in detail, and the fact that the committee has largely accomplished what it undertook is attested to by the unanimous vote cast by the committee in ordering the bill favorably reported.

[p. 24374]

TRANSPORTATION INVESTMENT STANDARDS

As introduced, section 7(a) of S. 3010 placed upon the Secretary of Transportation the responsibility of developing and revising standards and criteria consistent with national transportation policies, for the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities or equipment. It then exempted four specific types of proposals for Federal investment from the standards and criteria to be established by the Secretary. The committee amended this to add water resource projects as a fifth type of proposal for Federal investment to the other four that are excluded from the criteria to be established by the Secretary of Transportation.

This is necessary since navigation is a major function of any total concept of water resource development and, therefore, other phases of water resource development should not be influenced by standards and criteria established for application to problems related solely to transportation.

The committee amendment also provides that standards and criteria developed or revised pursuant to this subsection shall not be promulgated by the Secretary until they are approved by the Congress instead of the President, as originally proposed.

This is intended to retain within the Congress its constitutional authority to regulate commerce among the several States. A blanket delegation of such widespread authority to the executive branch of the Government is considered unwise. The section, as revised, would place on the Secretary of Transportation the responsibility of developing the standards and criteria but would retain in the Congress the final responsibility for their approval—thereby maintaining the checks and balances contem-

plated by the framers of the Constitution.

The amendment would continue the authority of the Water Resources Council to establish standards and criteria for the evaluation of water resources projects where it was placed by the Congress just last year when the Council was established by section 101 of Public Law 89–80.

A definition of primary navigation benefits is also contained in the amendment. This is necessary to insure that future projects will be evaluated on the same basis that has resulted in the development of our truly great system of inland navigation that has served this Nation so well in peace and war. In November of 1964, the Corps of Engineers, under policy guidance of the Bureau of the Budget, issued new criteria for the evaluation of navigation projects. Not a single proposed waterway has met the test of these new criteria. The Bureau of the Budget finally recognized the difficulty of applying the criteria set forth in the directive of November 1964, and has just recently stated that they will be reversed. But the much needed expansion of our network of inland waterways is far too important to the national welfare to be subjected to the conceptual manipulations of the Bureau of the Budget. This is a matter within the proper purview of Congress, and my amendment to section 7 returns this prerogative to the legislative branch.

In this connection, it is important to note that the corps' experience with the development of commerce on major existing waterways has shown that the former method of evaluating navigation benefits which my amendment reinstates has resulted in ultra-conservative estimates of traffic growth.

Finally, section 7, as amended, expands the membership on the Water Resources Council to include the new Secretary of Transportation on matters pertaining to navigation features of water resource projects. The expansion of the Water Resources Council to include the Secretary of Transportation on these matters is consistent with the intent of section 101 of Public Law 89–80, which established the Council.

[p. 24375]

Mr. JACKSON. Mr. President, I move that the Senate proceed to the consideration of H.R. 15963, Calendar No. 1628.

The PRESIDING OFFICER (Mr. MONTOYA in the Chair). The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 15963) to establish a Department of Transportation, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. JACKSON. Mr. President, I move to strike out all after the enacting clause of H.R. 15963 and to insert in lieu thereof the text of S. 3010, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

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

[p. 24402]

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

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

The yeas and nays were ordered.

* * * * *

The result was announced—yeas 64, nays 2.

* * * * *

So the bill (H.R. 15963) was passed.

[p. 24403]

1.5a(5)(c) Oct. 13: House agrees to conference report, pp. 26651-26652

Mr. KLUCZYNSKI. Mr. Speaker, I am pleased to see section 4(f) appear in this bill. Its inclusion is certainly consistent with the desire to protect America's natural beauty—as expressed by the Congress and the administration, and as demanded by the American people. Further, it is consistent with a similar provision embodied in the Federal-Aid Highway Act of 1966 with the additional benefit of requiring that the same consideration be given in developing all forms of transportation plans and programs.

I thoroughly support the intent of this bill, but I would like to sound a word of caution in interpreting section 4(f). There is no question in my mind that the protection of our parks, open spaces, historic sites, fish and game habitats, and the other natural resources with which our Nation is so richly endowed, is of the utmost importance and urgency, but not to the total exclusion of other considerations. To do so would result in as many inequities as justifying transportation plans merely on the basis of economy or efficiency. Other considerations would include the integrity of neighborhoods, the displacement of people and businesses, and the protection of schools, and churches and the myriad of other social and human values we find in our communities.

Attempting to define "feasible alternative" in light of all of these considerations is virtually impossible and may result in hampering and otherwise unnecessarily delaying transportation progress. The problem was resolved in the 1966 Highway Act by rephrasing the requirement to read, "unless such program includes all possible planning, including considerations of alternatives." I am glad to see the words "and prudent" added to this section by the conference committee. With this inclusion, and with "prudent" as the operable word, this section now becomes workable and effective and I fully support and intend to vote for the bill as written.

Mr. ROSTENKOWSKI. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman.

Mr. ROSTENKOWSKI. Mr. Speaker, section 4(f) of this bill would extend to all forms of transportation the safeguards incorporated in the recently enacted Federal-Aid Highway Act of 1966 requiring the Secretary to use maximum effort to preserve public parklands and historic sites.

This is a good amendment. I supported this principle in the Highway Act and I support it in the bill now before us. However, I would like to recall for my colleagues the concern that was voiced when the Highway Act was pending. Fear was expressed that the amendment might be misinterpreted to mean the preservation of natural and manmade resources would be the overriding consideration in highway construction. It was made clear at the time that as desirable as parkland preservation might be, other important factors must be considered.

We are now confronted with the identical situation. However, I will support section 4(f) on the basis that it is the clear intent of the Congress to establish only guidelines for the approval by the Secretary of any transportation program or project requiring the use of land from a public park, recreation area, wildlife or waterfowl refuge, or historic site.

This approval is made contingent on two factors: That there is no feasible and prudent alternative to the use of such land, and that such pro-

gram includes all possible planning to minimize harm to those areas.

I heartily endorse the guidelines. I also want the RECORD to show, however, that it is not the intent of the Congress to tie the Secretary's hands. As much as I want to see the use of those areas avoided if possible, and our natural and manmade resources preserved. I can easily foresee circumstances when it may be vital to use such land.

For instance, if it became necessary to choose between preserving a wildlife refuge or saving human lives by a highway improvement, I do not think any of us would have any doubt as to which choice should be made.

[p. 26651]

Or, if there were a choice between using public parkland or displacing hundreds of families, with the attendant burden imposed on them, I would want the Secretary to weigh his decision carefully, and not feel he was forced by the provision of the bill to disrupt the lives of hundreds of human beings.

If I felt that this measure placed less value on the preservation of human life than it did on the preservation of wildlife refuges, I could not in good conscience support it. We should memorialize the Secretary to give full consideration to the preservation of public lands, but not at the expense of human lives and human welfare.

I support enthusiastically the provision that if he determines public land must be used, all possible planning be done to minimize harm to the land. I am confident that the Secretary would take this precaution, even if it were not incorporated in the bill.

* * * * *

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

The previous question was ordered.

The conference report was agreed to.

[p. 26652]

1.5a(5)(d) Oct. 13: Senate agrees to conference report, pp. 26564, 26568.

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

Mr. JACKSON. Mr. President, the conferees were able to keep the Senate version intact on the main points of disagreement with one exception—the transfer of maritime functions.

The House agreed to accept the basic organization and structural provisions of the bill in the Senate version, including the distribution and assignment of functions, powers, and duties. This included acceptance of railroad, highway, and aviation administrators with statutorily assigned duties. Decision of these administrators will in certain matters be administratively final, subject only to appeal to the courts or the National Transportation Safety Board, as appropriate.

The House agreed to accept the Senate amendments strengthening the National Transportation Safety Board. This included acceptance of the Senate provisions assigning the Civil Aeronautics Board's aircraft accident investigation functions to the Safety Board, and authorizing the Safety Board to conduct its own investigations into rail, highway, and pipeline accidents.

The retention of these Senate amendments relating to the organizational structure of the Department, and the strengthened role of the National Transportation Safety Board, insure that safety matters will be

placed in the hands of trained experts, leaving the Secretary free to devote his efforts to the numerous other duties and responsibilities vested in him.

The Senate was also able to persuade the House to agree to the retention of section 7, relating to investment standards and criteria, including language regarding water resource projects. As Members know, the House had deleted this entire section from its version of the bill.

In this connection, the Corps of Engineers expressed some concern to the committee with regard to language in the Senate report amplifying the definition of primary direct benefits and the use of prevailing rates. The corps felt that the language in the bill itself was perfectly acceptable but that the report language was too restrictive. By way of clarification, I would like to say on behalf of the Committee on Government Operations that it was our intent that—and I state this for the legislative history:

Where available in the area of the proposed waterway, prevailing published rates being applied for movement of the type and approximate volume of each commodity considered as potential traffic for the proposed waterway are to be used in the economic analysis.

Where prevailing rates are not available or are not being applied in the area of the proposed waterway for movement of the type and approximate volume of the potential traffic, constructed rates will be used in the economic analysis. Where such constructed rates are necessary, they are to be developed using rate structures on the alternative modes of transportation that have not been depressed due to their direct competition with an existing waterway.

Thus, Mr. President, it is the committee's intent that the resulting calculation of navigation benefits will be essentially those historically employed by the Corps of Engineers prior to the development of new procedures adopted in October 1960, which culminated in the directive of November 1964, and which was recently rescinded, as reported in letters from the Director of the Bureau of the Budget to the Chairman of the Public Works Committees dated August 24, 1966.

The House accepted the Senate language declaring it to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites. The Secretary is directed not to approve any program or project requiring the use of such lands unless there is no feasible and prudent alternative to its use, and such program includes all possible planning to minimize harm to such areas.

[p. 26564]

Mr. BREWSTER. Mr. President, I am delighted to support the conference report on the Department of Transportation bill. This report would take the Maritime Administration out of the Department of Transportation entirely.

I would hope that this approach will pave the way for an independent Maritime Administration, and, ultimately, a rebirth of the American merchant marine. Certainly I intend to push for legislation to achieve this end.

The conferees have reached a very acceptable position. I would particularly like to commend Senator JACKSON, who has worked very hard on a most complex and controversial piece of legislation. The end result is a very fine bill which I am proud to support.

Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

[p. 26568]

1.5b FEDERAL HIGHWAY ACT OF 1968

August 23, 1968, P.L. 90–495, §18(b), 82 Stat. 824

PRESERVATION OF PARKLANDS

SEC 18. (a) Section 138 of title 23, United States Code, is amended to read as follows:

"§138. Preservation of parklands

* * * * * * *

(b) Section 4(f) of the Department of Transportation Act (80 Stat. 931; Public Law 89–670) is amended to read as follows:

"(f) It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites. The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed. After the effective date of the Federal-Aid Highway Act of 1968, the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use."

[p. 824]

1.5b(1) SENATE COMMITTEE ON PUBLIC WORKS

S. REP. No. 1340, 90th Cong., 2d Sess. (1968)

FEDERAL-AID HIGHWAY ACT OF 1968

JUNE 28, 1968.—Ordered to be printed

Committee on Public Works, submitted the following

REPORT

[To accompany S. 3418]

GENERAL OBSERVATIONS

The committee believes that two matters not otherwise discussed in this report or provided for in S. 3418, as reported, are worthy of consideration.

PARK LANDS

Under the provisions of section (4) (f) of the Department of Transportation Act, the Secretary is responsible for "developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed." In carrying out this policy, the section states that "the Secretary shall not approve any program or project which requires the use of any land from a public park, recreation area, wildlife and waterfowl refuge, or historic site unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use."

This language is similar to that contained in section 138 of title 23 which provides that after July 1, 1968, all possible planning must be used to minimize any harm to such park or site resulting "from use of park lands and historic sites for highway projects."

The committee is firmly committed to the protection of vital park lands, parks, historic sites, and the like. We would emphasize that everything possible should be done to insure their being kept free of damage or destruction by reason of highway construction. The committee would, however, put equal emphasis on the statu-

tory language which provides that in the event no feasible and prudent alternative exists, that efforts be made to minimize damage. To that end, the amendment contained in section 114 of S.

[p. 18]

3418, as reported, which would expand the definition of "construction costs," should be helpful.

The committee would further emphasize that while the areas sought to be protected by section (4) (f) of the Department of Transportation Act and section 138 of title 23 are important, there are other high priority items which must also be weighed in the balance. The committee is extremely concerned that the highway program be carried out in such a manner as to reduce in all instances the harsh impact on people which results from the dislocation and displacement by reason of highway construction. Therefore, the use of park lands properly protected and with damage minimized by the most sophisticated construction techniques is to be preferred to the movement of large numbers of people.

[p. 19]

1.5b(2) HOUSE COMMITTEE ON PUBLIC WORKS

H.R. REP. No. 1584, 90th Cong., 2d Sess. (1968)

FEDERAL-AID HIGHWAY ACT OF 1968

JUNE 25, 1968.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. FALLON, from the Committee on Public Works, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany H.R. 17134]

The Committee on Public Works, to whom was referred the bill (H.R. 17134) to authorize appropriations for the fiscal years 1970 and 1971 for the construction of certain highways in accordance

with title 23 of the United States Code, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the matter which appears in the reported bill in italic type.

[p. 1]

PRESERVATION OF PARK LANDS

The difference in language between section 138 of title 23 and the comparable provisions of section 4(f) of the Department of Transportation Act is slight. Both are concerned with criteria for highway planning in relation to the enumerated land uses, however, and it is the committee's opinion that the language of section 138, title 23, as basic highway law, should be controlling. Section 17 of the reported bill, therefore, amends section 4(f) to conform the language.

Neither section 138 nor section 4(f) stands alone as the beacon lighting the way to wisdom in the administration of our resources. Both are intended to broaden, not narrow, the perspective in decisionmaking. Parklands and historic sites, as well as the other kinds of areas listed in these sections, have very real value; if that were not so, neither section of law would exist. No rational person would suggest, however, that that value is the only one to be considered in a judgment as to the best public interest. In weighing alternatives for highway location, equal consideration must be given to other factors—to whether people will be displaced; to whether existing communities will be disrupted; to whether the established demand for adequate transportation facilities for people, goods, and services will be met; and to the preferences of the people of the area involved. Preservation for use is sound conservation philosophy, and it is in that perspective that both section 138 and section 4(f) should be administered.

[p. 12]

DEPARTMENT OF TRANSPORTATION ACT

(80 Stat. 931; Public Law 89-670)

* * * * * * *

GENERAL PROVISIONS

SEC. 4 (a) * * *

* * * * * * *

(f) The Secretary shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed. After the effective date of this Act, the Secretary shall not approve any program or project which requires the use of any land from a public park, recreation area, wildlife and waterfowl refuge, or historic site unless [(1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use.] *such program or project includes all possible planning, including consideration of alternatives to the use of such land, to minimize any harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use.*

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[p. 43]

1.5b(3) COMMITTEE OF CONFERENCE

H.R. REP. No. 1799, 90th Cong., 2d Sess. (1968)

FEDERAL-AID HIGHWAY ACT OF 1968

JULY 25, 1968.—Ordered to be printed

Mr. FALLON, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 3418]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3418) to authorize appropriations for the fiscal years 1970 and 1971 for the

construction of certain highways in accordance with title 23 of the United States Code, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

* * * * * * *

[p. 1]

Preservation of Park Lands

Sec. 18. (a) Section 138 of title 23, United States Code, is amended to read as follows:

"§138. Preservation of parklands

"It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites. The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plans and programs that

[p. 10]

include measures to maintain or enhance the natural beauty of the lands traversed. After the effective date of the Federal-Aid Highway Act of 1968, the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use."

(b) Section 4(f) of the Department of Transportation Act (80 Stat. 931; Public Law 89–670) is amended to read as follows:

"(f) It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and water-

fowl refuges, and historic sites. The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed. After the effective date of the Federal-Aid Highway Act of 1968, the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use."

[p. 11]

PRESERVATION OF PARK LANDS

The Senate bill amended section 138 of title 23 to make it conform to the declaration of policy set forth in section 4(f) of the Department of Transportation Act relating to the preservation of park lands.

Section 18 of the House amendment amended section 4(f) of the Department of Transportation Act to make that declaration of policy conform with the declaration of policy in section 138 of title 23 of the United States Code on that subject.

The conference substitute amends both section 4(f) of the Department of Transportation Act and section 138 of title 23 of the United States Code so that the declaration of policy will be identical in each instance and this declaration reads as follows:

[p. 31]

It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites. The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed. After the effective date of the Federal-Aid Highway

Act of 1968, the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use.

This amendment of both relevant sections of law is intended to make it unmistakably clear that *neither* section constitutes a mandatory prohibition against the use of the enumerated lands, but rather, is a discretionary authority which must be used with both wisdom and reason. The Congress does not believe, for example, that substantial numbers of people should be required to move in order to preserve these lands, or that clearly enunciated local preferences should be overruled on the basis of this authority.

[p. 32]

1.5b(4) CONGRESSIONAL RECORD, VOL. 114 (1968)

1.5b(4)(a) July 1: Debated, amended and passed Senate, pp. 19529, 19530, 19552

Mr. JACKSON. I compliment the able and distinguished Senator from West Virginia, the chairman of the committee, for his very fine presentation of the highway bill.

I call to the attention of the distinguished Senator from West Virginia a provision in H.R. 17134, the Federal-Aid Highway Act of 1968, now under consideration in the House of Representatives. Section 17 of the House bill contains language which, if enacted, will severely weaken section 4(f) the Department of Transportation Act. As the Senator will recall, in enacting legislation to create a new Department of Transportation, Congress expressed a national policy to preserve and enhance the beauty of the countryside, public parks, recreation lands, wildlife, and waterfowl refuges, and historic sites in sections 2(b)(2) and 4(f) of the Transportation Act. Section 4(f), which implements this policy, is now under attack. Its opponents seek to substantially diminish, if not nullify, the clear directive of 4(f). Instead of directing the Secretary of Transportation not to approve any program or project which requires the use of these public parklands unless there is "no feasible and prudent alternative to the use of such land," the Secretary, under the House amendment, would merely be required to "consider" alternatives.

It is highly important, in my judgment, to carry on the previously ex-

pressed intent of Congress on this question of the balance that must be

[p. 19529]

struck between expanding transportation systems and the preservation of our public parklands.

It is my understanding that the Senate highway bill does not contain a provision that would modify section 4(f) of the Transportation Act. Am I correct?

Mr. RANDOLPH. The Senator is correct.

Mr. JACKSON. I thank the Senator. Am I also correct in stating that the able chairman of the Public Works Committee does not recommend any modification of section 4(f) of the Department of Transportation Act and that the Committee has determined to uphold the previously expressed intent of Congress on this question?

Mr. RANDOLPH. The Senator is again correct. On September 29, 1966, the Senate passed the Department of Transportation Act by a 64-to-2 roll-call vote. The distinguished junior Senator from Washington was the floor manager of the act and performed a great service in guiding this complex and important legislation through the Senate. The Senator offered as amendments what are now sections 2(b)(2) and 4(f). The House accepted the Senate language in conference. These sections are clear statements of a national policy that the natural beauty of our countryside and public parks should be preserved.

I wish to underline my assurance to the Senator that I will make every effort to see that section 4(f) is not disturbed, and that the intent of Congress is upheld.

In that connection as we stated in the report:

The committee is extremely concerned that the highway program be carried out in such a manner as to reduce in all instances the harsh impact on people which results in the dislocation and displacement by reason of highway construction. Therefore, the use of park lands properly protected and with damage minimized by the most sophisticated construction techniques is to be preferred to the movement of large numbers of people.

I also wish to quote from a letter of July 1, 1968, from Alan S. Boyd, the Secretary of Transportation, to Hon. JOHN W. MCCORMACK, the Speaker of the House of Representatives.

I ask unanimous consent that the entire letter be printed in the RECORD at this point.

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

SECRETARY OF TRANSPORTATION,
Washington, D.C., July 1, 1968.

HON. JOHN W. MCCORMACK,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Today the House of Representatives will consider several amendments to the Federal-Aid Highway Act of 1968. Among these will be amendments that will profoundly affect the nation's natural resources and scenic beauty.

I am deeply concerned about the proposed amendments that will be offered on the floor to make a nullity of the Highway Beautification program. While I was disappointed at the magnitude of the program contained in the Committee bill, we nevertheless recognize the concern of the Committee about expenditures in the difficult fiscal situation as it now exists. Despite this disappointment, however, the Committee did preserve the program so that we will be able to continue to plan to move ahead swiftly when the present financial problems are solved.

We have been gratified by the progress that has already been made in the Highway Beautification program. Thirty-one state legislatures have enacted laws providing for the control of outdoor advertising. Other legislatures are now considering such legislation or will do so early in 1969. We have reached agreement with 17 states on outdoor advertising control procedures and we are close to agreement with a number of other states. Forty states have enacted legislation to control junk yards. Although only a small amount of Federal funds has been expended so far, approximately 1500 junk yards have either been screened or removed. All 50 states are participating in the landscaping

and scenic enhancement provisions of the act. These have gained broad public acceptance.

We think that the present generation of Americans have given their overwhelming approval to these important beautification efforts. They will be enjoyed by generations to come. This nation has been blessed with beauty and grandeur that we can no longer squander. There are many programs which the Congress has approved to insure their preservation. We believe that the Highway Beautification program is a major effort that must be continued.

I strongly urge the House of Representatives to reject the amendments that will be offered to eliminate the grant programs and to eliminate any of the incentives that are designed to stimulate state participation. Those amendments would effectively end the Beautification program and we are confident that is not the desire or the intent of the Congress.

When the Congress enacted the Department of Transportation Act of 1966, it specifically and unequivocally recognized that national transportation policies and programs should be developed consistent with the efficient utilization and conservation of the nation's resources. It declared as the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites. It implemented these declarations of policy by requiring the Secretary of Transportation to cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture and with the States in developing transportation plans and programs of all forms that include measures to maintain or enhance the natural beauty of the lands traversed.

In aid of the declared national policy, the Congress, in section 4(f) of the Act, directed the Secretary of Transportation not to approve transportation programs or projects which require the use of any land from a public park, recreation area, wildlife and waterfowl refuge, or historic site unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use.

The House Public Works Committee has proposed an amendment conforming the language of section 4(f) to that of section 138 of Title 23, United States Code. As the Committee Report indicates, the difference between its proposed change and the present language is slight. The Report states the Committee's belief that the perspective in decision-making should be broadened, not narrowed, and that preservation for use is sound conservation philosophy. In view of these statements, it seemes clear that the intent of the Committee is not to depart from the stated national policy. It is in this spirit that the Department of Transportation proposes to administer the Act. We therefore view the intent of the Committee's limited conforming amendment as reflecting no substantive change in the mandates placed upon this Department.

However, the Department opposes the proposed amendment at this time—little more than a year after the effective date of section 4(f). The Department is aware of no problems which have arisen in the course of administering the present language, nor does the Committee Report refer to any. We think the present language of section 4(f) is a clear statement of the Congressional purpose. Accordingly, there would appear to be no reason to amend it at this time.

Sincerely,

ALAN S. BOYD.

Mr. RANDOLPH. I call particular attention to the paragraph of the letter where Secretary Boyd says:

The House Public Works Committee has proposed an amendment conforming the langauge of section 4(f) to that of section 138 of Title 23, United States Code. As the Committee Report indicates, the difference between its proposed change and the present language is slight. The Report states the Committee's belief that the perspective in decision-making should be broadened, not narrowed, and that preservation for use is sound conservation philosophy. In view of these statements, it seems clear that the intent of the Committee is not to depart from the stated national policy. It is in this spirit that the Department of Transportation proposes to administer the Act. We therefore view the intent of the Committee's limited conforming amendment as reflecting no substantive change in the mandates placed upon this Department.

[p. 19530]

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 3418) was passed.

[p. 19552]

1.5b(4)(b) July 3: Amended and passed House, pp. 19937, 19947, 19950

[No Relevant Discussion on Pertinent Section]

1.5b(4)(c) July 26: House agrees to conference report, p. 23712, 23713

[No Relevant Discussion on Pertinent Section]

1.5b(4)(d) July 29: Senate agrees to conference report, pp. 24036, 24037, 24038

Mr. YARBOROUGH. Mr. President, S. 3418, the Federal-Aid Highway Act of 1968, was in conference committee for 13 days. I commend the distinguished Senate conferees, headed by the very capable senior Senator from West Virginia [Mr. RANDOLPH], for their diligent efforts in a hard battle to protect the interests of the Senate, of the people, and of the Nation in this very important legislation.

A matter of particular concern to me in this legislation was a provision in the House bill to weaken severely the authority of the Secretary of Transportation to protect public parklands, wildlife refuges, recreation areas, and historic sites.

The House version of this bill would have eliminated section 4(f) of the Department of Transportation Act of 1966—a section that prohibits the Seretary of Transportation from approving any Federal highway project that would cut through these invaluable lands and sites unless there is no feasible alternative.

It was my pleasure to support actively the concerned efforts of the distinguished Senator from Washington [Mr. JACKSON] to put section 4(f) into that 1966 act. Before that, I successfully fought to put similar protective language in the Federal-Aid Highway Act of 1966.

S. 3418, the Senate version of the Federal-Aid Highway Act of 1968, appropriately maintains the authority of the Secretary of Transportation to protect these irreplaceable lands and sites from the cynical intrusions of the insensitive highway lobby.

Our able conferees from the Senate have worked to hold the line on this important item. Unfortunately, the House conferees seemed determined to pave over our natural beauty and historic treasures with highway concrete. The language in the conference report is ambiguous and needs clarification. At page 11 of the conference report accompanying S. 3418, the following compromise on section 4(f) is reported:

(b) Section 4(f) of the Department of Transportation Act (80 Stat. 931; Public Law 89-670) is amended to read as follows:

"(f) It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and

historic sites. The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed. After the effective date of the Federal-Aid Highway Act of 1968, the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, *or local significance as so determined* by such officials unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use.

The important phrase in this new language is "of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof." This phrasing introduces a new element into the laws which are designed to protect our parklands and our sites.

I want to address my remarks and questions to the Senator from West Virginia. I see one distinct advantage. It was contended after the 1966 act that "public park" referred only to national parks, and not State or local jurisdictions. It is contended that this applies to Federal, State, and local, throughout. I want to ask certain questions of the Senator from West Virginia with regard to that. The question has been raised that, if the local authorities said that a site had no historic significance, engineers could ram a highway through regardless of a site's being of historic significance. Is that correct?

Mr. RANDOLPH. No; they could not ram it through, as the Senator has said.

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[p. 24036]

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

The result was announced—yeas 66, nays 6, ***.

[p. 24037]

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So the conference report was agreed to.

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[p. 24038]

1.6 FEDERAL AID HIGHWAY ACT OF 1970, AS AMENDED

23 U.S.C. §109(h), (i), (j) (1970)

§ 109. Standards

(a) The Secretary shall not approve plans and specifications for proposed projects on any Federal-aid system if they fail to provide for a facility (1) that will adequately meet the existing and probable future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance; (2) that will be designed and constructed in accordance with standards best suited to accomplish the foregoing objectives and to conform to the particular needs of each locality.

(b) The geometric and construction standards to be adopted for the Interstate System shall be those approved by the Secretary in cooperation with the State highway departments. Such standards, as applied to each actual construction project, shall be adequate to enable such project to accommodate the types and volumes of traffic anticipated for such project for the twenty-year period commencing on the date of approval by the Secretary, under section 106 of this title, of the plans, specifications, and estimates for actual construction of such project. Such standards shall in all cases provide for at least four lanes of traffic. The right-of-way width of the Interstate System shall be adequate to permit construction of projects on the Interstate System to such standards. The Secretary shall apply such standards uniformly throughout all the States.

(c) Projects on the Federal-aid secondary system in which Federal funds participate shall be constructed according to specifications that will provide all-weather service and permit maintenance at a reasonable cost.

(d) On any highway project in which Federal funds hereafter participate, or on any such project constructed since December 20, 1944, the location, form and character of informational, regulatory and warning signs, curb and pavement or other markings, and traffic signals installed or placed by any public authority or other agency, shall be subject to the approval of the State highway department with the concurrence of the Secretary, who is directed to concur only in such installations as will promote the safe and efficient utilization of the highways.

(e) No funds shall be approved for expenditure on any Federal-aid highway, or highway affected under chapter 2 of this title, unless proper safety protective devices complying with safety standards determined by the Secretary at that time as being adequate shall be installed or be in operation at any highway and

railroad grade crossing or drawbridge on that portion of the highway with respect to which such expenditures are to be made.

(f) The Secretary shall not, as a condition precedent to his approval under section 106 of this title, require any State to acquire title to, or control of, any marginal land along the proposed highway in addition to that reasonably necessary for road surfaces, median strips, gutters, ditches, and side slopes, and of sufficient width to provide service roads for adjacent property to permit safe access at controlled locations in order to expedite traffic, promote safety, and minimize roadside parking. Pub.L. 85–767, Aug. 27, 1958, 72 Stat. 894; Pub.L. 88–157, § 4, Oct. 24, 1963, 77 Stat. 277.

(g) The Secretary shall issue within 30 days after the day of enactment of the Federal-Aid Highway Act of 1970 guidelines for minimizing possible soil erosion from highway construction. Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

(h) Not later than July 1, 1972, the Secretary, after consultation with appropriate Federal and State officials, shall submit to Congress, and not later than 90 days after such submission, promulgate guidelines designed to assure that possible adverse economic, social, and environmental effects relating to any proposed project on any Federal-aid system have been fully considered in developing such project, and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for fast, safe and efficient transportation, public services, and the costs of eliminating or minimizing such adverse effects and the following:

(1) air, noise, and water pollution;

(2) destruction or disruption of man-made and natural resources, aesthetic values, community cohesion and the availability of public facilities and services;

(3) adverse employment effects, and tax and property value losses;

(4) injurious displacement of people, businesses and farms; and

(5) disruption of desirable community and regional growth.

Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

(i) The Secretary, after consultation with appropriate Federal, State, and local officials, shall develop and promulgate standards

for highway noise levels compatible with different land uses and after July 1, 1972, shall not approve plans and specifications for any proposed project on any Federal-aid system for which location approval has not yet been secured unless he determines that such plans and specifications include adequate measures to implement the appropriate noise level standards.

(j) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall develop and promulgate guidelines to assure that highways constructed pursuant to this title are consistent with any approved plan for the implementation of any ambient air quality standard for any air quality control designated pursuant to the Clean Air Act, as amended.

Pub.L. 85–767, Aug. 27, 1958, 72 Stat. 894; Pub.L. 88–157, § 4, Oct. 24, 1963, 77 Stat. 277; Pub.L. 89–574, §§ 5(a), 14, Sept. 13, 1966, 80 Stat. 767, 771; Pub.L. 91–605, Title I, § 136(a), (b), Dec. 31, 1970, 84 Stat.

1.6a FEDERAL AID HIGHWAY ACT OF 1970

December 31, 1970, P.L. 91-605, §136(b), 84 Stat. 1734

SEC. 101. This title may be cited as the "Federal-Aid Highway Act of 1970".

[p. 1713]

ECONOMIC, SOCIAL, ENVIRONMENTAL, AND OTHER IMPACT

SEC. 136. (a) Section 109(g) of title 23, United States Code, is amended to read as follows:

"(g) The Secretary shall issue within 30 days after the day of enactment of the Federal-Aid Highway Act of 1970 guidelines for minimizing possible soil erosion from highway construction. Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines."

(b) Such section 109 is further amended by adding at the end thereof the following:

"(h) Not later than July 1, 1972, the Secretary, after consultation with appropriate Federal and State officials, shall submit to Congress, and not later than 90 days after such submission, promulgate guidelines designed to assure that possible adverse economic, social, and environmental effects relating to any proposed project on any Federal-aid system have been fully considered in developing such project, and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for fast, safe and efficient transportation, public services, and the costs of eliminating or minimizing such adverse effects and the following:

"(1) air, noise, and water pollution;

"(2) destruction or disruption of man-made and natural resources, aesthetic values, community cohesion and the availability of public facilities and services;

"(3) adverse employment effects, and tax and property value losses;

"(4) injurious displacement of people, businesses and farms; and

"(5) disruption of desirable community and regional growth.

Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

"(i) The Secretary, after consultation with appropriate Federal, State, and local officials, shall develop and promulgate standards for highway noise levels compatible with different land uses and after July 1, 1972, shall not approve plans and specifications for any proposed project on any Federal-aid system for which location approval has not yet been secured unless he determines that such plans and specifications include adequate measures to implement the appropriate noise level standards.

"(j) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall develop and promulgate guidelines to assure that highways constructed pursuant to this title are consistent with any approved plan for the implementation of any ambient air quality standard for any air quality control region designated pursuant to the Clean Air Act, as amended."

(c) Subsection (b) of section 307 of title 23, United States Code, is amended by adding the following sentence: "The highway research program herein authorized shall also include studies to identify and measure, quantitatively and qualitatively, those factors which relate to economic, social, environmental, and other impacts of highway projects."

[p. 1734]

1.6a(1) HOUSE COMMITTEE ON PUBLIC WORKS

H.R. REP. No. 91–1554, 91st Cong., 2d Sess. (1970)

[No Relevant Discussion on Pertinent Section]

1.6a(2) SENATE COMMITTEE ON PUBLIC WORKS

S. REP. No. 91-1254, 91st Cong., 2d Sess. (1970)

FEDERAL-AID HIGHWAY ACT OF 1970

SEPTEMBER 30, 1970.—Ordered to be printed

Mr. RANDOLPH, from the Committee on Public Works, submitted the following

REPORT

together with

INDIVIDUAL VIEWS

[To accompany S. 4418]

The Committee on Public Works, which has had under consideration bills to authorize appropriations for the fiscal years 1972 and 1973 for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes, reports favorably thereon an original bill (S. 4418) in lieu of S. 4260 and S. 4055, those bills which were considered by the Committee.

INTRODUCTION

The Federal-Aid Highway Act of 1970 is a response to the broadened concept of highways as not only the principal means of surface transportation in the United States but as an increasingly important factor in determining the character and quality of our national life.

In many respects, it is a continuation and refinement of earlier highway legislation. It enlarges considerably on provisions of the Federal-Aid Highway Act of 1968. It also approaches new problems with new ideas.

While the Congress is committed to the substantial completion of the Interstate system, it is imperative that the groundwork for highway programs for the post-Interstate period. Many factors have contributed to the delay in completing the Interstate system. The cost of the system far exceeds the original projections of 1956. It is now anticipated that the Interstate system can be completed by 1978, and this bill includes provision for a firm cut-off date beyond which 90 percent Federal participation in Interstate

construction would not be available. The Committee also anticipates that some highly controversial and expensive sections of Interstate highways in urban areas will not be built, thus reducing the cost and possibly the time needed for completion.

Since highways affect virtually every aspect of our life, either directly or indirectly, it is logical that responsibility for their planning and execution should be broadly based so as to accurately reflect the needs and wishes of the people who will be served by these highways. This bill would meet this need by giving to the elected representatives of the people, Governors, mayors, and other local authorities a greater voice in highway decisions.

The effect of highways on the environmental, social, and economic life of our communities is widely recognized. This bill contains provisions which seek to assure that adverse impacts as a result of highway construction are minimized, overcome, or avoided. It sets forth what must be considered in the planning and construction of highways and provides the mechanism and money for meeting these requirements.

This bill provides that the highway safety and beautification programs will be financed from the highway trust fund. Both of these programs, which are closely related to safe, efficient highway operations, have been seriously underfinanced in the past, so that their full implementation has never been possible. Utilizing the resources of the fund will provide reasonable assurance of sustained financing.

DESCRIPTION OF THE BILL

The Committee on Public Works is reporting a clean bill, the Federal-Aid Highway Act of 1970. This measure was approved unanimously by the Committee in lieu of S. 4260, introduced by Senator Randolph with 30 cosponsors, and S. 4055, the administration recommendation, introduced by Senator Cooper with 12 cosponsors.

[p. 2]

Authorizations for Federal-domain roads total $198 million for the fiscal year 1972 and $260 million for the fiscal year 1973 for the following categories: Forest highways, public lands highways, forest development roads and trails, public lands development

roads and trails, park roads and trails, parkways, and Indian reservation roads and bridges.

The bill also would:

* * * * * * *

—Tighten controls over economic, social, and environmental impact of highway construction.

* * * * * * *

HEARINGS

The Subcommittee on Roads this year conducted 18 days of hearings on all aspects of the Federal-aid highway program and related activities. A total of 107 witnesses were heard, and 175 statements were filed with the Subcommittee.

The first of these hearings was conducted in April when the Subcommittee received a report on the status of the Federal-aid highway program from the Department of Transportation. Between that time and June, hearings were conducted on several related proposals: use of highway funds for public transportation, special bridge replacement program, additions to the Interstate highway system and need for territorial highway programs. Between June 9 and July 29, comprehensive general highway hearings were conducted, and in September hearings were held on S. 4260 and S. 4055.

In recent years the Committee has placed considerable emphasis on the responsibility of government to listen to the viewpoints of citizens on highway matters. The Subcommittee on Roads, in developing this legislation, has heard from many people representing many viewpoints.

Testimony was received from 14 Senators, 3 Members of the House of Representatives, 2 State and 3 Territorial Governors, the Mayors of 3 major cities, and spokesmen for industry, professional, trade, governmental, and citizen organizations.

[p. 3]

Section 9. Economic, Social, Environmental and Other Impact

This section would amend various provisions of title 23 to insure proper consideration of economic, social, environmental, and other impacts in the development of highway design and construction plans.

Subsection (a) would expand the definitions of "construction" and "highway" contained in Section 101(a), title 23, to require fuller consideration of these matters in the various stages of high-

way design and construction. The change in the definition of construction as it relates to "economic, social, environmental and other factors" would become effective in 1974 when the guidelines required by Section 109(h) would be implemented, and funds apportioned to the States highway construction would be available to implement such guidelines.

The change in the definition of highway is designed to secure the benefits of the relocation assistance program required by Chapter 5 of Title 23 to those persons located outside of the right-of-way acquisition lines who suffer the kinds of injury that Chapter 5 is designed to mitigate.

Subsection (b) would require all-out efforts to minimize soil erosion which occurs during and after construction of a highway project. These efforts are to be carried out in accordance with the guidelines required by subsection (g) of section 109 of title 23 as it was originally enacted in the Federal-aid Highway Act of 1966.

Subsection (c) would require the Secretary to develop and issue guidelines for avoiding, minimizing and overcoming adverse economic, social, environmental and other impacts of Federal-aid highway projects.

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After July 1, 1974, plans and specifications for any project would be required to include adequate measures to solve the impact problems identified in an analysis of the project. Among the problems which would be accounted for are:

(1) Air, noise, and water pollution;

(2) Destruction, or disruption of man-made and natural resources, aesthetic values, community cohesion, and the availability of public facilities and services;

(3) Adverse employment effects, and tax and property value losses;

(4) Injurious displacement of people, business, and farms; and

(5) Disruption of desirable community and regional growth.

In the period following the issuance of the guidelines and before their effective date the Congress will have an opportunity to review the actions of the Secretary.

Subsection (c) would also require the Secretary to issue noise level standards for highways and to require that the appropriate standards be applied to proposed highway projects. In addition the Secretary would be required to insure that any highway construc-

tion project is designed so as to be consistent with approved air-quality implementation plans in the air-quality region in which the project is located.

Subsection (d) would authorize research programs to develop methods of how to deal with adverse economic, social and environmental effects.

[p. 21]

(h) As soon as possible but not later than July 1, 1972, the Secretary, after consultation with appropriate Federal officials, shall issue guidelines for avoiding, minimizing or overcoming possible adverse economic, social, environmental and other impacts relating to any proposed projects on any Federal-aid system. Not later than two years after the publication of such guidelines, the Secretary shall not approve any plans and specifications for any such proposed project unless such plans and specifications are accompanied by a comprehensive analysis identifying the associated economic, social, environmental, and other adverse impacts of such proposed project and the plans and specifications include adequate measures for avoiding, minimizing or otherwise overcoming such adverse impacts in compliance with such guidelines. The impact problems to be accounted for should include but not be limited to the following:

(1) air, noise, and water pollution;

(2) destruction or disruption of man-made and natural resources, aesthetic values, community cohesion, and the availability of public facilities and services;

(3) adverse employment effects, and tax and property value losses;

(4) injurious displacement of people, businesses, and farms; and

(5) disruption of desirable community and regional growth.

(i) The Secretary, after consultation with appropriate Federal, State, and local officials, shall develop and promulgate noise level standards compatible with different land uses and after July 1, 1972, shall not approve plans and specifications for any proposed project on any Federal-aid system for which location approval has not yet been secured unless he determines that such plans and specifications include adequate measures to implement the appropriate noise level standards.

(j) The Secretary after consultation with the Secretary of Health, Education, and Welfare shall develop and promulgate

guidelines to assure that highways constructed pursuant to title 23, United States Code are consistent with any approved plan for the implementation of any ambient air quality standard for any air quality control region designated pursuant to the Clean Air Act as amended.

[p. 54]

1.6a(3) COMMITTEE OF CONFERENCE

H.R. REP. No. 91-1780, 91st Cong., 2d Sess. (1970)

FEDERAL-AID HIGHWAY ACT OF 1970

DECEMBER 17, 1970.—Ordered to be printed

Mr. FALLON, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 19504]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 19504) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I

Short Title

Sec. 101. This title may be cited as the "Federal-Aid Highway Act of 1970".

[p. 1]

Economic, Social, Environmntal, and Other Impact

Sec. 136. (a) Section 109(g) of title 23, United States Code, is amended to read as follows:

"(g) The Secretary shall issue within 30 days after the day of enactment of the Federal-Aid Highway Act of 1970 guidelines for minimizing possible soil erosion from highway construction. Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines."

(b) Such section 109 is further amended by adding at the end thereof the following:

"(h) Not later than July 1, 1972, the Secretary, after consultation with appropriate Federal and State officials, shall submit to Congress, and not later than 90 days after such submission, promulgate guidelines designed to assure that possible adverse economic, social, and environmental effects relating to any proposed project on any Federal-aid system have been fully considered in developing such project, and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for fast, safe and efficient transportation, public services, and the costs of eliminating or minimizing such adverse effects and the following:

"(1) air, noise, and water pollution;

"(2) destruction or disruption of man-made and natural resources, aesthetic values, community cohesion and the availability of public facilities and services;

"(3) adverse employment effects, and tax and property value losses;

"(4) injurious displacement of people, businesses and farms; and

"(5) disruption of desirable community and regional growth.

Such guidelines shall apply to all proposed projects with respect to which plans, specification, and estimates are approved by the Secretary after the issuance of such guidelines.

"(i) The Secretary, after consultation with appropriate Federal, State, and local officials, shall develop and promulgate standards for highway noise levels compatible with different land uses and after July 1, 1972, shall not approve plans and specifications for

1.6a(4) CONGRESSIONAL RECORD, VOL. 116 (1970)

1.6a(4)(a) Nov. 25: Debated and passed House, pp. 38936–38937; 38961–38962; 38974–38976; 38997

Mr. FALLON. Mr. Chairman, I appear before the House today in support of H. R. 19504, the Federal-Aid Highway Act of 1970, reported by the Committee on Public Works.

* * * * *

Mr. Chairman, I urgently support the immediate passage of H.R. 19504 as reported to this body so that the Federal-Aid Highway Act of 1970 can become law. The other body has already passed their version of this legislation in S. 4418 and it contains many positions different than H.R. 19504. It is imperative that conferees iron out the difference in these bills in the short time remaining in this session of the Congress.

The Federal-Aid Highway Acts since 1956 have included important provisions to protect and enhance our environment. The Federal-Aid Highway Act of 1968, for example, included a provision for the preservation of parklands. The Secretary of Transportation is forbidden to approve the use of publicly owned parklands for highway projects unless there is "no feasible and prudent alternative," and if such lands must be used, all possible planning must be instituted to minimize harm to such lands. Section 24 of that act requires the State highway departments before submitting proposals for highway locations to consider the social effects, environmental impact, and consistency with the goals and objectives of urban planning promulgated by the community of such locations, in addition to consideration of the economic impact of such locations.

At the urging of this committee, the Federal Highway Administration has undertaken numerous activities to assure the compatibility of the highway and its environment. I believe we ought to note a few of these efforts.

1. ENVIRONMENTAL DEVELOPMENT DIVISION

Almost 2 years ago, an Environmental Development Division was created in the Bureau of Public Roads. It is a multidisciplinary group, staffed with architects, city planners, landscape architects, sociologists, economists, appraisers, engineers, and others. This division is concerned with the following elements:

Consideration of social, economic, and environmental factors, with special emphasis on those factors significant to a highway decision;

Optimum utilization of the joint development potential of a highway project and its environment, including multiple use of the highway right-of-way;

[p. 38936]

Use of multidisciplinary design groups as staff advisers to agencies and jurisdictions responsible for highway and community programs;

Use of intergovernmental policy groups in a comprehensive highway project planning process, to develop integrated and coordinated highway and environmental plans and programs; and

Use of citizen and unofficial groups as community and neighborhood advisers to agencies and jurisdictions responsible for highway and community programs.

2. ENVIRONMENTAL DESIGN GROUP

In order to better recognize and integrate economic, social and environmental factors, design concept teams

were established. Major design concept team efforts are being made in such places as Baltimore, Chicago, Boston, New York, and Phoenix. A number of highway departments, additionally, have established an internal multidisciplinary staff capability involving the environmental design approach. The objective of all of these efforts is to make sure that adequate attention is given to preservation and enhancement of the quality of the environment, and related social and economic factors. Substantial dollar resources are involved.

3. JOINT DEVELOPMENT AND MULTIPLE USE

More than 4 years ago, the idea of joint development and multiple use was initiated. The objective of these programs is to make double and triple use of highway rights-of-way and highway dollars, establishing uses compatible and complementary to the transportation corridor. It also assists communities in the attainment of their other stated goals. It restores taxable property and provides services of all kinds to communities. Over 500 requests from almost every State and the District of Columbia for the permissive joint use of highway land for non-highway purposes have been processed. This program alone offers fantastic opportunities for preserving and enhancing the community environment.

4. METROPOLITAN DEVELOPMENT AND INTERGOVERNMENTAL REVIEW

Based upon a long-time tradition of intergovernmental cooperation, the Federal Highway Administration was one of the first to fully implement the Intergovernmental Cooperation Act of 1968 and its predecessor legislation. The objective is to conform highway projects with environmental and metropolitan development. Environmental elements are an important segment of these activities. This activity has been extended to nonmetropolitan and rural areas as well.

5. ACQUISITION IN LIMITED VERTICAL DIMENSION

In an increasing number of instances, the Federal Highway Administration is encouraging acquisitions in limited vertical dimension, either above or below a resource that is sought to be preserved. This could leave a park, open space, stream, wildlife area, battlefield, or similar resource intact.

[p. 38937]

Mr. WOLFF. Mr. Chairman, I rise in support of the amendment that will be offered by my distinguished colleague from New York (Mr. REID). This amendment would ensure effective local review of the impact of Federal-aid highway programs upon parks, wildlife refuge areas, national historic sites, and other areas whose conservation would serve the public interest.

In this period, when we get so much lip service to saving our environment, this amendment would give meaning to the words of those concerned about conservation.

In this period, when there is great understandable concern about the role of local communities in decisions affecting them, this amendment would give localities a well-deserved voice in matters of direct consequence to them.

In this period, when objections are justly raised to the lack of information available to the public about matters of general concern, this amendment would provide for an effective hearing and public disclosure procedures designed to ensure adequate public knowledge of the plans and probable impact of highway programs.

This amendment, then, gives us the opportunity to put the House of Representatives behind reasonable, responsible proposals of conservation,

public disclosure and local participation in matters of great importance to the localities in which Federal-aid highway programs are contemplated.

It seems quite obvious to me that the House would want to put deeds where we have words; to substitute action for promises.

As the Members consider this amendment there is one crucial point to bear in mind. Once a highway is built, once trees, wetlands, and fields are destroyed, once the bulldozer has done its job, we cannot turn around and undo what has been done. The finality of constructing a highway is a perfect argument for building into the decisionmaking process as many safeguards as possible against wanton, ill-advised programs. This amendment, then, is not an anti-highway amendment, it is a pro-environment, pro-local control amendment and most worthy of support.

I would also point out to my colleagues that this amendment does not give control to amateurs. As the able gentleman from New York said when testifying for this bill before the committee:

> Each local commission would be staffed entirely by persons with recognized expertise in the area of conservation of natural resources and wildlife and preservation of historic sites, communities and landmarks.

This is important because in considering the potential far-reaching impact of this amendment it is vital that we vest the authority for review of Federal-aid highway programs in individuals of ability and stature.

The gentleman deserves to be congratulated for taking the lead in this important area and I am pleased to rise in support of this amendment. I trust our colleagues will see the wisdom of adding this amendment to the pending legislation.

Mr. Chairman, there is no need to point out to anyone here the crying need for a solution to our present mass transit crisis. The state of transportation in the United States today is an absolute mess. Our cities are choking on automobiles and their pollution. Yet we are aiming at crossing oceans in 2 hours with an SST. For what? To wait 3 hours in a traffic jam? Why should we support a program which leaves the overwhelming majority of our people's problems unattended to? We should not. Thus I support this amendment which offers us at least a partial solution to the crisis.

If we adopt it, we will make available funds for a rational and unified approach to all forms of mass transit—not just the auto and the bus. What can be the argument against such a move? There is only one—and we hear it over and over again. The Government would break faith with highway users if it spent any of the trust fund money on nonhighway projects, that the taxes imposed on gasoline, tires, tubes, and other highway related equipment are acceptable to the American public only because of the Government's assurance that the money raised will be spent only on highways. One would think from reading much of the propaganda spread by the highway lobby, that the trust fund is fed by taxes specifically created in order to finance it. If that were true, there might be some logic in the aura of inviolability that surrounds the trust fund.

But it is not true.

Of all the taxes that yield money for the trust fund, only two were created along with it in 1956—a tax on rubber used in retreading tires and a use tax imposed on heavy vehicles. Most of the other taxes that feed this fund—including the one on gasoline that raises three-fourths of its income—came into existence in 1932, although some were increased in 1956. Prior to the creation of the trust fund, the money from these taxes went into the general fund without being earmarked exclusively for high-

way purposes. No one seriously contended between 1932 and 1956 that the Government was breaking faith with highway users by spending part of the money from these taxes on nonhighway projects.

Therefore, I respectfully suggest the need is clear, the funds are available, I beseech each and everyone of you to not let this opportunity to put sanity into our mass transit mess slip by.

Mr. BINGHAM. Mr. Chairman, the conclusion is inescapable, on the basis of the reading of the legislation before the House, that this Nation is—and for the indefinite future will be—fiddling with freeways while our cities burn. Based upon a commitment made 14 years and more than 40 billion dollars ago, this legislation proposes to commit $17 billion more for highways by 1978 with no end in sight.

Was the Congress' 1956 commitment to build highways through the highway trust fund a commitment in perpetuity, Mr. Chairman? Is there to be no pause, no review, no reevaluation of this commitment? Will this commitment never be regarded as fulfilled and ready for termination?

This legislation certainly suggests that the answer to those questions is a resounding "No". While our State and local governments are dangling by the last thread keeping them from bankruptcy, this legislation proposes to spend another $17 billion on highways by 1978, and even more after that, based upon the priorities and commitments of 1956. While we fight tooth and nail in the Congress to eke out a few million dollars to keep the Headstart program going, the legislation does not even raise the question of where highways now fit into our list of total national priorities, let alone our total transportation priorities. At a time when greater emphasis on mass transit systems could unclog many of our highways and relieve the impending suffocation of our cities from polluted air, this legislation takes steps to make Federal transportation funding more rigid, rather than more flexible.

Mr. Chairman, we can no longer tolerate this squandering of such an immense amount of funds without any reevaluation or review of our current needs and the impact of our transportation funding mechanisms upon those needs.

Those who defend uninterrupted continuation of our current level of spending for highways argue that we have a commitment to the public to use the funds accruing to the highway trust fund for highway development. We have had such a commitment and we have honored it for nearly 20 years. Surely we have now more than met our obligation to the taxpayer to improve our highway system. It is now time to reexamine that commitment and consider what changes in the use of these funds may be necessary or appropriate.

Certainly no one could argue that our problems and priorities as a Nation have not changed drastically since the beginning of the highway trust fund in 1956. Similarly, the amount of funds accruing to the trust fund have changed. They have increased to nearly fourfold since 1956, from $1.4 billion to over $5 billion in 1970.

As the committee has pointed out in its report, 1976 represents a major turning point in our highway programs. In that year, the Interstate System will be very near completion, and many States will find their allocations under the trust fund beginning to decline. The legislation before the House today proposes to go even beyond 1976 in its authorizations, and contains a number of provisions which make commitments for the post-Interstate period. Before we turn that corner, it seems to me, it is both appropriate and mandatory that we make some reappraisal of our entire

highway program in relation to other national needs. I find no evidence in the committee report or in the rather extensive hearings conducted on this legislation, that the Committee on Public Works has either conducted such a reappraisal or that it even envisions one.

I am similarly disturbed that the Ways and Means Committee has seen fit to extend the highway trust fund in this legislation, in effect, through 1978. Given the committee's broad

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jurisdiction over the trust fund mechanism, it is the appropriate body to conduct such a broad review of our transportation funding mechanisms, including full public hearings.

At the appropriate time, I shall offer an amendment which would limit the extension of authorizations for interstate highways to 1976, rather than 1978 as recommended by the committee in this bill. My amendment would make the House language consistent with the Senate-passed version of this legislation, which reflects the administration position that no authorization should be made beyond 1976 until the 1973 deadline for interstate project commitments and the 1972 national transportation needs report are available.

I also intend to offer, at the appropriate time, an amendment to allow our spending from the trust fund to better meet current local needs by expanding upon the action of the committee. My amendment would allow funds from the trust fund to be used for facilities to serve all mass transit passengers as recommended by the committee.

Several provisions of this legislation constitute definite improvements over past proposals. The new relocation assistance authority in this bill, for example, is most commendable and long overdue. It provides a greater assurance than ever before that families and businesses displaced by highways will have comparable replacement housing by allowing Federal highway funds to be used for the acquisition, rehabilitation, or construction of such housing where it is not otherwise available. It is unfortunate, however, that the committee emphasizes highway over human interests by stipulating that this relocation authority should be used only as a last resort when necessary to allow a highway project to proceed. Clearly, we should be creating new housing for families displaced by highways, not because to fail to do so might stop the highway, but because the well-being of such families is as important, and their needs are as pressing, as any needs or benefits that might justify the building of more highways. I would certainly hope that the Secretary of Transportation will interpret this provision as liberally as possible so as to make maximum use of the authority it conveys.

It is also gratifying to see the continuation of the highway beautification program provided for in this bill. A great deal more needs to be done to insure scenic enhancement adjacent to our roads and highways, particularly in the control of such blights as improperly placed advertising and junkyards. The committee should certainly be commended for its support of highway beautification programs in the past, and for its provision of some $47.5 million dollars over the next 2 years for that purpose. One could only wish that this amount could be larger given the importance of this work.

* * * * *

Beyond the general weaknesses of this bill, which I have already mentioned, there are a number of specific provisions which, in my judgment, are particularly inadvisable and which far outweigh the strengths of the bill. The environmental protection provisions

of the Highway Act, especially in the area of air pollution, are most inadequate, and this legislation promises no convincing improvements in that area. Indeed, the construction of the roads envisioned by this legislation can only contribute to our already critical air pollution problem, more than 90 percent of which is directly attributable to our dependence as a society on the automobile. This legislation only increases this dependence and encourages automobile travel regardless of the environmental consequences.

The language of the bill which purports to prohibit the impounding or withholding from obligation of funds apportioned under the highway program is clearly unenforceable. Furthermore, the provision in the same section which would prohibit any funds authorized to be appropriated from the highway trust fund from being expended by any other department or agency of the Federal Government than the Federal Highway Administration seems to me an unnecessary and inadvisable step toward greater rigidity, rather than flexibility, in the administration of transportation programs.

I strongly oppose the establishment of the National Highway Institute proposed by section 115 of this legislation. While such an institute might well save State and local governments some expense in the training of highway officials, and while such officials would undoubtedly benefit from such an institute, I feel that the considerable expense of such a project cannot be now justified given other needs and the likelihood that the operation of such an institute will only increase and further institutionalize our national highway bias.

I share the committee's interest in achieving a more balanced population pattern and a more rational land-use policy. However, I do not feel that it can be assumed that more highways are the appropriate device for stimulating new population centers. Little justification for the program of economic growth centering on development highways provided in this legislation is contained in the hearings, and I feel that no such program should be approved until the 1972 transportation needs study is complete and more evaluation can be focused on the appropriate role of highways in stimulating and serving population balance. Premature approval of this new category of highways is likely to lead to roads that go nowhere and further desecration of our dwindling wilderness and sparsely populated areas.

If my amendments are defeated, as I fear they will be, I shall vote against this bill and urge others to do likewise.

[p. 38962]

Mr. REID of New York (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. REID of New York. Mr. Chairman, my amendment would add new sections 122 through 127 to the bill to require State legislatures to establish local highway planning review commissions for the purpose of assessing the effect of the proposed Federal-aid highways upon the overall environment, upon parklands, historic sites, wildlife sanctuaries, and other areas which could be and should be conserved. Prior approval of the local commission involved would be required whenever a proposed highway system would pass through or be contiguous with an area over which it has jurisdiction. Disapproval by a commission could be overruled only by the Secretary of the Interior.

Mr. Chairman, I testified in support of this proposal before the Subcommittee on Roads on April 21, 1970. In my judgment, the establishment of local highway planning review commissions is vital for two reasons. It would guarantee the public the right of access to all facts relevant to any proposed Federal-aid highway and would give local conservationists a veto over highway design which could result in the destruction of valuable resources.

Under existing hearing procedures pursuant to section 128 of title XXIII, United States Code, the first hearing deals with the approval of the location within a general service corridor. The second hearing is a hearing prior to approving a preliminary design of a highway in a particular location. This hearing system, in my judgment, is defective in that local residents have no effective voice in the decision; the hearings sometimes bear little relation to what might actually materialize in relation to the location and design; citizens affected by highway construction presently have no right of discovery to highway plans; and the law requires only that economic considerations be discussed in public hearings.

My amendment would broaden the issues taken into consideration and strengthen the influence of local citizens. Basically this amendment would require State legislatures to create one or more administrative units to review proposed highway routes as they affect the environment.

Each commission could cover a single county or group of counties with the State legislature deciding the appropriate jurisdictional base. Each local commission would be staffed by persons with recognized expertise in the areas of conservation, of natural resources and of wildlife, preservation of historic sites, communities, and landmarks.

Approval of a proposed highway could be granted or denied by the commission only after provision had been made for appropriate public hearings and the review by the commission would be in addition to that which the present Highway Act requires to be conducted by the State highway department.

In the past, Mr. Chairman, citizens' groups have encountered major problems in gaining access to the State plans and specifications for highway projects. In my judgment, citizens' groups should have the right to review all of the technical material relevant to informed decisions.

My amendment, therefore, would guarantee citizens the right of discovery to essential documents by requiring the State highway department to submit to the local commission involved copies of surveys, plans, specifications, and estimates for a highway project. The commission would in turn be required to make these documents available to the public prior to its hearing, and give the public an opportunity to question State highway officials under oath regarding the project. This right of discovery is intended to be the same as that enjoyed by parties to a civil lawsuit in Federal court under the Federal Rules of Civil Procedure.

Mr. Chairman, in essence I believe that there are conservation factors that should be included in any consideration of highway plans and that interested parties should have an opportunity to see the relevant documents.

In essence, Mr. Chairman, until now corporations, Government agencies, and roadbuilders have shown shocking disregard for our scenery, wildlife, natural resources, and historic communities and landmarks. Once a forest or preserve is destroyed or desecrated by a highway it is ruined forever.

I urge the adoption of my amendment in order to save from destruction what remains of our invaluable

natural and historical resources, for only if we give local conservationists a voice and a veto over the roadbuilders may we save our environment.

Mr. KOCH. Mr. Chairman, will the gentleman yield?

Mr. REID of New York. I yield to the gentleman from New York.

Mr. KOCH. I want to rise in support of the gentleman's amendment. It is one which is absolutely necessary. Conservation groups across the country support it. I hope it will be adopted.

Mr. REID of New York. I thank the gentleman.

Mr. HARSHA. Mr. Chairman, I rise in opposition to this amendment.

I should like to point out that this amendment was the subject of a bill considered in committee. There were extensive hearings on the problem of the environment, as well as on other highway matters.

We did consider the subject of this amendment. The committee, at the time, felt that an amendment of this kind was not justified.

I should like to point out to the Committee that this proposal would set up a commission totally comprised of persons who may or may not have any expertise in highway construction who would have an absolute veto power over the construction or building of a highway.

Furthermore, this amendment would give to the public the right to examine all papers and to cross-examine under oath all State officials with respect to the matter. This would, in my judgment, further cloud and complicate an already difficult situation. I am not out of sympathy with the end sought to be served. But, in my opinion, the amendment would delay and extend the construction of highway projects an intolerable length of time. It could be used obstructively, rather than constructively. If enacted, I can foresee more demonstrations and delays than presently plague the program.

I want to make one other point. The "guts" of this amendment is, I believe, already incorporated into the law in the Federal-aid Highway Act and in Department of Transportation regulations. Let me read section 138, titled "Preservation of parklands":

> It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites. The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed. After the effective date of the Federal-Aid Highway Act of 1968, the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use.
>
> [p. 38974]

We should use every precaution to protect and enhance our environment. The above law is designed to do that and is serving an effective purpose in that regard. A purpose I wholeheartedly subscribe to. Therefore, it is apparent that what the gentleman is trying to get at is already in the law. Many highway projects are currently going through a process of inspection and evaluation by concerned Federal agencies to make sure that they do not injure the environment or destroy national historic sites. I am in sympathy with the gentleman's desire to protect our environment. I believe this is being accomplished under existing law and regulations.

Mr. REID of New York. Will the gentleman yield on that point?

Hr. HARSHA. Yes.

Mr. REID of New York. If I read section 138 correctly, it is concerned solely—and I repeat, solely—with publicly owned lands. The section that determines it is section 128. Here public hearings in the original statute are only charged with looking at the economic effects of such location. Therefore, I think it should be concerned with the overall environmental question. Beyond that, if I may complete the sentence, this amendment of mine permits the Secretary of the Interior to overrule a local environmental highway review commission if it is his judgment that this should be done. So the gentleman's statement that the local commission exercises an absolute veto is not correct. The Secretary of the Interior makes the final judgment.

Finally, I say it is not a sustainable position to say that the public now has the right to access to certain facts and figures and it is essential that they should have this right in a timely fashion.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the amendment.

The gentleman from Ohio (Mr.HARSHA) is precisely correct in saying that there is no need for this amendment. If Members were listening as he read from the highway act passed 2 years ago, they know that Congress already has clearly stipulated there that the Secretary shall not permit any of these historic sites, environmentally beautiful, or recreationally useful areas to be taken for a highway unless there is no feasible alternative and every possible step has been taken to preserve and protect it.

The gentleman from New York, I am sure, read an old law and intended to state the facts correctly when he declared that the requirement of local hearings applies only to economic and not to any other considerations. Let me read to you again from the 1968 Act that this House approved and which Congress passed 2 years ago. We have already amended that section which applies to public hearings so it requires that those hearings concern themselves not alone with economic matters, but I quote to you from the exact language that we added 2 years ago:

> . . . and social effects of such a location, its impact on the environment and its consistency with the goals and objectives of such urban planning as has been promulgated by the community.

So there is no need for this amendment. Additionally there is no need, surely, for a further encumbrance on the right of the State and local highway officials to proceed once they have determined on a feasible route, they being obviously closer to the local public than we are. There is no need to allow for further long, labyrinthine corridors of appeals and re-appeals that could veto and stall and drag along most interminably these decisions which are so vitally needed.

The third point is that the Secretary of the Interior does not have one thing in the world to do with the administration of this bill. This bill is administered by the Secretary of Transportation.

According to the amendment offered by the gentleman from New York, we would create a plethora of bureaucracy with an additional department and an additional secretary arguing as to whether or not a certain road should be built.

For all these reasons I believe this amendment is not necessary, useful, or desirable and should be voted down.

Mr. REID of New York. Will the gentleman yield on the points he makes?

Mr. WRIGHT. Surely.

Mr. REID of New York. I appreciate the gentleman yielding to me.

The section I was referring to and

which I called the gentleman's attention to is section 138 of title 23. If he will look at that section, he will see it is entitled "Preservation of Park Lands."

Mr. WRIGHT. If the gentleman will read that section, he will see that it includes this language: "or any land on a historic site of national, State, or local significance." It says "any" land and not just public land.

Mr. REID of New York. That is precisely my point. It says "land relating to a historic site." However, I feel there must be two points considered. One is the broadest concern for the environment. The second—and this point the gentleman did not address himself to, if I understood him correctly—is that the public should have timely access to all the relevant facts and figures, including highway plans and projections, ecological studies, and other matters pertaining to the environment.

The public is now denied that right. I, personally, wish the gentleman would address himself to that point.

Mr. WRIGHT. There is nothing in the existing law or in the present bill which denies the public access to this information or deprives the public from attending hearings. The public is invited to appear and testify, and based upon the 1968 Act those hearings are to concern themselves not alone with economics but with social effects on such a location, its impact on the environment, its consistency with the public goals and objectives as planned by the community.

Mr. Chairman, I submit the amendment is not necessary; it is redundant, and in addition to that it creates an additional bureaucracy that is not necessary. It creates a possibility of a local veto by some local agency of what has already been determined by the local highway department and others involved on programs which should go forward without this type of interruption.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I rise in support of the amendment which has been offered by the gentleman from New York (Mr. REID) to require State legislatures to establish local highway planning review commissions for the purpose of assessing the effect of proposed Federal-aid highways upon parklands, historic sites, wildlife sanctuaries, and other areas which should be conserved. Prior approval of the local commission involved would be required whenever a proposed highway system would pass through, or be contiguous with, an area over which it has jurisdiction; and disapproval by a commission could be overruled only by the Secretary of the Interior.

This amendment would guarantee the public the right of access to all facts relevant to any proposed Federal-aid highway, and would give local citizens an opportunity to oppose highway designs and plans which would result in the destruction of irreplaceable resources.

Citizens' groups in my community have encountered considerable difficulty in gaining access to plans for highway projects until they are fully developed at tremendous public expense. This amendment would require that essential plans for a highway project be available to the public before the hearing—so that citizens can adequately question highway officials on the project.

We cannot permit road builders to disregard the public interest in our scenery, wildlife, natural resources, and historic landmarks. A forest or tree needlessly desecrated by a highway is ruined forever. It cannot be replaced.

In my community, an interstate highway project has been projected time and again through the Shaker

Lakes area of my district—one of the last virgin forest and lake areas in our midst. When community protests reached Gov. James Rhodes of Ohio last spring, he promised to remove the project from the Interstate System. Up to the present, he has not taken the action which he promised and the community is again aroused by the continued threat to an invaluable natural resource.

This amendment provides a necessary opportunity for the community to examine plans and proposals before the commitment is closed on a highway plan. It is vital and necessary to

[p. 38975]

preserve the few natural resources which remain in urban areas.

If these safeguards are not provided, I will have to vote against this bill and its unbridled capacity to ruin our resources and our environment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. REID).

The amendment was rejected.

AMENDMENT OFFERED BY MR. REID OF NEW YORK

Mr. REID of New York. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Does the gentleman's second amendment apply to this section?

Mr. REID of New York. It does, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. REID of New York: Page 31, after line 21, insert the following new section, and renumber subsequent sections accordingly:

"RIGHT OF DISCOVERY

"SEC. 122. Section 128, subsection (a), of Title 23, United States Code, is amended by adding the following new material at the end thereof:

"'The State highway department shall also certify to the Secretary that the public was afforded a full opportunity to examine all relevant papers prior to such hearings and to question under oath at such hearings State officials with respect to all matters relevant to the proposed Federal-aid or Interstate highway.'"

Mr. REID of New York. Mr. Chairman, I shall be very brief and try and limit my remarks to about 60 seconds.

The point in the recent colloquy which has not been made clear is, in my opinion, the difference in interpretation as to whether or not the environment is fully considered. The point in question is not whether the highway departments deny the local people the right to be heard, but whether on the affirmative side an individual has the right of access to relevant and necessary State papers, ecological studies, and other matters that are appropriate this is not for the purpose of acting in a delaying fashion, but these matters should be brought before the Commission for consideration in a thoughtful, prompt fashion.

I have talked with David Sive, the principal attorney for the Sierra Club, on this point, and he feels that in the United States there are many instances where many of the facts are not presented at a hearing.

Mr. Chairman, the essence of this amendment is to provide a kind of protection that exists in the Federal Rules of Civil Procedure to parties in a civil lawsuit in a Federal court. It is basically the right of discovery and the right of the individual to have access and the public to have access to all the facts relevant to the actual construction as well as the environmental factors.

Mr. KOCH. Mr. Chairman, will the gentleman yield?

Mr. REID of New York. I yield to the gentleman from New York.

Mr. KOCH. It serves no purpose, if we really want to have the public involved in recommending what should

or should not be done in protecting the environment, if we refuse to give them the tools with which to shape their advice. Every one of us at some time has recognized deficiencies in a program and yet not been able to substantiate that which is wrong because the needed evidence has been withheld by some city, State, or Federal agency.

So, Mr. Chairman, I would urge all my colleagues here in the House that if we really want to provide the means to abate pollution in the broadest sense of the word, and this is a kind of pollution, we give the public the tools it needs. After all, the public is the very best watchdog in any matter.

Mr. REID of New York. Mr. Chairman, I thank the gentleman for his comments.

Mr. Chairman, I would only add this: I think if we are going to make government work, and if we are going to give the American people a conviction that they can participate in the governmental process, and a conviction that the decisions which affect their lives have been made on the basis of all relevant factors, then I think the public is entitled to the right of discovery on basic environmental questions and for good cause. I repeat that this is a right acknowledged by the most knowledgeable people in this field and that this right is presently denied by most States. And I hope the Congress today will provide that affirmative right.

Mr. HARSHA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would like to point out to the Committee that many of the procedures that the gentleman from New York seeks to open up are governed by State laws which have established different procedures for dealing with such matters. As to what extent this proposal would apply to each State law, I am not really sure. But I would like to point out that in the procedures established in a majority of the States, the public already has access to design drawings, maps and location pictures to afford them the opportunity of determining what kind of highway is going where.

It is true that there are certain inter-departmental papers that the public does not have access to. But under this amendment, a State highway department would have to certify to the Secretary that the public was afforded a full opportunity to examine all papers prior to such hearings. At what point would the public have been afforded an opportunity to fully examine all papers prior to the hearings that the gentleman is calling for?

To permit the entire public to cross examine every official under oath as to any matter that is in any way conceivably relevant to the construction of the highway program, and its possible effect on the environment, would surely create a morass of confusion and delay. It could even result in defeating the objectives of our highway construction program. In all probability the gentleman makes a valid point that many State highway procedures are less than enlightening to the public. This should certainly put them on notice to improve their procedures. However to endeavor to accomplish that purpose by this amendment would create far more problems than it alleviates. I urge the defeat of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. REID).

The amendment was rejected.

[p. 38976]

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BROYHILL of Virginia moves to recommit the bill, H.R. 19504, to the Committee on Public Works.

Mr. MILLS. I move the previous question on the motion to recommit.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

A motion to reconsider was laid on the table.

* * * * *

FEDERAL-AID HIGHWAY ACT OF 1970

Mr. KLUCZYNSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 4418), authorizing appropriations for the fiscal years 1972 and 1973 for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

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

Mr. JACOBS. I object.

The SPEAKER. Objection is heard.

[p. 38997]

1.6a(4)(b) Nov. 25: Proceedings vacated, laid on the table, pp. 39007; 39014

FEDERAL-AID HIGHWAY ACT OF 1970

Mr. KLUCZYNSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 4418) to authorize appropriations for the fiscal years 1972 and 1973 for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill.

MOTION OFFERED BY MR. KLUCZYNSKI

Mr. KLUCZYNSKI. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. KLUCZYNSKI moves to strike out all after the enacting clause of S. 4418 and insert in lieu thereof the provisions contained in H.R. 19504, as passed, as follows:

Strike out all after the enacting clause, and insert:

* * * * *

[p. 39007]

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time and passed.

The title was amended so as to read: "To authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 19504) was laid on the table.

Mr. KLUCZYNSKI. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the bill (S. 4418) to authorize appropriations for the fiscal years 1972 and 1973 for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? The Chair hears none, and appoints the following conferees: Messrs. FALLON, KLUCZYNSKI, EDMONDSON, CRAMER, HARSHA, and CLEVELAND.

[p. 39014]

1.6a(4)(c) Dec. 7: Passed Senate, Senate insists on its amendments and asks for conference, p. 40095

HIGHWAY APPROPRIATIONS

Mr. BYRD of West Virginia. Mr. President, on behalf of my able senior colleague, the Senator from West Virginia (Mr. RANDOLPH), I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 19504.

The PRESIDING OFFICER (Mr. GRAVEL) laid before the Senate H.R. 19504, to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

Mr. BYRD of West Virginia. I ask unanimous consent that the bill be considered as having been read twice and that the Senate proceed to its immediate consideration.

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

Mr. BYRD of West Virginia. Mr. President, I move that all after the enacting clause be stricken and that the language of S. 4418, as it passed the Senate on October 2, 1970, be substituted therefor.

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

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

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill (H.R. 19504) was read the third time, and passed.

Mr. BYRD of West Virginia. Mr. President, I move that the Senate insist upon its amendment and request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Office (Mr. GRAVEL) appointed Mr. RANDOLPH, Mr. JORDAN of North Carolina, Mr. MONTOYA, Mr. SPONG, Mr. COOPER, Mr. BOGGS, and Mr. BAKER conferees on the part of the Senate.

[p. 40095]

1.6a(4)(d) Dec. 8: Action of House rescinded, passed House, House disagrees to Senate amendments and agrees to conference, p. 40265

APPOINTMENT OF CONFEREES ON H.R. 19504, FEDERAL-AID HIGHWAY ACT

Mr. KLUCZYNSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 19504) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? The Chair hears none, and appoints the following conferees: Messrs. FALLON, KLUCZYNSKI, WRIGHT, EDMONDSON, CRAMER, HARSHA, and CLEVELAND.

[p. 40265]

1.6a(4)(e) Dec. 17, 18: House agrees to conference report, pp. 42514–42518

CONFERENCE REPORT ON H.R. 19504, FEDERAL-AID HIGHWAY ACT OF 1970

Mr. WRIGHT. Mr. Speaker, I call up the conference report on the bill (H.R. 19504) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 17, 1970.)

[p. 42514]

Mr. WRIGHT. Mr. Speaker, the conference report we are considering now is on the Federal-Aid Highway Act of 1970. I think it is accurate to conclude that this report contains some of the most significant and far-reaching developments for the future of the highway program since the passage of the original Interstate Highway Act of 1956.

The report now pending comes before this body as a result of very careful and very deliberate and in some instances rather difficult considerations within the conference. For the better part of three weeks the conferees for the House met with the conferees of the other body, and in those intensive conferences I am convinced that we have worked out a conference report which embodies the best features both of the House bill and of the bill enacted by the other body.

The composite legislation embodied in this report does the following things, essentially: It agrees to extend the Interstate System through the year 1976, and this extension thereby increases the total authorization for the interstate program by an amount of $9,775,000,000.

In addition to this, the bill extends the authorization for the regular ABC programs—the primary, secondary, and urban programs—through 1972 and 1973 by an amount of $1.1 billion.

The remaining traditional and necessary programs for forest highways, public lands highways, forest development roads and trails, park roads, parkways, and Indian reservation roads and bridges are extended for various amounts which are shown on page 39 of the conference committee report.

This legislation also creates for the first time—and I believe this is worthy of note—a Federal-aid urban system to take care of the extremely urgent problems of the movement of traffic within the urbanized and congested areas of our country.

Additionally, the conference report incorporates the basic House provision of aid to urban highway public transportation, so that high-speed express lanes may be provided to link the

fringe parking areas authorized in the 1968 bill and made a permanent part of the law in this bill, on the perimeters of our downtown urban areas, so that they may be connected with the downtown hearts of those central cities by means of preferential bus lanes, thus encouraging the movement of more people by that form of mass transportation and curtailing the glut and congestion that is so often found in our cities.

The conference report contains other important features, among which is the authorization of a 2-year period for funding the highway safety program partially out of the highway trust fund. This was, quite frankly, a compromise reached between the Senate position and the House position. It was agreed that the portion of the highway safety program already authorized in existing law could be funded to the extent of two thirds from the highway trust fund, with the other one-third of that cost coming from appropriated funds.

The House position on economic growth center development highways —so as to aid in the disperal of population and the decentralization of industry out into those areas capable of absorbing them, areas which are not yet glutted beyond endurance by pollution and overcrowding—is preserved and protected within the conference committee report. This in my opinion is one of the most innovative features of the bill. It was a House initiative, sponsored originally by the gentleman from California (Mr. DON H. CLAUSEN).

Also, the National Highway Institute, which was authorized in the House bill, is preserved in the conference report. This was an original idea fostered by the gentleman from Oklahoma (Mr. EDMONDSON). We believe that this is an excellent feature for training those who in the future will handle this ever-increasingly sophisticated program of highway construction.

[p. 42515]

Mr. STEIGER of Wisconsin.

As I understand what was done, due to the fact that there was no comparable House provision, you have then taken what seems to be a more lengthy procedure and in more detail and end up with a sentence—and I am asking this question to try and get some understanding as to what is meant—requiring that the certification of the hearings be accompained by a report indicating the consideration given to the economic, social, environmental, and other impacts of the plan, highway location, and the design and the various alternatives raised at the hearings or otherwise considered by the certifying officer.

Mr. WRIGHT. As the gentleman will recall, there was some question about this on the floor of the House during our consideration of this bill, in which some Members expressed concern that some of the social and environmental questions involved would not be given adequate consideration, even though public hearings were held. As the gentleman is aware, the existing law requires the holding of hearings and requires that those hearings should take into account certain factors including those named here. If I understand correctly the concern that has been expressed by some Members on both sides of the aisle, they fear that public hearings might be held and yet nobody might not come forward with valid data concerning these particular considerations.

It was the effort of the conferees to embody in the law a requirement that upon completion of the hearings they be accompanied by a report certifying that these matters had been taken into account.

Mr. STEIGER of Wisconsin. Mr. Speaker, I appreciate very much the explanation given by the gentleman

from Texas on that. I might say that I think that this one provision at least is certainly a step into the right direction, and I would hope would be handled appropriately by the State agencies and by the Federal Department of Transportation in an effort to give consideration to these other factors.

[p. 42516]

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

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

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

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

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

The question was taken; and there were— yeas 319, nays 11, not voting 103,***.

[p. 42517]

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So the conference report was agreed to.

[p. 42518]

1.6a(4)(f) Dec. 19: Senate agrees to conference report, pp. 42717, 42723

Mr RANDOLPH.

* * * * *

One of the most important sections of the report improves the machinery to make the highway program more responsive to public needs and wishes. The Senate considered improvements in the public hearing process to be a central feature of this year's highway legislation, and I am glad to report that our approach generally was adopted by the conference.

Public hearings are now required on both the location and design of new Federal-aid highways. The conferees agreed on provisions requiring that reports to the Secretary of Transportation on the consideration given to economic, social, and environmental aspects of highway construction raised at the public hearings be filed following all public hearings.

This, I believe, will lead to a more effective critical analysis and consideration of proposals raised at hearings. It should do much to answer persistent public criticism that little or no attention is given to questions raised at hearings. Through this section we can be sure that in the hearing process, the appearance of fairness is buttressed by the reality of fairness.

Provisions to improve consideration of economic, social, environmental and other impacts in highway design and construction were expanded by the conferees to implement our belief that highways should enhance communities rather than degrade them. Proper design and engineering practices can, in many instances, avoid, overcome or minimize adverse impacts on people and their surrounding environments.

In direct response to an extremely troublesome problem, the report calls for the issuance of guidelines to control soil erosion in connection with highway construction projects. This action expands provisions of the 1966 Highway Act which required consultation between the Departments of Transportation and Agriculture on developing such guidelines. Far too

many highway projects result in uncontrolled water runoff that spreads silt over large areas and clogs streams, damage that can be prevented through the employment of sound conservation practices.

The report directs the Secretary to promulgate guidelines to assure that all possible adverse economic, social, and environmental aspects of roadbuilding be fully considered and that plans, specifications, and estimates include the best engineering methods of avoiding them. This section when fully implemented will establish the proper responsibility of highway builders in protecting our environment and people. It also requires that noise level standards be established and highways be constructed in conformity with them.

In addition, the conference report assures the implementation of the ambient air standards of the Clean Air Act.

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[p. 42717]

Mr. RANDOLPH. Mr. President, I move adoption of the conference report.

The motion was agreed to.

* * * * *

[p. 42723]

1.7 AIRPORT AND AIRWAY DEVELOPMENT ACT

49 U.S.C. §§1712(f), 1716(c)(4), (e) (1970)

§ 1712. National airport systems plan—Formulation

* * * * * * *

Consultation concerning environmental changes

(f) In carrying out this section, the Secretary shall consult with and consider the views and recommendations of the Secretary of the Interior, the Secretary of Health, Education, and Welfare, the Secretary of Agriculture, and the National Council on Environmental Quality. The recommendations of the Secretary of the Interior, the Secretary of Health, Education, and Welfare, the Secretary of Agriculture, and the National Council on Environmental Quality, with regard to the preservation of environmental quality, shall, to the extent that the Secretary of Transportation determines to be feasible, be incorporated in the national airport system plan.

* * * * * * *

Pub.L. 91–258, Title I, § 13, May 21, 1970, 84 Stat. 224.

§ 1716. Project applications for airport development—Submission

* * * * * * *

Approval

(c) (1) All airport development projects shall be subject to the approval of the Secretary, which approval may be given only if he is satisfied that—

(A) the project is reasonably consistent with plans (existing at the time of approval of the project) of planning agencies for the development of the area in which the airport is located and will contribute to the accomplishment of the purposes of this subchapter;

(B) sufficient funds are available for that portion of the project costs which are not to be paid by the United States under this subchapter;

(C) the project will be completed without undue delay;

(D) the public agency or public agencies which submitted the project application have legal authority to engage in the airport development as proposed; and

(E) all project sponsorship requirements prescribed by or under the authority of this subchapter have been or will be met.

No airport development project may be approved by the Secretary with respect to any airport unless a public agency holds good title, satisfactory to the Secretary, to the landing area of the airport or

the site therefor, or gives assurance satisfactory to the Secretary that good title will be acquired.

(2) No airport development project may be approved by the Secretary which does not include provision for installation of the landing aids specified in subsection (d) of section 1717 of this title and determined by him to be required for the safe and efficient use of the airport by aircraft taking into account the category of the airport and the type and volume of traffic utilizing the airport.

(3) No airport development project may be approved by the Secretary unless he is satisfied that fair consideration has been given to the interest of communities in or near which the project may be located.

(4) It is declared to be national policy that airport development projects authorized pursuant to this subchapter shall provide for the protection and enhancement of the natural resources and the quality of environment of the Nation. In implementing this policy, the Secretary shall consult with the Secretaries of the Interior and Health, Education, and Welfare with regard to the effect that any project involving airport location, a major runway extension, or runway location may have on natural resources including, but not limited to, fish and wildlife, natural, scenic, and recreation assets, water and air quality, and other factors affecting the environment, and shall authorize no such project found to have adverse effect unless the Secretary shall render a finding, in writing, following a full and complete review, which shall be a matter of public record, that no feasible and prudent alternative exists and that all possible steps have been taken to minimize such adverse effect.

Hearings

(d) (1) No airport development project involving the location of an airport, an airport runway, or a runway extension may be approved by the Secretary unless the public agency sponsoring the project certifies to the Secretary that there has been afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport location and its consistency with the goals and objectives of such urban planning as has been carried out by the community.

(2) When hearings are held under paragraph (1) of this subsection, the project sponsor shall, when requested by the Secretary, submit a copy of the transcript to the Secretary.

Air and water quality

(e) (1) The Secretary shall not approve any project application for a project involving airport location, a major runway extension, or runway location unless the Governor of the State in which

such project may be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved or where such standards have been promulgated by the Secretary of the Interior or the Secretary of Health, Education, and Welfare, certification shall be obtained from the appropriate Secretary. Notice of certification or of refusal to certify shall be provided within sixty days after the project application is received by the Secretary.

(2) The Secretary shall condition approval of any such project application on compliance during construction and operation with applicable air and water quality standards.

* * * * * * *

Pub.L. 91–258, Title I, § 16, May 21, 1970, 84 Stat. 226.

1.7a AIRPORT AND AIRWAY DEVELOPMENT ACT OF 1970

May 12, 1970, P.L. 91–258, §12(f), 16(c)(4), (e), 84 Stat. 221, 226

SEC. 12. NATIONAL AIRPORT SYSTEM PLAN

* * * * * * *

(f) CONSULTATION CONCERNING ENVIRONMENTAL CHANGES.—In carrying out this section, the Secretary shall consult with and consider the views and recommendations of the Secretary of the Interior, the Secretary of Health, Education, and Welfare, the Secretary of Agriculture, and the National Council on Environmental Quality. The recommendations of the Secretary of the Interior, the Secretary of Health, Education, and Welfare, the Secretary of Agriculture, and the National Council on Environmental Quality, with regard to the preservation of environmental quality, shall, to the extent that the Secretary of Transportation determines to be feasible, be incorporated in the national airport system plan.

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SEC. 16. SUBMISSION AND APPROVAL OF PROJECTS FOR AIRPORT DEVELOPMENT.

* * * * * * *

(c) APPROVAL.—

(1) All airport development projects shall be subject to the approval of the Secretary, which approval may be given only if he is satisfied that—

(A) the project is reasonably consistent with plans (existing at the time of approval of the project) of planning agencies for the development of the area in which the airport is located and will contribute to the accomplishment of the purposes of this part;

(B) sufficient funds are available for that portion of the project costs which are not to be paid by the United States under this part;

(C) the project will be completed without undue delay;

(D) the public agency or public agencies which submitted the project application have legal authority to engage in the airport development as proposed; and

(E) all project sponsorship requirements prescribed by or under the authority of this part have been or will be met. No airport development project may be approved by the Secretary with respect to any airport unless a public agency holds good title,

satisfactory to the Secretary, to the landing area of the airport or the site therefor, or gives assurance satisfactory to the Secretary that good title will be acquired.

(2) No airport development project may be approved by the Secretary which does not include provision for installation of the landing aids specified in subsection (d) of section 17 of this part and determined by him to be required for the safe and efficient use of the airport by aircraft taking into account the category of the airport and the type and volume of traffic utilizing the airport.

(3) No airport development project may be approved by the Secretary unless he is satisfied that fair consideration has been given to the interest of communities in or near which the project may be located.

(4) It is declared to be national policy that airport development projects authorized pursuant to this part shall provide for the protection and enhancement of the natural resources and the quality of environment of the Nation. In implementing this policy, the Secretary shall consult with the Secretaries of the Interior and Health, Education, and Welfare with regard to the effect that any project involving airport location, a major runway extension, or runway location may have on natural resources including, but not limited to, fish and wildlife, natural, scenic, and recreation assets, water and air quality, and other factors affecting the environment, and shall authorize no such project found to have adverse effect unless the Secretary shall render a finding, in writing, following a full and complete review, which shall be a matter of public record, that no feasible and prudent alternative exists and that all possible steps have been taken to minimize such adverse effect.

(d) HEARINGS.—

(1) No airport development project involving the location of an airport, an airport runway, or a runway extension may be approved by the Secretary unless the public agency sponsoring the project certifies to the Secretary that there has been afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport location and its consistency with the goals and objectives of such urban planning as has been carried out by the community.

[p. 227]

(2) When hearings are held under paragraph (1) of this subsection, the project sponsor shall, when requested by the Secretary, submit a copy of the transcript to the Secretary.

(e) AIR AND WATER QUALITY.—

(1) The Secretary shall not approve any project application for a project involving airport location, a major runway extension, or runway location unless the Governor of the State in which such project may be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved or where such standards have been promulgated by the Secretary of the Interior or the Secretary of Health, Education, and Welfare, certification shall be obtained from the appropriate Secretary. Notice of certification or of refusal to certify shall be provided within sixty days after the project application is received by the Secretary.

(2) The Secretary shall condition approval of any such project application on compliance during construction and operation with applicable air and water quality standards.

(f) AIRPORT SITE SELECTION.—

(1) Whenever the Secretary determines (A) that a metropolitan area comprised of more than one unit of State or local government is in need of an additional airport to adequately meet the air transportation needs of such area, and (B) that an additional airport for such area is consistent with the national airport system plan prepared by the Secretary, he shall notify, in writing, the governing authorities of the area concerned of the need for such additional airport and request such authorities to confer, agree upon a site for the location of such additional airport, and notify the Secretary of their selection. In order to facilitate the selection of a site for an additional airport under the preceding sentence, the Secretary shall exercise such of his authority under this part as he may deem appropriate to carry out the provisions of this paragraph. For the purposes of this subsection, the term "metropolitan area" means a standard metropolitan statistical area as established by the Bureau of the Budget, subject however to such modifications and extensions as the Secretary may determine to be appropriate for the purposes of this subsection.

(2) In the case of a proposed new airport serving any area, which does not include a metropolitan area, the Secretary shall not approve any airport development project with respect to any proposed airport site not approved by the community or communities in which the airport is proposed to be located.

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1.7a(1) HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

H.R. REP. No. 91–601, 91st Cong., 1st Sess. (1969)

AVIATION FACILITIES EXPANSION AND IMPROVEMENT

OCTOBER 27, 1969.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

Mr. STAGGERS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

together with

SEPARATE VIEWS

[To accompany H.R. 14465]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 14465) to provide for the expansion and improvement of the Nation's airport and airway system, for the imposition of airport and airway user charges, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

As set forth in more detail later in this report, the revenue provisions of the legislation were considered by the Committee on Ways and Means. That committee has recommended the provisions contained in title II of the reported bill and furnished the description of those provisions for inclusion in this report.

PURPOSE OF LEGISLATION

The principal purpose of this legislation is to provide for the expansion and improvement of the Nation's airport and airway system. In substantial part, this purpose is to be achieved through the imposition and application of airport and airway user charges.

COMMITTEE ACTION

H.R. 12374 was introduced at the request of the administration. Similar legislation had been under consideration by Congress, the previous administration, and the several segments of the aviation

industry for several years. This bill and comparable bills related to the expansion and improvement of the Nation's airport and airway system were the subject of public hearings before the Committee of Interstate and Foreign Commerce commencing on July 21, 1969, and concluding on September 10, 1969. In all, there were 11 public sessions and a printed record of some 773 pages was compiled.

Beginning on September 13 and concluding on October 23, the committee conducted 13 executive sessions, and a substantial majority of the committee members attended these sessions and actively participated in the markup of the legislation. The foregoing reflects the committee's determination that this is a highly important and far-reaching bill which when enacted into law will affect the lives of most, if not all Americans.

In the course of the public hearings, testimony and statements were received from virtually all Government and non-Government segments of air transportation. A list of the organizations represented appears on page 8 of the hearings. This list is representative of all private and public ground and air interests in the Nation's air transportation system. It includes local, State and national governmental interests, as well as the interests of airport operators, private pilots, commercial pilots, aircraft manufacturers, and the air lines. Without exception, all of the witnesses who appeared before the committee favored a program to advance aviation facilities. The difficulty facing the committee was not one of whether a new and expanded program should be created, but rather one of just what form the program should take. The committee, in its executive sessions, considered carefully not only the bill as introduced, but also the numerous proposed amendments to the bill. Among the major items considered were the following:

(1) whether or not the Federal treasury should contribute to the costs of airport terminal buildings;

(2) whether or not the Federal Government should obligate itself to long term debt;

(3) whether or not the States, as contrasted to the local communities, should assume a greater role in airport development;

(4) whether or not a provision for certification of airports should be included in the act;

(5) whether or not a provision with respect to air pollution from aircraft emissions should be included in the act.

Of the foregoing, the committee determined to follow the existing law with respect to the exclusion of Federal contributions to terminal building costs. The committee also determined not to

obligate the Federal Government to long term debt. The committee adhered to the proposals advanced in the introduced bill as to the role of the individual States in airport development, but rejected a proposed amendment to increase that role beyond that recommended in the introduced bill. As to airport certification—this has been a controversial question for some time—the committee adopted an amendment to require such certification. The air pollution proposal was rejected by the committee.

Subsequent to full and careful consideration by the committee, the chairman introduced a clean bill, H.R. 14465, which was unanimously reported on October 23, 1969.

[p. 2]

Environmental quality

In the expansion and improvement of the Nation's airport and airway system, a special effort must be made to achieve compatibility with the quality of the environment. The development of essential aviation facilities is vitally important, but so, too, is the preservation of the Nation's natural resources. Some conflicts are inevitable, but with suitable care a sound balance can be achieved. The bill recognizes the desirability of close and regular consultation between the Department of Transportation and other Federal agencies in achieving this balance. The bill requires that the Transportation Secretary is to consult with and consider the views and recommendations of the Secretary of the Interior, the Secretary of Health, Education, and Welfare, and the Secretary of Agriculture with regard to the preservation of environmental quality and, to the extent he deems feasible, their recommendations are required to be incorporated in the national airport system plan.

In addition, in reviewing plans for airport development the Secretary of Transportation is to consult with the other Secretaries about the environmental implications. If, following this consultation, it is found there would be an adverse effect on the environment he is to grant his approval only if he finds, after full examination, that no feasible and prudent alternative exists and that all possible steps have been taken to minimize such adverse effect. The responsibility thus vested in the Secretary of Transportation with respect to airport development is comparable to that contained in section 4(f) of Public Law 89–670, the Department of Transportation Act. The reported bill reflects the concern of the Congress with respect to the attention that must be given to the environment in the conduct of transportation programs.

The committee does not intend that this legislation supersede or in any way diminish the enforcement of any provision of existing law relating to the preservation of our natural resources or relating to the protection of environmental quality.

[p. 11]

NATIONAL AIRPORT SYSTEM PLAN

Section 12 of the reported bill is similar in many respects to existing law. It directs the Secretary to publish within 2 years of the date of enactment of the bill, and thereafter to review and revise as necessary, a national airport system plan setting forth, for at least a 10-year period, the airport development necessary to provide a system of public airports adequate to anticipate and meet the needs of civil aeronautics, to meet requirements in support of the national defense, as determined by the Secretary of Defense, and to meet special needs of the postal service. As mentioned above in the discussion of the definitions in section 11, the airport planning conducted under section 12 would include terminal area requirements as well as projects eligible for grants-in-aid. This is an expansion of the planning functions carried out under existing law. Section 12 directs the Secretary in formulating the plan, to the extent feasible, to consult with the Civil Aeronautics Board, the Post Office Department, the Federal Communications Commission, the Department of Defense, the Secretary of the Interior, the Federal Power Commission, and other Federal agencies as appropriate, and with agencies designated by the States under section 22 of the bill, with comprehensive planning agencies, and with airport operators, air carriers, and others in the aviation industry. The Secretary is expected to consult as directed by this section. The phrase "to the extent feasible" is intended to apply only to the degree of consultation. It is not intended to give the Secretary discretion to avoid consultation.

Under section 12(f) of the reported bill, the Secretary is required to incorporate in the plan, to the extent that he determines it to be feasible, recommendations of the Secretary of the Interior, the Secretary of Health, Education, and Welfare, and the Secretary of Agriculture with regard to the preservation of environmental quality. The Secretary, in preparing and publishing the national airport system plan, is required to follow the national air system guidelines developed by the National Air System Guidelines Commission established in section 12(h). The Commission which would be composed of nine members appointed by the Presi-

dent from private life also would formulate guidelines for land uses surrounding airports, for ground access to airports, and for airways, air service, and aircraft compatible with the national airport system plan.

Members of the Commission would be selected from among representatives of the various segments of the aviation industry and three major organizations concerned with conservation or regional planning. It is not intended that a representative of each named group must be appointed to the Commission. The President is free to select from among those listed. The Commission is required to submit to the President and to the Congress on or before January 1, 1971, a final report containing the guidelines it has formulated. The bill authorizes the appropriation from the airport and airway trust fund of sums not to exceed $2 million, as may be necessary to support the activities of the Commission. The Commission will cease to exist 60 days after filing its final report.

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SUBMISSION AND APPROVAL OF PROJECTS FOR AIRPORT DEVELOPMENT

Section 16 of the reported bill sets forth guidelines and procedures for the submission and approval of projects for airport development. In large part, these procedures are identical to those set forth in existing law. Project applications may not propose airport development now included in the current national airport system plan. Also, all proposed development is to be in accordance with technical standards issued to the Secretary. Before he approves a project, the Secretary must be satisfied that certain project sponsorship requirements have been and will be met, that the project includes provision, as appropriate, for the installation of landing aids specified in section 17(d), and that fair consideration has been given to the interests of communities in or near which the project may be located.

The reported bill includes a requirement that the Secretary consult with the Secretaries of Interior and Health, Education, and Welfare with regard to the effect that projects for airport development might have on natural resources and factors affecting the environment. The Secretary is not to authorize a project found to have an adverse effect in these areas unless he makes a finding in writing (which is required to be a matter of public record), that no possible and prudent alternative exists and that all possible steps have been taken to minimize the adverse effect. The full and

complete review required to be made by the Secretary prior to his written finding does not mean that public hearings are required.

[p. 22]

Another change made to the procedures for the approval of airport development projects was to require that the project sponsor certify to the Secretary that the opportunity for public hearings have been afforded for the purpose of considering the economic, social, and environmental effects of the airport location and its consistency with the goals of such urban planning as has been carried out by the community. Under existing law the Secretary is required, upon the request of any person having substantial interest in the matter, to conduct a public hearing respecting the location of any proposed airport development. Under the provision reported by the committee, the Secretary would be relieved of that requirement. However, while the project sponsor would be responsible for insuring that the opportunity for hearings is afforded, there is no requirement that the sponsor always hold the hearings itself. Whenever hearings are held, the Secretary may require the sponsor to furnish a copy of the transcript. Under the general powers granted to the Secretary by section 28 of the reported bill, he has ample authority to prescribe procedures and regulations to carry out this provision.

One further major change made by the committee respecting the procedure for the selection of sites for airports is contained in section 16(e). This section provides that when the Secretary determines that a metropolitan area comprised of more than one unit of State or local government is in need of an additional airport, he shall notify the governing authorities of the area concerned and request that those authorities agree upon a site for the location of the airport. If, within 3 years of the notification, the governing authorities do not notify the Secretary of the selection of a site, the Secretary shall select a site himself. Unless the Secretary, after notice and opportunity for hearing, modifies the site location, no other site in the particular area shall be eligible for assistance under this legislation for the construction of an additional airport in the area.

This section also provides that in the case of a proposed new airport serving any area, which does not include a metropolitan area, the Secretary shall not approve any airport development project with respect to any proposed airport site not approved by the community or communities in which the airport is proposed to be located.

For the purposes of this section, the term "metropolitan area" is defined as a standard metropolitan statistical area as established by the Bureau of the Budget, subject to such modification as the Secretary may determine to be appropriate.

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SEPARATE VIEWS ON H.R. 14465 REGARDING POLLUTION OF THE AIR BY AIRCRAFT

During committee consideration of H.R. 14465, which would provide for the expansion and improvement of the Nation's airport and airway system, an amendment was offered which would direct the Administrator of the Federal Aviation Administration, after consultation with the Secretary of Transportation, the Secretary of Health, Education, and Welfare, and the National Air Pollution Control Administration, to prescribe standards for pollution of the air by aircraft and to prescribe rules and regulations necessary for control of air pollution by aircraft.

The committee, by one vote, failed to adopt the proposed amendment.

The principal argument advanced by opponents of the amendment was that some States or communities may wish to establish their own pollution standards for aircraft and that such standards may be more strict than standards promulgated by the Administrator of the Federal Aviation Administration.

While some States and communities do experience more problems than others with respect to pollution from aircraft engines, that argument does not take into consideration the fact that control of pollutants emanating from aircraft engines is inextricably related to the safety requirements of the engines and the aircraft on which they are used.

We do not believe that the safety of passengers should be endangered by permitting various States and communities to set pollution standards when these same States and communities do not possess the knowledge or expertise to assess the safety factors which must also be considered.

The final responsibility for control of pollution from aircraft must be vested in the individual who has the final responsibility for authority safety—the Federal Aviation Administrator. With his authority established, appropriate consultation with State agencies would then be established in the formulation of pollution control standards and rules.

The present state of the art of pollution control permits us to move rapidly against this problem at the present time, but we

should move uniformly and safely in our efforts to curb aircraft pollution. As other antipollution techniques develop, the Federal Aviation Administration should have the authority to implement these improvements knowing that safety is a necessary consideration and knowing that the agency possesses the ability to review all aspects of the matter.

JOHN D. DINGELL,
PAUL G. ROGERS,
RICHARD L. OTTINGER,
CLARENCE J. BROWN,
FLETCHER THOMPSON.

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1.7a(2) SENATE COMMITTEE ON COMMERCE

S. REP. No. 91-565, 91st Cong., 1st Sess. (1969)

AIRPORT AND AIRWAYS DEVELOPMENT ACT OF 1969

DECEMBER 5, 1969.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Commerce, submitted the following

REPORT

[To accompany S. 3108]

The Committee on Commerce to which was referred the bill (S. 3108) to provide additional Federal assistance in connection with the construction, alteration, or improvement of the airway system, air carrier and general purpose airports, airport terminals, and related facilities, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

EXPLANATION OF THE AMENDMENT

The committee amendment to S. 3108 strikes all after the enacting clause and provides an entirely new bill.

This procedure was utilized because the committee approved many substantive and technical amendments to S. 3108 before ordering it reported and it was felt that such a substitute would provide a far more readily understandable report. The amendment is explained in its entirety in the section-by-section analysis, the summary, and in the committee recommendations which follow.

SECTION-BY-SECTION ANALYSIS OF THE BILL

Section 1. *Short title.*—This section provides that the legislation may be cited as the "Airport and Airways Development Act of 1969."

Section 2. *Declaration of purpose.*—This section sets forth the finding of Congress that the Nation's airport and airways system is inadequate to meet current and projected growth in aviation; that the civil users of air transportation are capable of making a greater contribution to the expansion and improvement of the system through increased user fees but that revenues obtained from the general taxpayer will continue to be required to pay for the actual use of the system by the U.S. Government and for the value to the national defense and the general public in having a safe, efficient system in being and fully operational in the event of war or national emergency.

ENVIRONMENT PROTECTION

The Committee is concerned that airport development proceed with all due caution and concern for protection of the environment. Factors such as noise, air and water pollution, site selection consonant with the environmental surroundings and preservation of natural beauty should be taken into account.

Section 206(d) (3) of this bill requires that the Secretary shall not approve any project application unless and until he is satisfied that fair consideration has been given to the preservation and enhancement of the environment and to the interest of communities in or near which the project may be located. In addition, the bill requires that legal notice be given, in the Federal Register, of the pendency of any project application in order that all project applications become a matter of public record.

The Committee bill retains the provisions for public hearings provided in the Federal Airport Act of 1946.

The Committee believes that should any project application for airport development assistance be objected to by any party with interest in the matter, the Secretary must have the primary responsibility to see to it that a fair and impartial hearing is afforded to ensure that the rights of all interested parties will be protected.

[p. 36]

NOISE

No master plan of future aviation development would be complete without provisions for the abatement of aircraft noise. Research would be continued on quieter engines, further study would

be made on improved noise abatement takeoff and approach procedures, and research would be continued on developing standards for land use planning.

[p. 53]

Environmental Considerations.—Sections 12(c), 12(f), and 16(c)(4) deal with environmental factors to be considered in the development of the National Airport System Plan and in the approval of each airport development project. The Department recommends a substitute subsection to replace these provisions.

Section 4(f) of the Department of Transportation Act requires the Secretary of Transportation to consult with the Secretaries of Interior, Housing and Urban Development, and Agriculture, and with the states in developing transportation plans and programs that include measures respecting the environment. Under that section, the Secretary may not approve a program or project involving use of certain park lands unless he determines that there is no "feasible and prudent alternative" and that all possible program planning has been done to minimize environmental impact. We believe that section 12(c), respecting consultation with the De-

[p. 57]

partment of Interior regarding environmental factors, and section 12(f), requiring consultation and consideration of the views and recommendations of the Secretaries of Interior, Health, Education, and Welfare, and Agriculture, respecting preservation of environmental quality, largely duplicate the provisions of section 4(f). Section 16(c)(4), however, would go considerably beyond section 4(f) to require project-by-project consultation with the Secretaries of Interior and Health, Education, and Welfare, regardless of the size or environmental importance of the particular undertaking. This poses a serious administrative problem and is likely to involve the Department of Transportation and the other agencies in a time-consuming review of many minor projects.

Therefore, the Department would recommend the following amendments to H.R. 14465:

1. On page 9, lines 11–13, strike out the words "the Department of Interior regarding conservation and natural resource values,".

2. On page 10, beginning with line 14, strike out all through the end of line 24 on that page, and substitute the following:

> "(f) CONSULTATION CONCERNING ENVIRONMENTAL CHANGES.—It is hereby declared to be National Policy that airport development accomplished pursuant to this part shall

provide for the protection and enhancement of the natural resources and the quality of the environment of the Nation. To ensure that this policy is fully implemented in the preparation of the national airport system plan, the Secretary shall consult with and consider the views and recommendations of the Secretary of the Interior, the Secretary of Health, Education, and Welfare, and the Secretary of Agriculture."

3. On page 23, beginning with line 19, strike out all through the end of line 9 on page 24.

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1.7a(3) COMMITTEE OF CONFERENCE

H.R. REP. No. 91-1074, 91st Cong., 2d Sess. (1970)

AIRPORT AND AIRWAY DEVELOPMENT AND REVENUE ACTS OF 1970

MAY 12, 1970.—Ordered to be printed

Mr. STAGGERS, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 14465]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14465) to provide for the expansion and improvement of the Nation's airport and airway system, for the imposition of airport and airway user charges, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

* * * * * * *

[p. 1]

NATIONAL AIRPORT SYSTEM PLAN

* * * * * * *

Consultation concerning environmental changes

Section 12(f) of the House bill required the Secretary of Transportation to consult with the Secretaries of Interior, Health, Edu-

cation, and Welfare, and Agriculture, and, to the extent the Secretary of Transportation determined to be feasible, to incorporate their recommendations with regard to the preservation of environmental quality in the national airport system plan.

Section 201(f) of the Senate amendment contained similar requirements except that consultation with the National Council on Environmental Quality was required in lieu of consultation with the Secretary of Agriculture and the recommendations with regard to the preservation of environmental quality were required to be incorporated in the national airport system plan to the maximum degree feasible.

Section 12(f) of the conference agreement combines the provision of the House bill and the provision of the Senate amendment by requiring consultation with the Secretaries of Interior, Health, Education, and Welfare, and Agriculture, and with the National Council on Environmental Quality. Their recommendations with regard to the preservation of environmental quality are required to be incorporated in the national airport system plan to the extent that the Secretary of Transportation determines to be feasible.

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SUBMISSION AND APPROVAL OF PROJECTS FOR AIRPORT DEVELOPMENT

Section 16 of the House bill and section 206 of the Senate amendment contained a number of similar provisions dealing with the submission to, and approval by, the Secretary of Transportation of projects for airport development. In large part, the conference agreement follows the House version. The major differences between the House bill and the conference agreement are noted below.

Approval

Section 16(c)(3) of the House bill prohibited the Secretary from approving any airport development project unless he was satisfied that fair consideration had been given to the interest of communities in or near which the project would be located.

Section 16(c)(4) of the House bill declared it to be national policy that airport development projects should provide for the protection and enhancement of the natural resources and the quality of environment of the Nation. In implementing this policy, the

Secretary was required to consult with the Secretaries of the Interior and Health, Education, and Welfare with regard to the effect a project might have on natural resources and other factors affecting the environment. The Secretary was prohibited from authorizing any project found to have adverse effect unless he rendered a finding, in writing, after a full and complete review which was required to be a matter of public record, that no feasible and prudent alternative existed and that all possible steps had been taken to minimize such adverse effect.

Section 206(d)(3) of the Senate amendment declared it to be national policy that airport development projects should provide for the protection of the natural resources and the quality of environment of the Nation. In implementing this policy the Secretary was required to consider the effect of each project on factors of environmental significance. The Secretary was prohibited from approving any project unless he was satisfied that adequate consideration had been given to the preservation of the environment

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and to the interest of the communities in or near which the project would be located.

Sections 16(c)(3) and (4) of the conference agreement follow the House version except that the application of the provisions of paragraph (4) relating to consultation concerning the protection and enhancement of natural resources and the quality of environment of the Nation is limited to major projects involving airport location, a major runway extension, or runway location. This will obviate the necessity of applying such provisions to minor projects which, in many cases, may amount to nothing more than maintenance operations having no effect on natural resources or on the quality of the environment.

Air and water quality

Section 206(g) of the Senate amendment contained special provisions relating to air and water quality standards. It prohibited the Secretary from approving any airport project application unless the Governor of the State in which the project would be located certified in writing to the Secretary that there was reasonable assurance that the project would be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. Where such standards had not been approved or had been promulgated by the Secretary of the Interior or by the Secretary of Health, Education, and Welfare, the certifi-

cation was required to be obtained from the appropriate Secretary. Certification was required to be obtained within sixty days after the project application was received by the Secretary of Transportation. The Secretary of Transportation was required to condition his approval of any project on compliance during construction and operation with applicable air and water quality standards.

The House bill contained no corresponding provision.

Section 16(e) of the conference agreement follows the Senate version except that its application is limited to major projects involving airport location, a major runway extension, or runway location. As in the case of the provisions concerning consultation on environmental effects discussed above, this will obviate the necessity of applying these provisions to minor projects which, in many cases, may be nothing more than maintenance operations having no effect on air or water quality.

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1.7a(4) CONGRESSIONAL RECORD

1.7a(4)(a) Vol. 115 (1969), Nov. 6: Considered and passed House, pp. 33307–33308, 33342

AMENDMENT OFFERED BY MR. ROGERS OF FLORIDA

Mr. ROGERS of Florida. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by MR. ROGERS of Florida: Page 45, after line 22, insert the following:

"(e)(1) CONTROL OF POLLUTION BY AIRCRAFT.—Title VI of the Federal Aviation Act of 1958 (49 U.S.C. 1421–1431) is amended by adding at the end thereof the following new section:

" 'CONTROL AND ABATEMENT OF POLLUTION OF AIR BY AIRCRAFT

" 'SEC. 613. (a) In order to afford present and future relief and protection to the public from unnecessary pollution of the air by aircraft, the Administrator of the Federal Aviation Administration, after consultation with the Secretary of Transportation, shall prescribe and amend standards for the measurement of pollution of the air by aircraft and shall prescribe and amend such rules and regulations as he may find necessary to provide for the control and abatement of pollution of the air by aircraft, including the application of such standards, rules, and regulations in the issuance, amendment, modification, suspension, or revocation of any type certificate, production certificate, or airworthiness certificate authorized by this title.

" '(b) In prescribing and amending standards, rules, and regulations under this section, the Administrator shall—

" '(1) consider relevant available data relating to pollution of the air by aircraft, including the results of research, development, testing, and evaluation activities conducted pursuant to this Act, the Department of Transportation Act, and the Clean Air Act;

" '(2) consult with the Secretary of Health, Education, and Welfare, the National Air Pollution Control Administration, and such other Federal, State, and interstate agencies as he deems appropriate;

" '(3) consider whether any proposed standard, rule, or regulation is consistent with the highest degree of safety in air commerce or air transportation in the public interest;

" '(4) consider whether any proposed standard, rule, or regulation is economically reasonable, technologically practicable, and

appropriate for the particular type of aircraft, aircraft engine, appliance, or certificate to which it will apply; and

"'(5) consider the extent to which such standard, rule, or regulation will contribute to carrying out the purposes of this section.'

"(2) TABLE OF CONTENTS.—That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading TITLE VI—SAFETY REGULATIONS OF CIVIL AERONAUTICS' is amended by adding at the end thereof the following:

"'Sec. 613. Control and abatement of pollution of air by aircraft.'"

Mr. ROGERS of Florida (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS of Florida. Mr. Chairman, during committee consideration of H.R. 14465, which would provide for the expansion and improvement of the Nation's airport and airway system, an amendment was offered which would direct the Administrator of the Federal Aviation Administration, after consultation with the Secretary of Transportation, the Secretary of Health, Education, and Welfare, the National Air Pollution Control Administration, and appropriate State agencies, to prescribe standards for pollution of the air by aircraft and to prescribe rules and regulations necessary for control of air pollution by aircraft.

The committee, by one vote, failed to adopt the proposed amendment.

I offer this amendment today because I firmly believe we must embark on a meaningful effort to curb the present pollution emanating from aircraft, and to control, and eventually eliminate, future pollution from aircraft that will be developed.

It is argued that aircraft contribute only about 1 percent of all the man-made pollutants placed into the atmosphere. I do not find this particularly comforting, and I believe it is misleading because this is a percentage by weight of all pollutant emissions.

Although jet engines do not produce sulfur compounds which are the principal cause of urban pollution problems, these engines do produce extensive amounts of suspended particulate matter—unburned carbon particles—as well as aerosols—smoke—oxides of nitrogen, and carbon monoxide.

Moreover, the weight of emissions does not indicate the scope of the problem. Particulate emissions from jet aircraft are extremely small particles of carbon, and these very small particles create serious problems, although their weight is not great.

These small particles create much denser smoke plumes than do large particles; visibility is reduced by the very aircraft that depend so heavily upon good terminal visibility.

But, more importantly, these small particles are of such size that they remain airborne for long periods of time and most easily enter the lungs, thereby causing health problems, particularly emphysema, and other respiratory conditions.

These particulate emissions are concentrated primarily in flight paths and small areas of land at or near airports. Under conditions of heavy airport traffic, with exposures to high concentrations of exhaust, contaminants are likely to occur in aircraft loading areas and in the cabins of aircraft lined up awaiting takeoff. Particular adverse conditions may be seen in the health of ground personnel.

The National Air Pollution Control Administration estimates that 78 million pounds of pollutants from planes are dumped into the air over the United States every year.

An estimated 1,200 pounds of pol-

lutants per day are released in Washington, D.C.; in New York City, the quantity is about 4,000 pounds per day; and in Los Angeles, about 3,000 per day.

These are 1968 figures, and it has been estimated that flight operations at airports equipped with control towers will double in 5 years and triple in 10.

I do not believe we can afford to wait any longer to meet this problem. Particularly when there are presently no laws or regulations which compel the aviation industry to move quickly to improve the conditions which exist, to improve turbine engine combustion design and to retrofit new burner designs.

The present state of the art makes it possible to substantially reduce the smoke emission from jet engines and thereby reduce also the particulate matter which is also emitted.

A low-smoke combustor which can be retrofitted to most existing jet engines and which will be standard equipment on all new engines made by one company as of February 1970, has been certified for safety by the Federal Aviation Administration. I urge the FAA to move swiftly, with safety in mind, to bring these new devices into service. We cannot wait 3, 4, or 5 years.

I emphasize the safety factor which must be considered because control of pollution from aircraft engines is inextricably related to the safety performance of these same engines.

It is because of my concern for the safety of air passengers as well as my concern for the quality of the air we breathe, that I am offering this amendment which would create uniform pollution standards throughout the United States by placing the responsibility for establishing standards, rules and regulations within the Federal Aviation Administration.

While some States and communities do experience more problems than others with respect to pollution from aircraft engines, I do not believe that all States and communities possess the necessary knowledge or expertise to assess the safety factors which must be considered when setting smoke density and antipollution standards.

Moreover, there is provided in the amendment ample opportunity for appropriate consultation with the States. If a State has designated certain air quality standards, or an air quality region established under the Air Quality Act of 1967 has designated air quality standards, these would be considered by the Administrator in setting the emission standards and considering abatement devices.

This amendment is similar to section 611 of the Federal Aviation Act of 1958, as amended, which provides for the control and abatement of aircraft noise and sonic boom.

[p. 33307]

That section of the act was adopted last year in the 90th Congress as Public Law 90–411, and the Federal Aviation Administration is presently working on the establishment of standards for measurement of aircraft noise and sonic boom and the appropriate rules and regulations for control of this problem.

One particular difference between the amendment that I am proposing and section 611 is that the language found in section 611(c) is not present in the amendment. This language pertains to the right of the National Transportation Safety Board to amend, modify, or reverse the order of the Administrator if the Board finds that the public interest does not require affirmation of the Administrator's order.

There is, I believe, ample provision for appropriate review of the Administrator's decision by the Board in section 609 of the act which also per-

mits the Board to consider safety and the public interest.

Time is working against us in our efforts to clean up the air. I urge this body to adopt this amendment to bring us another step closer to our goal.

Mr. STAGGERS. Mr. Chairman, I think the issues are determined. I ask unanimous consent that we vote at 6 o'clock on this amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. FARBSTEIN).

Mr. FARBSTEIN. Mr. Chairman, I favor this legislation as much as I favor any legislation, because with the new wave of air pollution, despite the fact that the gentleman from Florida, who proposed this amendment, opposed my amendment to do away with air pollution by banning the use of internal combustion engines in automobiles, that would prevent the pollution, I support the amendment offered by the gentleman from Florida. By the use of internal combustion engines, we pollute the air more than we do by airplanes. Nevertheless, I will go along with the gentleman in the hopes that in the future he will see the light of preventing, in due time, the use of internal combustion engines in automobiles.

Mr. Chairman, I strongly support the amendment offered by the gentleman from Florida (Mr. ROGERS) to H.R. 14465 to empower the Administrator of the Federal Aviation Agency to prescribe standards for pollution of the air by aircraft and to prescribe rules and regulations necessary for control of air pollution by aircraft.

Air transportation has traditionally been considered interstate in nature and, therefore, subject to Federal regulation. Such regulation, however, has been oriented primarily toward the airborne vehicle itself with little regard to its environmental effects.

We must now recognize that this perspective must be broadened. Aircraft are such a part of our daily life, a part of our environment, and as every day passes, aircraft and their effects, both good and bad, grow closer to us.

We must recognize the responsibility to protect all Americans, who might be affected by the effects of the aircraft, whether or not they are actually using the vehicle.

Aircraft engine combustion can be clean. This is a demonstrated fact and not a research promise. Clean burning engines have already been demonstrated and will be available to replace those now in use.

Today, however, we do not see them. We see, instead, airports with jet liners arriving and departing every 2 minutes. At this frequency of operation we see the smoky combustion products of 2 million gallons of fuel ejected on or near these airports every 24 hours.

We also see aroused and angry cities planning their own regulations to solve this problem. Yet, we know that this problem is not for a city to solve—or for a State to solve. This is our problem.

Shall we stand by and watch a tangled morass of local and State regulations come into being? Shall we wait until the suppliers and users of aircraft equipment financially commit themselves to equipment we may later outlaw? We certainly should not.

We must act now. We must not only provide the needed authority to our regulatory agencies. We must also pass on our intent. We must convey to these agencies that we expect them to apply their broadened powers with effectiveness without delay.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia (Mr. THOMPSON).

Mr. THOMPSON of Georgia. Mr.

Chairman, I rise in support of this amendment.

I should like to state also that the gentleman from Ohio (Mr. BROWN) would like to be recorded as being in favor of this amendment. Unfortunately he had an emergency and had to leave to go back to the State of Ohio.

The amendment was offered in the committee. There was opposition to the amendment because of the feeling that air pollution should be handled under one agency and not a number of agencies. However, with respect to aircraft, I believe it is a different situation. There are technical factors involved. There are safety factors involved.

It is a good amendment and it is a much needed amendment, and I feel it should have the support of the Members of the House.

The CHAIRMAN. For what purpose does the gentleman from New York (Mr. OTTINGER) rise?

Mr. OTTINGER. To take my time, Mr. Chairman.

The CHAIRMAN. The gentleman's name is not on the list.

Mr. OTTINGER. I was standing, Mr. Chairman, at the time the limitation was entered.

I favor the amendment.

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

Mr. ANDERSON of California. Mr. Chairman, I rise in support of Congressman ROGERS' amendment directing the Administrator of the Federal Aviation Administration to provide certain regulations to control aircraft pollution.

Generally, airplane smoke accounts for 1 percent of all air pollution by weight. In the vicinity of our airports and in the corridors where airplanes take off and land, this percentage is much higher. In Los Angeles, it is reported that almost 1 ton of pollutants per day is dumped from airplanes.

We must take action necessary to eliminate the pollutants from our environment. Industry has developed the technology to prevent air pollution for airplanes. We must take advantage of this technology. The Rogers amendment will place responsibility with a Federal regulatory agency for action. This is a progressive step in eliminating the pollutants in the air.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS) to close debate on the amendment.

Mr. STAGGERS. Mr. Chairman, I reluctantly rise to oppose the amendment. It seems as though everyone else is for it.

Of course I am against air pollution. We discussed this in the committee, and we said that this is a safety bill, not a health bill. Pollution is a health matter.

There is another agency, the Department of Health, Education, and Welfare, which has the Clean Air Act. That will come before our committee again very soon. It will take care of this situation.

The Government and the industry are working on this problem with all the devices they have. They have given a directive to hurry up.

As I say, this is now under the jurisdiction of HEW. That is where it ought to stay. If we pass this amendment then we may have two or three different agencies considering the problem.

For those reasons I do oppose the amendment. I share the concern expressed by those who have spoken for the amendment, but I feel that we should in orderly fashion carry on the laws of the Congress, and we ought to keep health matters in the health field, and safety matters in the safety field, and reject the amendment. We can bring this up when we consider the Clean Air Act and deal with it then.

The CHAIRMAN. The question is

on the amendment offered by the gentleman from Florida (Mr. ROGERS).

The question was taken; and on a division (demanded by Mr. ROGERS of Florida) there were—ayes 25, nays 56.

So the amendment was rejected.

[p. 33308]

The SPEAKER. The question is on the passage of the bill.

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

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

The SPEAKER. Evidently a quorum is not present.

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

The question was taken; and there were—yeas 337, nays 6, not voting 88, ***.

* * * * *

So the bill was passed.

[p. 33342]

1.7a(4)(b) Vol. 116 (1970), Feb. 25–26: Considered and passed Senate, amended, pp. 4842; 5069–5072; 5082–5083

Mr. DOMINICK. Mr. President, while I have the floor, I should like to ask a couple of questions of the manager of the bill or the distinguished Senator from Kansas.

Is there anything in this bill—if the manager of the bill does not mind commenting on this—which would reflect the need for environmental quality in the location of airports? I invite the Senator's attention to the bill I introduced earlier, which would have banned all jets from National Airport because of the noise factor and because of the 40 tons of pollution per day that they pour over Washington, D.C.

Unfortunately, we have not had time to have any hearings on that bill. A great number of people would like to be heard in favor of the bill, but obviously this is going to be a very complex and a very difficult bill to get passed.

I should like to know, however, in determining the location of new airports, whether we have built into this measure anything to do with the environmental quality of the county.

Mr. CANNON. I am happy to answer the Senator from Colorado.

This matter is covered in the report of the Committee on Commerce on page 36, under the heading "Environment Protection." I read:

> The Committee is concerned that airport development proceed with all due caution and concern for protection of the environment. Factors such as noise, air and water pollution, site selection consonant with the environmental surroundings and preservation of natural beauty should be taken into account.
>
> Section 206(d) (3) of this bill requires that the Secretary shall not approve any project application unless and until he is satisfied that fair consideration has been given to the preservation and enhancement of the environment and to the interest of communities in or near which the project may be located. In addition, the bill requires that legal notice be given in the Federal Register of the pendency of any project application in order that all project applications become a matter of public record.
>
> The Committee bill retains the provisions for public hearings provided in the Federal Airport Act of 1946.
>
> The Committee believes that should any project application for airport development assistance be objected to by any party with interest in the matter, the Secretary must have the primary responsibility to see to it that a fair and impartial hearing is afforded to ensure that the rights of all interested parties will be protected.

Mr. DOMINICK. I thank the Senator from Nevada.

I have an increasing concern over this. I might add that not only is it applicable to Washington, D.C., but also, as the Senator well knows, we have problems even with the supersonic airplane which is being developed, as to what it is going to do to our environment as a result of the contrails it may leave up there, which do not dissipate because there is no wind.

As I have said, I think the need for doing this is of the utmost importance in our overall battle for environmental quality.

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

Mr. DOMINICK. I yield to the Senator from Illinois.

Mr. PERCY. I should like to stress the importance of the remarks of the distinguished Senator from Colorado.

We have need in the Chicago area for a third airport. Serious consideration is being given to placing it right in Lake Michigan. In fact, the mayor of the city of Chicago has taken a position in favor of this. Despite a month of research, I cannot find whether one bit of technical consideration has been given to what it would do to the lake or what it would do to the environment.

Citizens in the whole Southside of Chicago are protesting the lake location, because it would put planes right over heavy concentrations of residential areas and cause noise pollution.

We do not know what such an airport would do to the ecology of the lake. We do not know what the construction of the airport in the center of the lake or in the offshore area would do.

I am delighted to hear from the Senator from Nevada that according to this bill such airport projects could not go ahead in the future with Federal funds unless full consideration had been given to its effect on the environment.

Mr. CANNON. I thank the Senator for his remarks. I may say that my understanding is, there is to be offered during the course of the hearings on the bill an amendment relating specifically to the environmental problem.

Mr. MAGNUSON. I was going to say that I think the Senator will be satisfied—although there are several different points of view on this—with it. We did not want any unconscionable delays in necessary airport development, however we do want environmental safeguards and I think the Senator will be satisfied with the amendment. First, on major projects, under the new amendment, there have to be hearings before Federal grants are considered. If we had made grants first and then held hearings, of course, all parties would have their feet in concrete. I think that such an amendment like Senator HART will offer is absolutely necessary in the bill.

Mr. DOMINICK. My understanding is that airport development, as defined in section 201, means not only new airports but also new improvements in existing airports. Is that correct?

Mr. CANNON. If a project application is made under provisions of the bill, then the environmental provisions in section 206 would apply either to new or existing airports for which grants were requested.

Mr. DOMINICK. I understand that. Suppose money is appropriated under the Federal Airport Act, do the provisions in the bill apply to that, so that the money being used under the Federal Airport Act will come within the restrictions in the bill?

Mr. CANNON. The Senator is correct. The bill would require that the Secretary should not approve that project, when the application is made, unless and until he is satisfied that fair consideration has been given to the items we have been discussing,

that is, the preservation of the environment. I think that is adequate provision for protection to those people close to airports.

[p. 4842]

Mr. HART. Mr. President, I send to the desk an amendment for myself and Senator SPONG, Senator MAGNUSON, Senator BYRD of Virginia, Senator CRANSTON, Senator DOLE, Senator MOSS, Senator MUSKIE, Senator NELSON, Senator PELL, Senator PERCY, Senator WILLIAMS of New Jersey, and Senator YOUNG of Ohio.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HART. Mr. President, I ask unanimous consent that further reading of the amendment 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 is as follows:

On page 54, line 3, insert the following:

"(6) 'Application for site approval' means a preliminary request by a sponsor for approval of a site selection made prior to any request for aid, as defined in section 201(14)."

On page 54, lines 4, 7, 9, 10, 11, and 12, strike out "(6)", "(7)", "(8)", "(9)", "(10)", "(11)", and "(12)", respectively and insert in lieu thereof "(7)", "(8)", "(9)", "(10)", "(11)", "(12)" and "(13)" respectively.

On page 54, after line 24, insert the following:

"(14) 'Request for aid', as used in section 206(d)(4), means the first submission to the Secretary of a written request for assistance in which the proposed project is outlined in some detail in compliance with standardized procedures."

On page 55, lines 1, 3, 7, 9, and 16, strike out "(13)" "(14)", "(15)", "(16)", and "(17)", respectively, and insert in lieu thereof "(15)", "(16)", "(17)", "(18)", and "(19)", respectively.

On page 58, beginning with line 5 strike out all through line 11, and insert in lieu thereof the following:

"Consultation Concerning Environmental Changes

"(f) In carrying out this section, the Secretary shall consult with and consider the views and recommendations of the Secretary of the Interior, the Secretary of Health, Education, and Welfare, and the National Council on Environmental Quality. The recommendations of the Secretary of the Interior, and Secretary of Health, Education, and Welfare, and the National Council on Environmental Quality with regard to the preservation of environmental quality, shall, to the maximum degree feasible, be incorporated in the national airport system plan."

On page 69, beginning with line 16, strike out all through line 19 on page 70 and insert in lieu thereof the following:

"(3) It is hereby declared to be national policy that airport development projects authorized pursuant to this title shall provide for the protection of the natural resources and the quality of the environment of the Nation. In implementing this policy, the Secretary shall consider the effect that each such project may have on factors of environmental significance, including but not limited to, water and air quality, noise levels, fish and wildlife, natural, scenic and recreational assets, and other factors affecting the environment. The Secretary shall not approve any project, either conditionally or unconditionally, unless he is satisfied that adequate consideration has been given to the preservation of the environment and to the interest of the communities in or near which the project may be located.

"Substantial Extensions to Existing Airports

"(e)(1) No airport development project involving the location of an airport runway or a substantial runway extension may be approved, either conditionally or unconditionally by the Secretary unless the public agency sponsoring the project certifies to the Secretary that prior to submitting its request for aid, as defined in section 201 (14), it has held public hearings for the purpose of considering the social, economic and environmental effects of the project, and has afforded adequate notice of such hearings to all persons with a significant social, economic or environmental interest in the matter. The notice required by this paragraph shall include a concise statement of the proposed project and may be published in a newspaper of general circulation in the communities in or near which the project may be located, and shall be published in the Federal Register. Hearings provided for by this paragraph need not be held if opportunity for such hearings is provided through adequate notice, and no one with a significant social, economic or environmental in-

terest in the matter requests a hearing. In the event that hearings are held, the project sponsor shall submit a copy of the transcript with its request for aid to the Secretary.

"(2) The Secretary shall review each transcript of hearing submitted pursuant to paragraph (1) of this subsection to assure that an adequate opportunity was afforded for the presentation of views by all parties with a significant social, economic or environmental interest. The Secretary shall not approve, either conditionally or unconditionally, any project involving the location of an airport runway or a major runway extension without first consulting with the Governor of the State in which the project may be located, the Secretary of the Interior, the Secretary of Health, Education, and Welfare, and the Council of Environmental Quality with respect to the environmental consequences of the project.

"(3) If opposition to a proposed project is raised in the hearing prescribed by paragraph (1), or by any official consulted pursuant to paragraph (2), on the grounds that the environment would be adversely affected by the project, the Secretary shall not approve the project, either conditionally or unconditionally, unless he finds in writing after a full and complete review of the record of such hearing that (A) no significant adverse environmental effect is likely to result from such project, or (B) there exists no feasible and prudent alternative to such effect and all reasonable steps have been taken to minimize such effect. In any case in which the Secretary determines that the record of the hearing before the sponsor is inadequate to permit him to make the findings required under the preceding sentence, he may conduct a hearing, including adequate notice to interested persons, on the environmental issues raised. Findings of the Secretary under this paragraph, and his reasons therefor, shall be made a matter of public record. If the Secretary disapproves the project pursuant to the provisions of this paragraph the reasons therefor shall also be made a matter of public record.

"New Airports

"(f) The procedures of subsection (e) shall apply with respect to the approval of projects for new airports, except that the public hearings prescribed by paragraph (1) of that subsection shall be held prior to any application for site approval, as defined in section 201(6), and the duties imposed on the Secretary by paragraphs (2) and (3) of that subsection shall be performed prior to approval of any new airport site.

"Air and Water Quality

"(g)(1) The Secretary shall not approve any project application unless the Governor of the State in which the project may be located certified in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved or where such standards have been promulgated by the Secretary of the Interior or the Secretary of Health, Education, and Welfare, certification shall be obtained from the appropriate Secretary. Notice of certification or of refusal to certify shall be provided within 60 days after the project application is received by the Secretary.

"(2) The Secretary shall condition approval of any project application on compliance during construction and operation with applicable air and water quality standards."

On page 70, line 21 strike out "(g)" and insert in lieu thereof "(h)".

[p. 52504]

Mr. HART. Mr. President, it is my hope that this amendment will be adopted. Before getting into the substance of this amendment, let me first explain how I became involved with it. Shortly after the Commerce Committee reported the language of this bill for referral to the Finance Committee—nearly 3 months ago—the junior Senator from Virginia (Mr. SPONG) and I became concerned that the bill did not provide sufficient environmental protection. We expressed this concern in a letter to Chairman MAGNUSON together with hope that the three of us would be able to support an amendment to the bill which would more adequately deal with environmental problems. I am happy to report that language which is acceptable to each of us has been worked out in the amendment offered today. It is an effort to improve the protection against environmental damage occurring by a grant of approval for a new airport or substantial extension of an existing airport.

We have discussed this for many hours, among those on the committee and those who, not on the committee are offering the amendment. All of us who propose it believe it is a prudent

response to a very substantial problem.

Mr. President, although H.R. 14465 includes some provisions for environmental protection, these are not nearly strong enough to satisfy our current needs. In light of the dimensions of our environmental crisis, we cannot settle for anything less than the most effective safeguards. The recent Everglades controversy should serve as a reminder of the serious dangers which may be posed to our environment by ill-considered airport construction. It

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is the desire to avoid future entanglements of this sort that in large part has prompted this amendment.

Some background information on airport development procedures would probably be helpful in explaining how this amendment is designed to function. Under the Federal-aid airport program, the sponsor of a new airport is required to seek FAA approval of his proposed airport site prior to initiating any application for assistance. If he is successful in obtaining such approval, he must then submit a preliminary application known as a request for aid. That document, according to the FAA procedures guide, should designate the approved site for the project, should include a sketch of the airport plan, identifying each land feature that will affect the project, and should list cost estimates for each item of work for which funds are requested.

On the basis of the various requests for aid it receives and the amount of funds available, FAA will make its decision on which requests should be approved. Approval of a request, the FAA procedures guide notes, is equivalent to "a firm reservation of Federal funds conditional only on the sponsor's promptness in proceeding with development of the project."

Project development, as opposed to project construction, takes place for the most part after the approval of the request but prior to submission of the formal project application. During this period of time, the sponsor quite often will acquire his land for the project and will usually finance the sponsor share of project funds and hire an engineer to prepare detailed plans and specifications.

After he submits his project application but prior to approval of it, the sponsor, for most projects, will receive bids for construction contracts, will select his contractor, and will seek FAA concurrence in award of the contract. Although FAA may actually concur, at that time, most sponsors do not actually execute construction contracts until assured of their own contract with the Government, which is concluded at the time of approval of the application.

One cannot but notice, in reviewing this summary of airport development application procedures, how far along the road toward project construction a sponsor may be before his application is approved. It is for this reason that the proposed amendment prescribes that the first determination by the Secretary as to the environmental soundness of a project must be made at the time of approval of the site, in the case of new airport projects, and at the time of the request for aid, in the case of extensions to existing airports.

In order to provide the data which will allow him to make rational determinations, the amendment requires, with respect to all projects involving the location of a new airport, an airport runway, or a substantial runway extension, a hearing to be conducted by the sponsor on the environmental, social, and economic effects of the project. The Secretary is required to examine the hearing record before approving any site or request for aid, and to consult with the Governor of the State in which the project may be located, the Secretaries of Interior and HEW, and the National Council

on Environmental Quality on the possible environmental effects of the project. If any of these officials raises environmental objections, or if any are raised in the hearing conducted by the sponsor, the Secretary may not give his approval unless he first finds in writing that, first, no adverse environmental effect is likely to result from the project; or, second, there is no feasible alternative to any such effect and all reasonable steps are being taken to minimize it.

The amendment raises some questions which I would like to attempt to anticipate. It may be asked, first of all, whether the amendment requires a hearing in the case of every project. The answer is a decided "no." The amendment states that hearings must be held only with respect to projects involving the location of an airport, or airport runway or a substantial runway extension. The language is meant to include only a relatively small percentage of the projects for which applications are submitted. The majority of projects each year, I am told, are for minor improvements to existing airports—the repaving of runways, the addition of airport lighting, minor runway extensions. These are all means to be exempted from the hearing requirement.

Also exempted are projects for which hearings have been held in previous years. The amendment requires only that hearings be held prior to submitting applications for site approval or requests for aid not necessarily immediately prior to such applications. Thus if assistance for a new airport is requested in a given year and the layout plan for that airport is approved, requests the following year for additional runways within the same plan would not need to be preceded by hearings.

A second question which may arise is, "How can the Secretary make his environmental determinations on the basis of anything less than a full detailed project application?" In answer to this, it should be noted that the Secretary must pass not only on the application for site approval or request for aid, but also on the final project application, for possible adverse environmental effects. This is the significance of the requirement relating to "conditional or unconditional" approval. If subsequent to the approval of any request or site selection, therefore, major changes of environmental significance are noted in the project, the Secretary will be required to review his environmental findings before giving final approval to the project application. He will thus have access to the full detailed application before his capacity to withdraw his earlier findings terminates.

The amendment differs with H.R. 14465 in many respects, the most important of which should be summarized at this point. First of all, the amendment requires a stiffer standard to be used by the Secretary in evaluating the environmental effects of projects. S. 3108 requires only that the Secretary must be "satisfied that fair consideration has been given to the preservation and enhancement of the environment" before he approves a project. The amendment requires that he must find that the project is better from an environmental standpoint than any other reasonable alternative. In these times, I believe that the amendment's standard is much preferable if not essential. Both the Everglades crisis of last year and the Nation's general environmental problems strongly support the view that the Secretary of Transportation's satisfaction is not a suitable measuring rod for the effectiveness of environmentally significant decisions.

A second major break from H.R. 14465 arises from the amendment's emphasis on consultation among Federal departments. Whereas the amendment prescribes that the Secretary of Transportation must consult with oth-

er agencies on the environmental effects of projects, H.R. 14465 incorporates no such requirement.

There appear to be strong arguments for requiring some measure of consultation. In the Everglades crisis, we witnessed a tug of war between the Departments of Transportation and the Interior which might have been prevented by consultation early in the game. It is a major purpose of the amendment to insure that in the future, Federal departments will work together in protecting the environment. In addition, it seems plain that in making decisions which may have major environmental consequences, the Secretary of Transportation ought to be required to seek the advice of those who deal more frequently with environmental questions.

Another difference between the amendment and the bill relates to the requirement for public hearings. Although both proposals call for hearings, H.R. 14465 requires them to be held at the Federal level, which the amendment calls upon the sponsor to conduct them. The rationale for local hearings is actually stronger with regard to social and economic questions, where the matters considered are essentially local, than in the case of environmental problems, where a strong Federal interest is at stake. Clearly, social and economic questions such as whether to build an airport or a playground, or whether to pay the price of either, can be better considered before a locally elected body than before an FAA representative whose sole interest may well be the construction of an additional airport.

Since these questions are most appropriately handled locally, and since it seems pointless to require two sets of hearings where one will do, it follows that environmental matters are also most readily considered locally. The Federal interest in the environment can be accommodated, it would seem, through Federal examination of the hearing transcript.

Another difference concerns the enforcement of applicable air and water quality standards. The amendment adds to the bill effective procedures to insure that such standards will be complied with by federally-funded air-

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ports. Since many of our most significant environmental problems involve the pollution of our water and air, all reasonable measures for minimizing such pollution ought to be encouraged. The measures included in the amendment require certification by State governments of airport compliance with existing standards and contractual obligations on the part of project sponsors to continue such compliance after receipt of Federal funds. Adoption of these provisions would provide a welcome addition, I believe, to existing air and water quality legislation.

The final major difference between H.R. 14465 and the amendment is perhaps the most important of all. It concerns the timing of the hearing and of the determination by the Secretary of the environmental suitability of the project. Whereas the bill prescribes hearings to be conducted after submissions of the application, the amendment calls for them to be held prior to site selection approval, in case of new airport projects, and prior to the request for aid in the case of extensions of old ones. The environmental determinations are required by the bill to be made prior to approval of the application; the amendment requires these either at the site approval or request for aid stages.

The need for a change in timing stem basically from the nature of the FAA procedures for project development which were noted earlier. Since under these procedures, so many major steps will have been undertaken with respect to a project by the time

an application for that project is approved, the time of approval does not appear to be a feasible one for a fair determination of environmental questions. Can the Secretary really make an unbiased determination as to whether plot A or plot B is the better airport location, when plot A has already been purchased by the sponsor and when the sponsor has already issued bonds to finance construction on that plot, hired engineers, drafted detailed plans and specifications, solicited and received bids for construction contracts and perhaps even negotiated and signed contract on which he is liable? Moreover, in the event the Secretary is able to conclude that plot B is more suitable, the resulting waste of time and money on the part of the sponsor, as well as the tieup of Federal funds pending this determination, seems difficult to justify if it can be avoided.

The amendment is designed to avoid such consequences by insisting on an environmental determination at the earliest practicable stage of Federal involvement. The determination that is called for is therefore prospective rather than retrospective and, for this reason alone, it is considerably more likely to be correct.

Just how far down the line things can go before a project application is approved is illustrated by the example of the development of the Everglades jet training facility. That facility is now in operation, although fortunately under extensive restrictions.

FAA's file on the project reveals the very difficulties that this amendment is designed to deal with and the very difficulties which the language of S. 3108 leaves completely unremedied. According to the file and supporting information, Dade County submitted its request for aid for the project on December 8, 1967. That request was approved on April 25 of the following year. As is so often the case with project sponsors, Dade County then purchased its land for the facility on June 17, months before submitting its project application on September 9. The next significant event in this sequence occurred on September 19, 1968. On this date, a full 2 months before approval of the project application—the time, it should be remembered, which H.R. 14465 selects as the appropriate time for environmental determinations by the Secretary—a groundbreaking ceremony was held on the construction site. Thus at the time the project application was approved, construction on the site had been underway for some time.

Mr. President, under the terms of H.R. 14465, a similar situation could well arise again. If we are truly committed to avoidance of unnecessary environmental damage, we thus have no choice but to reject those terms.

Three weeks ago today the Senate took an important step in the area of environmental control when it voted to increase the safeguards in S. 3154, the urban mass transportation assistance bill. Today we have an opportunity to extend that effort to the sphere of airport construction. It is to be hoped that similar action can then be taken with respect to other major transportation systems.

It seems clear that in light of the pressing nature of our environmental crisis, what is needed is decisive action on all fronts. The proposed amendment, through its early hearing and environmental determination procedures, its consultation requirements, its air and water quality enforcement procedures, and its stiff standards for general environmental control would close the door to further construction of environmentally deficient airports. We have been too careless too long in permitting such airports to puncture our rapidly deteriorating landscape. It is time we began to stem the tide.

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

Mr. HART. I yield.

Mr. SPONG. Mr. President, it was a privilege to participate with the Senator from Michigan (Mr. HART) early last December in urging the chairman of the Commerce Committee (Mr. MAGNUSON) to consider an amendment to the airport/airways bill which would give additional weight to environmental factors in airport development projects.

Airport development obviously would be given great impetus through the creation of a multimillion-dollar trust fund, and it seemed imperative to me that the Nation's air transportation needs be balanced by an expression of congressional intent to protect natural resources.

I am gratified that Senator MAGNUSON has agreed to our proposal. The amendment contains a declaration of policy and specific procedures intended to assure consideration during airport planning of such factors as air and water pollution; noise levels; fish and wildlife; and natural, scenic, and recreational assets.

It is of particular significance and importance that the public would be afforded an opportunity for a hearing on development projects, and that machinery would be established for a review of environmental questions by the Governor of the State in which the project is to be located; the Secretary of the Interior; the Secretary of Health, Education, and Welfare; and the Council of Environmental Quality.

In view of the problems that were encountered in the development of the commercial jetport near the Everglades National Park—a project which fortunately has been stopped—it is necessary that additional protection be provided on a nationwide basis for community and environmental values involved in airport projects.

The pending amendment would serve that purpose. It is comparable to environmental provisions recently approved by the Senate in the Urban Mass Transportation Act. Adoption of the amendment would demonstrate in a tangible way the Senate's concern over the environmental stress that can be created by large airport development projects.

Mr. MUSKIE. Mr. President, I am pleased to sponsor this amendment with the senior Senator from Michigan. This amendment to the Airport Construction Act—H.R. 14465—will insure that environmental quality considerations will be paramount in the development of our national and airway system.

Senator HART'S amendment is another example of his continuing effort to insure that our environmental needs are met as we deal with the Nation's transportation crisis.

I wish to draw particular attention to subsection (g) of the amendment. This subsection provides that no project authorized by this title shall be approved unless the Governor of the State in which the project may be located certifies that there is reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with air and water quality standards. Although other sections of the amendment authorize the Secretary of Transportation to consider environmental effects before approving any project, subsection (g) requires that public officials with the responsibility to protect the environment have an opportunity to veto any project application.

This procedure is similar to the certification procedures developed in section 16 of the Water Quality Improvement Act of 1969—S. 7—as passed by the Senate. Subsection (g) also carries forward the concepts embodied in section 102(C) of the Environmental Quality Act of 1969. Public officials responsible for the protection of the environment should have the primary responsibility for determining whether major projects and facili-

ties in question will adversely affect the environment.

Our environmental protection problem involves competition in the use of resources—a competition which ex-

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ists today in the Department of Transportation and exists in any department which must develop resources for public use.

The Department of Transportation is not the agency to determine air pollution control requirements for the transportation industry. Neither is it the agency to make the basic determination regarding the effect of major airport projects on air and water quality.

The agency which determines environmental quality effects must have only one goal: the protection of this and future generations against changes in the natural environment which adversely affect the quality of life.

The problems of environmental pollution will not be solved by picking up the rhetoric of antipollution concern and then assigning the control of pollution to those responsible for the support or promotion of pollution activities.

This amendment requires the Secretary of Transportation to take environmental considerations into account before approving any project application. This amendment requires the Secretary of Transportation to consult with the Secretary of Interior, the Secretary of Health, Education, and Welfare, National Council of Environmental Quality, and the Governor of the State in which the project may be located before approving any project application. Nevertheless, it is important that those responsible for environmental protection make the basic determination regarding environmental effects.

I hope that the Senate will approve this important amendment. It requires the kind of environmental conscience which we have not exercised in the past.

Mr. CANNON. Mr. President, the committee was very concerned about the environmental problems associated with the improvement of existing airports or with the location and development of new airports, and we wrote provisions into the bill that we thought were adequate to give protection. However, our staff has worked with the staff of the distinguished Senator from Michigan and the distinguished Senator from Maine and others to try to work out what they believe will be an improvement. We see no objection to the change in language. It does the same thing we were trying to do in the original bill. We will accept the amendment.

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

Mr. HART. I yield.

Mr. MAGNUSON. Just to make a little legislative history.

We all agree, of course, with the thrust of the amendment and the general objectives. But we also want to be as practical as possible about these things.

Although some procedures with hearings are involved in this amendment, I am hopeful that the Secretary will take notice that we are not insisting that there be unconscionable delays in these matters, or that people, for the sake of doing something, hold up decent and reasonable progress in the aviation field.

I am sure the Senator agrees with that?

Mr. HART. I completely agree.

Mr. MAGNUSON. Second, there was some fear that in the existing airports which are necessary to this country, any little improvement, small extension of anything, a new ramp, or some of those things that might be involved, might have to go through a long hearing if someone objected. I think we all agreed that the intent

of the amendment would be that it would have to be major and substantial.

Mr. HART. That is clearly the purpose of the amendment.

Mr. MAGNUSON. So that there would be no question about it. We realize that people can still, regardless of the amendment, come into court if they think they have been injured in some way. They do that every day. That right is not touched at all by the amendment, is that correct?

Mr. HART. It is not our intention to. It is our belief that cannot be touched.

Mr. TALMADGE. What does the word "environmental" mean? Does it include "noisy"?

Mr. HART. It is intended by the authors of the amendment that "environmental" refers to noise, air, water, and other matters of environmental significance. It is not limited merely to esthetics but relates to the practical environmental problems of airports as well.

I should add that it is our belief that by adoption of the amendment we will not handcuff development of airports, the needs of which are so well recognized, but will insure adequate opportunity for a record to be made to establish that environmental damage of a substantial character is not involved in the establishment of a federally funded airport.

Mr. CANNON. Mr. President, I yield back the remainder of my time.

Mr. HART. Mr. President, I yield back the remainder of my time.

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

The amendment was agreed to.

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The PRESIDING OFFICER. The bill is open to further amendment. If there are no further amendments to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to a third reading.

The bill (H.R. 14465) was read the third time.

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The result was announced—yeas 77, nays 0, as follows:

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[p. 5082]

So the bill (H.R. 14465) was passed.

[p. 5083]

1.7a(4)(c) Vol. 116 (1970), May 12: Senate agreed to conference report, p. 15136

[No Relevant Discussion on Pertinent Section]

1.7a(4)(d) Vol. 116 (1970), May 13: House agreed to conference report, pp. 15294; 15295; 15297

Mr. GUDE.

* * * * *

It has been my view that this legislation should provide for a more balanced approach to meeting our total airport needs. Comprehensive planning for airports as provided under the State programs would give a better balance of facilities, one which would

serve general aviation airports as well as the major airports. Such an approach would better accommodate the growing communities and businesses away from the metropolitan centers. Comprehensive planning at the State and local level, which would have been stimulated by the authorization of these funds, would yield more balanced plans, taking into account environmental factors such as congestion, noise and safety to the public. The satellite airport system would be constructively assisted by such a program and I regret the loss of those funds in the Senate.

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Mr. DINGELL. Mr. Speaker, I thank the distinguished chairman of the committee for yielding me this brief period of time.

I support the conference report, as one of the conferees. I regard it as a good accomplishment in the public interest. I hope my colleagues will support it.

Mr. Speaker, I strongly support the conference report on H.R. 14465, the Airport and Airway Development Act of 1970, and urge its adoption.

As the Member of this body who drafted the amendment to H.R. 14465 requiring the Secretary of the Department of Transportation to formulate and recommend to Congress for approval a national transportation policy—said amendment being offered in committee on my behalf by my good friend Mr. Moss of California—and as original author and manager in the House of the National Environmental Policy Act of 1969, I wish to make it very clear that the relevant sections of these two pieces of legislation are to be interpreted together.

That is, the national transportation policy required under H.R. 14465 is to be interpreted in harmony with the policy stated in the National Environmental Policy Act. Provisions were added to H.R. 14465 during consideration in the Committee on Interstate and Foreign Commerce which make it completely clear that activities authorized by the Airport and Airway Development Act shall be conducted in such a fashion as to fully take into consideration the protection of fish and wildlife values, as well as other environmental values.

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

The previous question was ordered.

The SPEAKER. The question is on the conference report.

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

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

The SPEAKER. Evidently a quorum is not present.

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

The question was taken; and there were—yeas 361, nays 3, not voting 65, ***.

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So the conference report was agreed to.

[p. 15297]

1.8 DISASTER ASSISTANCE ACT

42 U.S.C. § 4401 et seq. (1970)

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4484. Relocation assistance.

SUBCHAPTER I.—GENERALLY

§ 4401. Congressional findings and declarations

(a) The Congress hereby finds and declares that—

(1) because loss of life, human suffering, loss of income, and property loss and damage result from major disasters such as hurricanes, tornadoes, storms, floods, high waters, and wind-driven waters, tidal waves, earthquakes, droughts, fires, and other catastrophes; and

(2) because such disasters disrupt the normal functioning of government and the community, and adversely affect individual persons and families with great severity;

special measures, designed to assist the efforts of the affected States in expediting the rendering of aid, assistance, and emergency welfare services; and the reconstruction and rehabilitation of devastated areas, are necessary.

(b) It is the intent of the Congress, by this chapter, to provide an orderly and continuing means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage which result from such disasters by—

(1) revising and broadening the scope of existing major disaster relief programs;

(2) encouraging the development of comprehensive disas-

ter relief plans, programs, and organizations by the States; and

(3) achieving greater coordination and responsiveness of Federal major disaster relief programs.

Pub.L. 91–606, Title I, § 101, Dec. 31, 1970, 84 Stat. 1744.

§ 4402. **Definitions**

As used in this chapter—

(1) "major disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, drought, fire, or other catastrophe in any part of the United States, which, in the determination of the President, is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the efforts and available resources of States, local governments, and relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby, and with respect to which the Governor of any State in which such catastrophe occurs or threatens to occur certifies the need for Federal disaster assistance under this chapter and gives assurance of the expenditure of a reasonable amount of the funds of such State, its local governments, or other agencies for alleviating the damage, loss, hardship or suffering resulting from such catastrophe;

(2) "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands;

(3) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands;

(4) "Governor" means the chief executive of any State;

(5) "local government" means any county, city, village, town, district, or other political subdivision of any State, and includes any rural community or unincorporated town or village for which an application for assistance is made by a State or political subdivision thereof;

(6) "Federal agency" means any department, independent establishment, Government corporation, or other agency of the executive branch of the Federal Government, except the American National Red Cross; and

(7) "Director" means the Director of the Office of Emergency Preparedness.

Pub.L. 91–606, Title I, § 102, Dec. 31, 1970, 84 Stat. 1745.

SUBCHAPTER II.—ADMINISTRATION OF DISASTER ASSISTANCE

§ 4411. Federal coordinating officer; appointment; functions

(a) Immediately upon his designation of a major disaster area, the President shall appoint a Federal coordinating officer to operate under the Office of Emergency Preparedness in such area.

(b) In order to effectuate the purposes of this chapter, the coordinating officer, within the designated area, shall

(1) make an initial appraisal of the types of relief most urgently needed;

(2) establish such field offices as he deems necessary and as are authorized by the Director;

(3) coordinate the administration of relief, including activities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations which agree to operate under his advice or direction, except that nothing contained in this chapter shall limit or in any way affect the responsibilities of the American National Red Cross under chapter 1 of Title 36; and

(4) take such other action, consistent with authority delegated to him by the Director, and consistent with the provisions of this chapter, as he may deem necesary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.

Pub.L. 91–606, Title II, § 201, Dec. 31, 1970, 84 Stat. 1746.

§ 4412. Emergency support teams; detail of personnel of Federal department or agency

The Director is authorized to form emergency support teams of Federal personnel to be deployed in a major disaster area. Such emergency support teams shall assist the Federal coordinating officer in carrying out his responsibilities pursuant to section 4411(b) of this title. Upon request of the Director, the head of any Federal department or agency is authorized to detail to temporary duty with the emergency support teams on either a reimbursable or nonreimbursable basis, as is determined necessary by the discretion of the Director, such personnel within the administrative jurisdiction of the head of the Federal department or agency as the Director may need or believe to be useful for carrying out the functions of the emergency support teams, each such detail to be without loss of seniority, pay, or other employee status.

Pub.L. 91–606, Title II, § 202, Dec. 31, 1970, 84 Stat. 1746.

§ 4413. Cooperation of Federal agencies in rendering emergency assistance—Scope of services

(a) In any major disaster, Federal agencies are hereby authorized, on direction of the President, to provide assistance by—

(1) utilizing or lending, with or without compensation therefor, to States and local governments, their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any Act;

(2) distributing or rendering, through the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations, or otherwise, medicine, food, and other consumable supplies, or emergency assistance;

(3) donating or lending equipment and supplies determined in accordance with applicable laws to be surplus to the needs and responsibilities of the Federal Government to State and local governments for use or distribution by them for the purposes of this chapter; and

(4) performing on public or private lands or waters any emergency work essential for the protection and preservation of life and property, including—

(A) clearing and removing debris and wreckage in accordance with section 4434 of this title;

(B) making repairs to, restoring to service, or replacing public facilities (including street, road, and highway facilities) of State and local governments damaged or destroyed by a major disaster, except that the Federal contributions therefor shall not exceed the net cost of restoring each such facility on the basis of the design of such facility as it existed immediately prior to the disaster in conformity with current codes, specifications, and standards;

(C) providing emergency shelter for individuals and families who, as a result of a major disaster, require such assistance; and

(D) making contributions to State or local governments for the purpose of carrying out the provisions of paragraph (4).

Other Federal assistance not precluded

(b) Emergency work performed under subsection (a) (4) of this section shall not preclude Federal assistance under any other section of this chapter.

Reimbursement

(c) Federal agencies may be reimbursed for expenditures under this chapter from funds appropriated for the purposes of this chapter. Any funds received by Federal agencies as reimbursement for services or supplies furnished under the authority of this section shall be deposited to the credit of the appropriation or appropriations currently available for such services or supplies.

Liability of Federal government

(d) The Federal Government shall not be liable for any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of this section.

Employment of temporary personnel; incurring of obligations

(e) In carrying out the purposes of this chapter, any Federal agency is authorized to accept and utilize the services or facilities of any State or local government, or of any agency, office, or employee thereof, with the consent of such government. Any Federal agency, in performing any activities under this section, is authorized to appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of Title 5 governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III [1] of such title relating to classification and General Schedule pay rates, to employ experts and consultants in accordance with the provisions of section 3109 of such title, and to incur obligations on behalf of the United States by contract or otherwise for the acquisition, rental, or hire of equipment, services, materials, and supplies for shipping, drayage, travel, and communication, and for the supervision and administration of such activities. Such obligations, including obligations arising out of the temporary employment of additional personnel, may be incurred by an agency in such amount as may be made available to it by the President.

Presidential powers; rules and regulations

(f) In the interest of providing maximum mobilization of Federal assistance under this chapter, the President is authorized to coordinate in such manner as he may determine the activities of Federal agencies in providing disaster assistance. The President

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[1] So in original. Probably should be "subchapter III of chapter 53 of such title".

may direct any Federal agency, with or without reimbursement, to utilize its available personnel, equipment, supplies, facilities, and other resources in accordance with the authority, herein contained. The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this chapter, and he may exercise any power or authority conferred on him by any section of this chapter either directly or through such Federal agency as he may designate.

Presidential review of programs

(g) The President, acting through the Office of Emergency Preparedness, shall conduct periodic reviews (at least annually) of the activities of Federal and State departments or agencies providing disaster assistance, in order to assure maximum coordination of such programs, and to evaluate progress being made in the development of Federal, State, and local preparedness to cope with major disasters.

Reports to Congress

(h) The Director of the Office of Emergency Preparedness is authorized and directed to make in cooperation with the heads of other affected Federal and State agencies, a full and complete investigation and study for the purpose of determining what additional or improved plans, procedures, and facilities are necessary to provide immediately effective action to prevent or minimize losses of publicly or privately owned property and personal injuries or deaths which could result from fires (forest and grass), earthquakes, tornadoes, freezes and frosts, tsunami, storm surges and tides, and floods, which are or threaten to become major disasters. Not later than one year after December 31, 1970, and from time to time, the Director of the Office of Emergency Preparedness shall report to Congress the findings of this study and investigation together with his recommendations with respect thereto.

Pub.L. 91–606, Title II, § 203, Dec. 31, 1970, 84 Stat. 1747.

§ 4414. Use of local firms and individuals

In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster assistance activities which may be carried out by contract with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals who reside or do business primarily in the disaster area.

Pub.L. 91–606, Title II, § 204, Dec. 31, 1970, 84 Stat. 1748.

§ 4415. Federal grant-in-aid programs

Any Federal agency charged with the administration of a Federal grant-in-aid program is authorized, if so requested by the applicant State or local authorities, to modify or waive, for the duration of a major disaster proclamation, such administrative procedural conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the disaster.

Pub.L. 91–606, Title II, § 205, Dec. 31, 1970, 84 Stat. 1748.

§ 4416. State disaster plans—Contents

(a) The President is authorized to provide assistance to the States in developing comprehensive plans and practicable programs for preparation against major disasters, and for relief and assistance for individuals, businesses, and local governments following such disasters. Such plans should include long-range recovery and reconstruction, assistance plans for seriously damaged or destroyed public and private facilities.

Grants for development; limits

(b) The President is authorized to make grants of not more than $250,000 to any State, upon application therefor, for not to exceed 50 per centum of the cost of developing such plans and programs.

Designation of State agency

(c) Any State desiring assistance under this section shall designate or create an agency which is specially qualified to plan and administer such a disaster relief program, and shall, through such agency, submit a State plan to the President, which shall—

(1) set forth a comprehensive and detailed State program for preparation against, and relief following, a major disaster, including provisions for emergency and long-term assistance to individuals, businesses, and local governments; and

(2) include provision for the appointment of a State coordinating officer to act in cooperation with the Federal coordinating officer appointed under section 4411 of this title.

Reports to President and Congress

(d) From time to time the Director shall make a report to the President, for submission to the Congress, containing his recommendations for programs for the Federal role in the implementation and funding of comprehensive disaster relief plans, and such other recommendations relating to the Federal role in disaster relief activities as he deems warranted.

Grants for maintenance; limits

(e) The President is authorized to make grants not to exceed 50 per centum of the cost of improving, maintaining, and updating State disaster assistance plans, except that no such grant shall exceed $25,000 per annum to any State.

Pub.L. 91–606, Title II, § 206, Dec. 31, 1970, 84 Stat. 1749.

§ 4417. Use and coordination of relief organizations

(a) In providing relief and assistance following a major disaster, the Director may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, in the distribution of medicine, food, supplies, or other items, and in the restoration, rehabilitation, or reconstruction of community services and essential facilities whenever the Director finds that such utilization is necessary.

(b) The Director is authorized to enter into agreements with the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations under which the disaster relief activities of such organizations may be coordinated by the Federal coordinating officer whenever such organizations are engaged in providing relief during and after a major disaster. Any such agreement shall include provisions conditioning use of the facilities of the Office of Emergency Preparedness and the services of the coordinating officer upon compliance with regulations promulgated by the Director under sections 4418 and 4419 of this title, and such other regulations as the Director may require.

Pub.L. 91–606, Title II, § 207, Dec. 31, 1970, 84 Stat. 1749.

§ 4418. Duplication of benefits

(a) The Director, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as the result of a major disaster, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program.

(b) The Director shall assure that no person, business concern, or other entity receives any Federal assistance for any part of a loss suffered as the result of a major disaster if such person, concern, or entity received compensation from insurance or any other source for that part of such a loss. Partial compensation for a loss or a part of a loss resulting from a major disaster shall not

preclude additional Federal assistance for any part of such a loss not compensated otherwise.

(c) Whenever the Director determines (1) that a person, business concern, or other entity has received assistance under this chapter for a loss and that such person, business concern or other entity received assistance for the same loss from another source, and (2) that the amount received from all sources exceeded the amount of the loss, he shall direct such person, business concern, or other entity to pay to the Treasury an amount, not to exceed the amount of Federal assistance received, sufficient to reimburse the Federal Government for that part of the assistance which he deems excessive.

Pub.L. 91–606, Title II, § 208, Dec 31, 1970, 84 Stat. 1750.

§ 4419. Nondiscrimination in disaster assistance

(a) The Director shall issue, and may alter and amend, such regulations as may be necessary for the guidance of personnel carrying out emergency relief functions at the site of a major disaster. Such regulations shall include provisions for insuring that the distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status prior to a major disaster.

(b) As a condition of participation in the distribution of assistance or supplies under section 4417 of this title, relief organizations shall be required to comply with regulations relating to nondiscrimination promulgated by the Director, and such other regulations applicable to activities within a major disaster area as he deems necessary for the effective coordination of relief efforts.

Pub.L. 91–606, Title II, § 209, Dec. 31, 1970, 84 Stat. 1750.

§ 4420. Disaster warnings

The President is authorized to utilize or to make available to Federal, State, and local agencies the facilities of the civil defense communications system established and maintained pursuant to section 2281(c) of Title 50, Appendix, for the purpose of providing needed warning to governmental authorities and the civilian population in areas endangered by imminent major disasters.

Pub.L. 91–606, Title II, § 210, Dec. 31, 1970, 84 Stat. 1750.

§ 4431. Predisaster assistance

If the President determines that a major disaster is imminent, he is authorized to use Federal departments, agencies, and instrumentalities, and all other resources of the Federal Government to

avert or lessen the effects of such disaster before its actual occurrence.
Pub.L. 91–606, Title II, § 222, Dec. 31, 1970, 84 Stat. 1751.

§ 4432. Emergency communications

The Director is authorized during, or in anticipation of, an emergency to establish temporary communications in any major disaster area in order to carry out the functions of his office, and to make such communications available to State and local government officials and other persons as he deems appropriate.
Pub.L. 91–606, Title II, § 222, Dec. 31, 1970, 84 Stat. 1751.

§ 4433. Emergency transportation

The Director is authorized to provide temporary public transportation service to meet emergency needs in a major disaster area. Such service will provide transportation to governmental offices, supply centers, stores, post offices, schools, major employment centers, and such other places as may be necessary in order to enable the community to resume its normal pattern of life as soon as possible.
Pub.L. 91–606, Title II, § 223, Dec. 31, 1970, 84 Stat. 1751.

§ 4434. Removal of debris; grants to States; indemnity of Federal Government from liability

(a) The President, whenever he determines it to be in the public interest, is authorized—

(1) through the use of Federal departments, agencies, and instrumentalities, to clear debris and wreckage resulting from a major disaster from publicly and privately owned lands and waters.

(2) to make grants to any State or local government for the purpose of removing debris or wreckage resulting from a major disaster from publicly or privately owned lands and waters.

(b) No authority under this section shall be exercised unless the affected State or local government shall first arrange an unconditional authorization for removal of such debris or wreckage from public and private property, and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the Federal Government against any claim arising from such removal.
Pub.L. 91–606, Title II, § 224, Dec. 31, 1970, 84 Stat. 1751.

§ 4435. Fire suppression

The President is authorized to provide assistance, including grants, to any State for the suppression of any fire on publicly or

privately owned forest or grassland which threatens such destruction as would constitute a major disaster.
Pub.L. 91–606, Title II, § 225, Dec. 31, 1970, 84 Stat. 1751.

§ 4436. Temporary housing assistance—Regulations for rent and sale; sites for mobile and prefabricated homes

(a) The Director is authorized to provide temporary housing or other emergency shelter, including, but not limited to, mobile homes or other readily fabricated dwellings for those who, as a result of such major disaster, require temporary housing or other emergency shelter, except that for the first twelve months of occupancy no rentals shall be established for any such accommodations, thereafter rentals shall be established, based upon fair market value of the accommodations being furnished, adjusted to take into consideration the financial ability of the occupant. Notwithstanding any other provision of law, any such emergency housing acquired by purchase may be sold directly to individuals and families who are occupants thereof at prices that are fair and equitable. Any mobile home or readily fabricated dwelling shall be placed on a site complete with utilities provided by State or local government, or by the owner or occupant of the site who was displaced by the major disaster, without charge to the United States. However, the Director may elect to provide other more economical and accessible sites at Federal expense when he determines such action to be in the public interest.

Temporary mortgage or rent payments; reemployment assistance

(b) The President is authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by a major disaster, have received written notice of dispossession or eviction from a residence by reason of foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to the disaster. Such assistance shall be provided for a period of not to exceed one year or for the duration of the period of financial hardship, whichever is the lesser. The President is authorized for the purposes of this subsection and in furtherance of the purposes of section 4459 of this title, to provide reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster.
Pub.L. 91–606, Title II, § 226, Dec. 31, 1970, 84 Stat. 1751.

§ 4451. Small business disaster loans

In the administration of the disaster loan program under sec-

tion 636 (b) (1), (2), and (4) of Title 15, in the case of property loss or damage or injury resulting from a major disaster as determined by the President or a disaster as determined by the Administrator, the Small Business Administration—

(1) to the extent such loss or damage or injury is not compensated for by insurance or otherwise, (A) shall, on the part of any loan in excess of $500, cancel the principal of the loan, except that the total amount so canceled shall not exceed $2,500, except that this clause (A) shall apply only to loans made to cover losses and damage and injury resulting from major disasters as determined by the President, and (B) may defer interest payments or principal payments, or both, in whole or in part, on any loan made under this section during the first three years of the term of the loan except that any such deferred payments shall bear interest at the rate determined under section 4453 of this title.

(2) to the extent such injury, loss, or damage is not compensated for by insurance or otherwise, may grant any loan for repair, rehabilitation, or replacement of property damaged, or destroyed, without regard to whether the required financial assistance is otherwise available from private sources.

(3) may, in the case of the total destruction or substantial property damage of a home or business concern, refinance any mortgage or other liens outstanding against the destroyed or damaged property if such property is to be repaired, rehabilitated, or replaced, except that the amount refinanced shall not exceed the amount of the physical loss sustained. Any such refinancing shall be subject to the provisions of clauses (1) and (2) of this section.

Pub.L. 91-606, Title II, § 231, Dec. 31, 1970, 84 Stat. 1752.

§ 4452. Emergency farm loans

In the administration of the emergency loan program under sections 1961 to 1967 of Title 7, and the rural housing loan program under section 1472 of this title, in the case of loss or damage, resulting from a major disaster as determined by the President, or a natural disaster as determined by the Secretary of Agriculture—

(1) to the extent such loss or damage is not compensated for by insurance or otherwise, (A) shall, on that part of any loan in excess of $500, cancel the principal of the loan, except that the total amount so canceled shall not exceed $2,500, except that this clause (A) shall apply only to loans made to

cover losses and damage resulting from major disasters as determined by the President, and (B) may defer interest payments or principal payments, or both, in whole or in part, on any loan made under this section during the first three years of the term of the loan, except that any such deferred payments shall bear interest at the rate determined under section 4453 of this title.

(2) to the extent such injury, loss, or damage is not compensated for by insurance or otherwise, may grant any loan for repair, rehabilitation, or replacement of property damaged or destroyed, without regard to whether the required financial assistance is otherwise available from private sources.

(3) may, in the case of the total destruction or substantial property damage of homes or farm service buildings and related structures and equipment, refinance any mortgage or other liens outstanding against the destroyed or damaged property if such property is to be repaired, rehabilitated, or replaced, except that the amount refinanced shall not exceed the amount of the physical loss sustained. Any such refinancing shall be subject to the provisions of clauses (1) and (2) of this section.

Pub.L. 91–606, Title II,§ 232, Dec. 31, 1970, 84 Stat. 1753.

§ 4453. Disaster loan interests rates

Any loan made under sections 4451, and 4452 of this title shall not exceed the current cost of repairing or replacing the disaster injury, loss, or damage in conformity with current codes and specifications. Any loan made under sections 4451, 4452, 4455(b) and 4456 of this title shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of ten to twelve years reduced by not to exceed 2 percentum per annum. In no event shall any loan made under this section bear interest at a rate in excess of 6 per centum per annum.

Pub.L. 91–606, Title II, § 234, Dec. 31, 1970, 84 Stat. 1754.

§ 4454. Age of applicant for loans

In the administration of any Federal Disaster loan program under the authority of section 4451, 4452 of this title, or 233 of this Act, the age of any adult loan applicant shall not be considered in determining whether such loan should be made or the amount of such loan.

Pub.L. 91–606, Title II, § 235, Dec. 31, 1970, 84 Stat. 1754.

§ 4455. Rescheduling and refinancing of federal loans

(a) In addition to the loan extension authority provided in section 912 of Title 7, the Secretary of Agriculture is authorized to adjust and readjust the schedules for payment of principal and interests on loans to borrowers under programs administered by the Rural Electrification Administration, and to extend the maturity date of any such loan to a date not beyond forty years from the date of such loan where he determines such action is necessary because of the impairment of the economic feasibility of the system, or the loss, destruction, or damage of the property of such borrowers as a result of a major disaster.

(b) The Secretary of Housing and Urban Development is authorized to refinance any note or other obligation which is held by him in connection with any loan made by the Department of Housing and Urban Development or its predecessor in interest, or which is included within the revolving fund for liquidating programs established by the Independent Offices Appropriation Act of 1955, where he finds such refinancing necessary because of the loss, destruction, or damage (as a result of a major disaster) to property or facilities securing such obligations. The Secretary may authorize a suspension in the payment of principal and interest charges on, and an additional extension in the maturity of, any such loan for a period not to exceed five years if he determines that such action is necessary to avoid severe financial hardship.
Pub.L. 91–606, Title II, § 236, Dec. 31, 1970, 84 Stat. 1754.

§ 4456. Aid to major sources of employment

(a) The Small Business Administration in the case of a nonagricultural enterprise, and the Farmers Home Administration in the case of an agricultural enterprise, are authorized to provide any industrial, commercial, agricultural, or other enterprise, which has constituted a major source of employment in an area suffering a major disaster and which is no longer in substantial operation as a result of such disaster, a loan in such amount as may be necessary to enable such enterprise to resume operations in order to assist in restoring the economic viability of the disaster area. Loans authorized by this section shall be made without regard to limitations on the size of loans which may otherwise be imposed by any other provision of law or regulation promulgated pursuant thereto.

(b) Assistance under this section shall be in addition to any other Federal disaster assistance, except that such other assistance may be adjusted or modified to the extent deemed appropriate by the Director under the authority of section 4418 of this

title. Any loan made under this section shall be subject to the interest requirements of section 4453 of this title, but the President, if he deems it necessary, may defer payments of principal and interest for a period not to exceed three years after the date of the loan. Any such deferred payments shall bear interest at the rate determined under section 4453 of this title.
Pub.L. 91–606, Title II, § 237, Dec. 31, 1970, 84 Stat. 1754.

§ 4457. Food stamp and surplus commodities program—Persons eligible; terms and conditions

(a) Whenever the President determines that, as a result of a major disaster, low-income households are unable to purchase adequate amounts of nutritious food, he is authorized, under such terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964 and to make surplus commodities available pursuant to the provisions of section 4413 of this title.

Duration of assistance; factors considered

(b) The President, through the Secretary of Agriculture, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including consequences of the major disaster on the earning power of the households to which assistance is made available under this section.

Food stamp provisions unaffected

(c) Nothing in this section shall be construed as amending or otherwise changing the provisions of the Food Stamp Act of 1964 except as they relate to the availability of food stamps in a major disaster area.
Pub.L. 91–606, Title II, § 238, Dec. 31, 1970, 84 Stat. 1755.

§ 4458. Legal services

Whenever the Director determines that low-income individuals are unable to secure legal services adequate to meet their needs as a consequence of a major disaster, consistent with the goals of the programs authorized by this chapter, the Director shall assure that such programs are conducted with the advice and assistance of appropriate Federal agencies and State and local bar associations.
Pub.L. 91–606, Title II, § 239, Dec. 31, 1970, 84 Stat. 1755.

§ 4459. Unemployment assistance; limitation of amount and duration to payments under State unemployment compensation; reduction of payments

The President is authorized to provide to any individual unemployed as a result of a major disaster, such assistance as he deems appropriate while such individual is unemployed. Such assistance as the President shall provide shall not exceed to [1] maximum amount and the maximum duration of payment under the unemployment compensation program of the State in which the disaster occurred, and the amount of assistance under this section to any such individual shall be reduced by any amount of unemployment compensation or of private income protection insurance compensation available to such individual for such period of unemployment.
Pub.L. 91–606, Title II, § 240, Dec. 31, 1970, 84 Stat. 1755.

§ 4460. Community disaster grants to local governments; limits; computation of loss

The President is authorized to make grants to any local government which, as the result of a major disaster, has suffered a substantial loss of property tax revenue (both real and personal). Grants made under this section may be made for the tax year in which the disaster occurred and for each of the following two tax years. The grant for any tax year shall not exceed the difference between the annual average of all property tax revenues received by the local government during the three-tax-year period immediately preceding the tax year in which the major disaster occurred and the actual property tax revenue received by the local government for the tax year in which the disaster occurred and for each of the two tax years following the major disaster but only if there has been no reduction in the tax rates and the tax assessment valuation factors of the local government. If there has been a reduction in the tax rates or the tax assessment valuation factors then, for the purpose of determining the amount of a grant under this section for the year or years when such reduction is in effect, the President shall use the tax rates and tax assessment valuation factors of the local government in effect at the time of the disaster without reduction, in order to determine the property tax revenues which would have been received by the local government but for such reduction.
Pub.L. 91–606, Title II, § 241, Dec. 31, 1970, 84 Stat. 1756.

§ 4461. Timber sale contracts—Cost-sharing arrangement

(a) Where an existing timber sale contract between the Secre-

[1] So in original.

tary of Agriculture or the Secretary of the Interior and a timber purchaser does not provide relief from major physical change not due to negligence of the purchaser prior to approval of construction of any section of specified road or of any other specified development facility and, as a result of a major disaster, a major physical change results in additional construction work in connection with such road or facility by such purchaser with an estimated cost, as determined by the appropriate Secretary, (1) of more than $1,000 for sales under one million board feet, (2) of more than $1 per thousand board feet for sales of one of three million board feet, or (3) of more than $3,000 for sales over three million board feet, such increased construction cost shall be borne by the United States.

Cancellation of authority

(b) If the Secretary determines that damages are so great that restoration, reconstruction, or construction is not practical under the cost-sharing arrangement authorized by subsection (a) of this section, the Secretary may allow cancellation of the contract notwithstanding contrary provisions therein.

Public notice of sale

(c) The Secretary of Agriculture is authorized to reduce to seven days the minimum period of advanced public notice required by section 476 of Title 16, in connection with the sale of timber from national forests, whenever the Secretary determines that (1) the sale of such timber will assist in the construction of any area of a State damaged by a major disaster, (2) the sale of such timber will assist in sustaining the economy of such area, or (3) the sale of such timber is necessary to salvage the value of timber damaged in such major disaster or to protect undamaged timber.

State grants for removal of damaged timber; reimbursement of expenses limited to salvage value of removed timber

(d) The President, when he determines it to be in the public interest, and acting through the Director of Emergency Preparedness, is authorized to make grants to any State or local government for the purpose of removing from privately owned lands timber damaged as a result of a major disaster, and such State or local government is authorized upon application, to make payments out of such grants to any person for reimbursement of expenses actually incurred by such person in the removal of damaged timber, not to exceed the amount that such expenses exceed the salvage value of such timber.

Pub.L. 91–606, Title II, § 242, Dec. 31, 1970, 84 Stat. 1756.

§ 4462. Standards for residential structure restoration

No loan or grant made by any relief organization operating under the supervision of the Director, for the repair, restoration, reconstruction, or replacement of any residential structure located in a major disaster area shall be made unless such structure will be repaired, restored, reconstructed, or replaced in accordance with applicable standards of safety, decency, and sanitation and in conformity with applicable building codes and specifications.
Pub.L. 91–606, Title II, § 243, Dec. 31, 1970, 84 Stat. 1757.

§ 4481. Repair and restoration of damaged United States facilities; availability of funds

The President may authorize any Federal agency to repair, reconstruct, restore, or replace any facility owned by the United States and under the jurisdiction of such agency which is damaged or destroyed by any major disaster if he determines that such repair, reconstruction, restoration, or replacement is of such importance and urgency that it cannot reasonably be deferred pending the enactment of specific authorizing legislation or the making of an appropriation for such purposes. In order to carry out the provisions of this section, such repair, reconstruction, restoration, or replacement may be begun notwithstanding a lack or an insufficiency of funds appropriated for such purpose, where such lack or insufficiency can be remedied by the transfer, in accordance with law, of funds appropriated to that agency for another purpose.
Pub.L. 91–606, Title II, § 251, Dec. 31, 1970, 84 Stat. 1757.

§ 4482. Restoration of State and local public facilites—Eligible costs

(a) The President is authorized to make contributions to State or local governments to repair, restore, reconstruct, or replace public facilities belonging to such State or local governments which were damaged or destroyed by a major disaster, except that the Federal contribution therefor shall not exceed 100 per centum of the net cost of repairing, restoring, reconstructing, or replacing any such facility on the basis of the design of such facility as it existed immediately prior to such disaster and in conformity with applicable codes, specifications, and standards.

Public facilities under completion at the time of disaster

(b) In the case of any such public facilities which were in the process of construction when damaged or destroyed by a major disaster, the Federal contribution shall not exceed 50 per centum of the net costs of restoring such facilities substantially to their

prior to such disaster condition and of completing construction not performed prior to the major disaster to the extent the increase of such cost over the original construction cost is attributable to changed conditions resulting from a major disaster.

Definition

(c) For the purposes of this section "public facility" includes any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility, any non-Federal-aid street, road, or highway, and any other public building, structure or system, other than one used exclusively for recreation purposes.
Pub.L. 91–606, Title II, § 252, Dec. 31, 1970, 84 Stat. 1757.

§ 4483. **Priority to applications for public facility and public housing assistance in major disaster areas**

In the processing of applications for assistance, priority and immediate consideration may be given, during such period, not to exceed six months, as the President shall prescribe by proclamation, to applications from public bodies situated in major disaster areas, under the following Acts:

(1) title II of the Housing Amendments of 1955, or any other Act providing assistance for repair, construction, or extension of public facilities;

(2) the United States Housing Act of 1937 for the provision of low-rent housing;

(3) section 462 of Title 40 for assistance in public works planning;

(4) section 3102 of this title providing for grants for public facilities; or

(5) section 1926 of Title 7.

Pub.L. 91–606, Title II, § 253, Dec. 31, 1970, 84 Stat. 1758.

§ 4484. **Relocation assistance**

Notwithstanding any other provision of law, no person otherwise eligible for any kind of relocation assistance payment authorized under section 1465 of this title shall be denied such eligibility as result of his being unable, because of a major disaster as determined by the President, to reoccupy property from which he was displaced by such disaster.
Pub.L. 91–606, Title II, § 254, Dec. 31, 1970, 84 Stat. 1758.

1.8a THE ADMINISTRATION OF DISASTER ASSISTANCE

December 31, 1970, P.L. 91-606, Title II, 84 Stat. 1746

TITLE II—THE ADMINISTRATION OF DISASTER ASSISTANCE

FEDERAL COORDINATING OFFICER

Sec. 201. (a) Immediately upon his designation of a major disaster area, the President shall appoint a Federal coordinating officer to operate under the Office of Emergency Preparedness in such area.

(b) In order to effectuate the purposes of this Act, the coordinating officer, within the designated area, shall

(1) make an initial appraisal of the types of relief most urgently needed;

(2) establish such field offices as he deems necessary and as are authorized by the Director;

(3) coordinate the administration of relief, including activities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations which agree to operate under his advice or direction, except that nothing contained in this Act shall limit or in any way affect the responsibilities of the American National Red Cross under the Act of January 5, 1905, as amended (33 Stat. 599); and

(4) take such other action, consistent with authority delegated to him by the Director, and consistent with the provisions of this Act, as he may deem necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.

EMERGENCY SUPPORT TEAMS

Sec. 202. The Director is authorized to form emergency support teams of Federal personnel to be deployed in a major disaster area. Such emergency support teams shall assist the Federal coordinating officer in carrying out his responsibilities pursuant to section 201 (b) of this Act. Upon request of the Director, the head of any Federal department or agency is authorized to detail to temporary duty with the emergency support teams on either a reimbursable or nonreimbursable basis, as is determined necessary by the discretion of the Director, such personnel within the administrative jurisdiction of the head of the Federal department or agency as the Director may need or believe to be useful for carry-

ing out the functions of the emergency support teams, each such detail to be without loss of seniority, pay, or other employee status.

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COOPERATION OF FEDERAL AGENCIES IN RENDERING *EMERGENCY ASSISTANCE*

Sec. 203. (a) In any major disaster, Federal agencies are hereby authorized, on direction of the President, to provide assistance by—

(1) utilizing or lending, with or without compensation therefor, to States and local governments, their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any Act;

(2) distributing or rendering, through the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations, or otherwise, medicine, food, and other consumable supplies, or emergency assistance;

(3) donating or lending equipment and supplies determined in accordance with applicable laws to be surplus to the needs and responsibilities of the Federal Government to State and local governments for use or distribution by them for the purposes of this Act; and

(4) performing on public or private lands or waters any emergency work essential for the protection and preservation of life and property, including—

(A) clearing and removing debris and wreckage in accordance with section 224;

(B) making repairs to, restoring to service, or replacing public facilities (including street, road, and highway facilities) of State and local governments damaged or destroyed by a major disaster, except that the Federal contributions therefor shall not exceed the net cost of restoring each such facility on the basis of the design of such facility as it existed immediately prior to the disaster in conformity with current codes, specifications, and standards;

(C) providing emergency shelter for individuals and families who, as a result of a major disaster, require such assistance; and

(D) making contributions to State or local govern-

ments for the purpose of carrying out the provisions of paragraph (4).

(b) Emergency work performed under subsection (a) (4) of this section shall not preclude Federal assistance under any other section of this Act.

(c) Federal agencies may be reimbursed for expenditures under this Act from funds appropriated for the purposes of this Act. Any funds received by Federal agencies as reimbursement for services or supplies furnished under the authority of this section shall be deposited to the credit of the appropriation or appropriations currently available for such services or supplies.

(d) The Federal Government shall not be liable for any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of this section.

(e) In carrying out the purposes of this Act, any Federal agency is authorized to accept and utilize the services or facilities of any State or local government, or of any agency, office, or employee thereof, with the consent of such government. Any Federal agency, in performing any activities under this section, is authorized to appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of such title relating to classification and General Schedule pay rates, to employ experts and consultants in accordance with the provisions of section 3109 of such title, and to incur obligations on behalf of the United States by contract or otherwise for the acquisition, rental, or hire of equipment, services, materials, and supplies for shipping, drayage, travel, and communication, and for the supervision and administration of such activities. Such obligations, including obligations arising out of the temporary employment of additional personnel, may be incurred by an agency in such amount as may be made available to it by the President.

(f) In the interest of providing maximum mobilization of Federal assistance under this Act, the President is authorized to coordinate in such manner as he may determine the activities of Federal agencies in providing disaster assistance. The President may direct any Federal agency, with or without reimbursement, to utilize its available personnel, equipment, supplies, facilities, and

other resources in accordance with the authority herein contained. The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this Act, and he may exercise any power or authority conferred on him by any section of this Act either directly or through such Federal agency as he may designate.

(g) The President, acting through the Office of Emergency Preparedness, shall conduct periodic reviews (at least annually) of the activities of Federal and State departments or agencies providing disaster assistance, in order to assure maximum coordination of such programs, and to evaluate progress being made in the development of Federal, State, and local preparedness to cope with major disasters.

(h) The Director of the Office of Emergency Preparedness is authorized and directed to make in cooperation with the heads of other affected Federal and State agencies, a full and complete investigation and study for the purpose of determining what additional or improved plans, procedures, and facilities are necessary to provide immediate effective action to prevent or minimize losses of publicly or privately owned property and personal injuries or deaths which could result from fires (forest and grass), earthquakes, tornadoes, freezes and frosts, tsunami, storm surges and tides, and floods, which are or threaten to become major disasters. Not later than one year after the date of enactment of this subsection, and from time to time, the Director of the Office of Emergency Preparedness shall report to Congress the findings of this study and investigation together with his recommendations with respect thereto.

USE OF LOCAL FIRMS AND INDIVIDUALS

Sec. 204. In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster assistance activities which may be carried out by contract with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals who reside or do business primarily in the disaster area.

FEDERAL GRANT-IN-AID PROGRAMS

Sec. 205. Any Federal agency charged with the administration of a Federal grant-in-aid program is authorized, if so requested by the applicant State or local authorities, to modify or waive, for the

duration of a major disaster proclamation, such administrative procedural conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the disaster.

STATE DISASTER PLANS

Sec. 206. (a) The President is authorized to provide assistance to the States in developing comprehensive plans and practicable programs for preparation against major disasters, and for relief and assistance for individuals, businesses, and local governments following such disasters. Such plans should include long-range recovery and reconstruction assistance plans for seriously damaged or destroyed public and private facilities.

(b) The President is authorized to make grants of not more than $250,000 to any State, upon application therefor, for not to exceed 50 per centum of the cost of developing such plans and programs.

(c) Any State desiring assistance under this section shall designate or create an agency which is specially qualified to plan and administer such a disaster relief program, and shall, through such agency, submit a State plan to the President, which shall—

(1) set forth a comprehensive and detailed State program for preparation against, and relief following, a major disaster, including provisions for emergency and long-term assistance to individuals, businesses, and local governments; and

(2) include provision for the appointment of a State coordinating officer to act in cooperation with the Federal coordinating officer appointed under section 201 of this Act.

(d) From time to time the Director shall make a report to the President, for submission to the Congress, containing his recommendations for programs for the Federal role in the implementation and funding of comprehensive disaster relief plans, and such other recommendations relating to the Federal role in disaster relief activities as he deems warranted.

(e) The President is authorized to make grants not to exceed 50 per centum of the cost of improving, maintaining, and updating State disaster assistance plans, except that no such grant shall exceed $25,000 per annum to any State.

USE AND COORDINATION OF RELIEF ORGANIZATIONS

Sec. 207. (a) In providing relief and assistance following a major disaster, the Director may utilize, with their consent, the personnel and facilities of the American National Red Cross, the

Salvation Army, the Menonnite Disaster Service, and other relief or disaster assistance organizations, in the distribution of medicine, food, supplies, or other items, and in the restoration, rehabilitation, or reconstruction of community services and essential facilities whenever the Director finds that such utilization is necessary.

(b) The Director is authorized to enter into agreements with the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations under which the disaster relief activities of such organizations may be coordinated by the Federal coordinating officer whenever such organizations are engaged in providing relief during and after a major disaster. Any such agreement shall include provisions conditioning use of the facilities of the Office of Emergency Preparedness and the services of the coordinating officer upon compliance with regulations promulgated by the Director under sections 208 and 209 of this Act, and such other regulations as the Director may require.

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DUPLICATION OF BENEFITS

Sec. 208. (a) The Director, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as the result of a major disaster, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program.

(b) The Director shall assure that no person, business concern, or other entity receives any Federal assistance for any part of a loss suffered as the result of a major disaster if such person, concern, or entity received compensation from insurance or any other source for that part of such a loss. Partial compensation for a loss or a part of a loss resulting from a major disaster shall not preclude additional Federal assistance for any part of such a loss not compensated otherwise.

(c) Whenever the Director determines (1) that a person, business concern, or other entity has received assistance under this Act for a loss and that such person, business concern or other entity received assistance for the same loss from another source, and (2) that the amount received from all sources exceeded the amount of the loss, he shall direct such person, business concern,

or other entity to pay to the Treasury an amount, not to exceed the amount of Federal assistance received, sufficient to reimburse the Federal Government for that part of the assistance which he deems excessive.

NONDISCRIMINATION IN DISASTER ASSISTANCE

Sec. 209. (a) The Director shall issue, and may alter and amend, such regulations as may be necessary for the guidance of personnel carrying out emergency relief functions at the site of a major disaster. Such regulations shall include provisions for insuring that the distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status prior to a major disaster.

(b) As a condition of participation in the distribution of assistance or supplies under section 207, relief organizations shall be required to comply with regulations relating to nondiscrimination promulgated by the Director, and such other regulations applicable to activities within a major disaster area as he deems necessary for the effective coordination of relief efforts.

DISASTER WARNINGS

Sec. 210. The President is authorized to utilize or to make available to Federal, State, and local agencies the facilities of the civil defense communications system established and maintained pursuant to section 201(c) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C.App.2281(c)), for the purpose of providing needed warning to governmental authorities and the civilian population in areas endangered by imminent major disasters.

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PREDISASTER ASSISTANCE

Sec. 221. If the President determines that a major disaster is imminent, he is authorized to use Federal departments, agencies, and instrumentalities, and all other resources of the Federal Government to avert or lessen the effects of such disaster before its actual occurrence.

EMERGENCY COMMUNICATIONS

Sec. 222. The Director is authorized during, or in anticipation of, an emergency to establish temporary communications in any

major disaster area in order to cary out the functions of his office, and to make such communications available to State and local government officials and other persons as he deems appropriate.

EMERGENCY PUBLIC TRANSPORTATION

Sec. 223. The Director is authorized to provide temporary public transportation service to meet emergency needs in a major disaster area. Such service will provide transportation to governmental offices, supply centers, stores, post offices, schools, major employment centers, and such other places as may be necessary in order to enable the community to resume its normal pattern of life as soon as possible.

DEBRIS REMOVAL

Sec. 224. (a) The President, whenever he determines it to be in the public interest, is authorized—

(1) through the use of Federal departments, agencies, and instrumentalities, to clear debris and wreckage resulting from a major disaster from publicly and privately owned lands and waters.

(2) to make grants to any State or local government for the purpose of removing debris or wreckage resulting from a major disaster from publicly or privately owned lands and waters.

(b) No authority under this section shall be exercised unless the affected State or local government shall first arrange an unconditional authorization for removal of such debris or wreckage from public and private property, and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the Federal Government against any claim arising from such removal.

FIRE SUPPRESSION GRANTS

Sec. 225. The President is authorized to provide assistance, including grants, to any State for the suppression of any fire on publicly or privately owned forest or grassland which threatens such destruction as would constitute a major disaster.

TEMPORARY HOUSING ASSISTANCE

Sec. 226. (a) The Director is authorized to provide temporary housing or other emergency shelter, including, but not limited to,

mobile homes or other readily fabricated dwellings for those who, as a result of such major disaster, require temporary housing or other emergency shelter, except that for the first twelve months of occupancy no rentals shall be established for any such accommodations, thereafter rentals shall be established, based upon fair market value of the accommodations being furnished, adjusted to take into consideration the financial ability of the occupant. Notwithstanding any other provision of law, any such emergency housing acquired by purchase may be sold directly to individuals and families who are occupants thereof at prices that are fair and equitable. Any mobile home or readily fabricated dwelling shall be placed on a site complete with utilities provided by State or local

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government, or by the owner or occupant of the site who was displaced by the major disaster, without charge to the United States. However, the Director may elect to provide other more economical and accessible sites at Federal expense when he determines such action to be in the public interest.

(b) The President is authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by a major disaster, have received written notice of dispossession or eviction from a residence by reason of foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to the disaster. Such assistance shall be provided for a period of not to exceed one year or for the duration of the period of financial hardship, whichever is the lesser. The President is authorized for the purposes of this subsection and in furtherance of the purposes of section 240 of this Act, to provide reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster.

SMALL BUSINESS DISASTER LOANS

Sec. 231. In the administration of the disaster loan program under section 7(b) (1), (2), and (4) of the Small Business Act, as amended (15 U.S.C. 636(b)), in the case of property loss or damage or injury resulting from a major disaster as determined by the President or a disaster as determined by the Administrator, the Small Business Administration—

(1) to the extent such loss or damage or injury is not compensated for by insurance or otherwise, (A) shall, on that

part of any loan in excess of $500, cancel the principal of the loan, except that the total amount so canceled shall not exceed $2,500, except that this clause (A) shall apply only to loans made to cover losses and damage and injury resulting from major disasters as determined by the President, and (B) may defer interest payments or principal payments, or both, in whole or in part, on any loan made under this section during the first three years of the term of the loan except that any such deferred payments shall bear interest at the rate determined under section 234 of this Act.

(2) to the extent such injury, loss, or damage is not compensated for by insurance or otherwise, may grant any loan for repair, rehabilitation, or replacement of property damaged, or destroyed, without regard to whether the required financial assistance is otherwise available from private sources.

(3) may, in the case of the total destruction or substantial property damage of a home or business concern, refinance any mortgage or other liens outstanding against the destroyed or damaged property if such property is to be repaired, rehabilitated, or replaced, except that the amount refinanced shall not exceed the amount of the physical loss sustained. Any such refinancing shall be subject to the provisions of clauses (1) and (2) of this section.

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FARMERS HOME ADMINISTRATION EMERGENCY LOANS

Sec. 232. In the administration of the emergency loan program under subtitle C of the Consolidated Farmers Home Administration Act of 1961, as amended (7 U.S.C. 1961–1967), and the rural housing loan program under section 502 of title V of the Housing Act of 1949, as amended (42 U.S.C. 1472), in the case of loss or damage, resulting from a major disaster as determined by the President or a natural disaster as determined by the Secretary of Agriculture—

(1) to the extent such loss or damage is not compensated for by insurance or otherwise, (A) shall, on that part of any loan in excess of $500, cancel the principal of the loan, except that the total amount so canceled shall not exceed $2,500, except that this clause (A) shall apply only to loans made to cover losses and damage resulting from major disasters as determined by the President, and (B) may defer interest

payments or principal payments, or both, in whole or in part, on any loan made under this section during the first three years of the term of the loan, except that any such deferred payments shall bear interest at the rate determined under section 234 of this Act.

(2) to the extent such injury, loss, or damage is not compensated for by insurance or otherwise, may grant any loan for repair, rehabilitation, or replacement of property damaged or destroyed, without regard to whether the required financial assistance is otherwise available from private sources.

(3) may, in the case of the total destruction or substantial property damage of homes or farm service buildings and related structures and equipment, refinance any mortgage or other liens outstanding against the destroyed or damaged property if such property is to be repaired, rehabilitated, or replaced, except that the amount refinanced shall not exceed the amount of the physical loss sustained. Any such refinancing shall be subject to the provisions of clauses (1) and (2) of this section.

LOANS HELD BY THE VETERANS' ADMINISTRATION

Sec. 233. (1) Section 1820(a) (2) of title 38, United States Code,[73] is amended to read as follows:

"(2) subject to specific limitations in this chapter, consent to the modification, with respect to rate of interest, time of payment of principal or interest or any portion thereof, security or other provisions of any note, contract, mortgage or other instrument securing a loan which has been guaranteed, insured, made or acquired under this chapter;"

(2) Section 1820(f) of title 38, United States Code, is amended to read as follows:

"(f) Whenever loss, destruction, or damage to any residential property securing loans guaranteed, insured, made, or acquired by the Administrator under this chapter occurs as the result of a major disaster as determined by the President under the Disaster Assistance Act of 1970, the Administrator shall (1) provide counseling and such other service to the owner of such property as may be feasible and shall inform such owner concerning the disaster assistance available from other Federal agencies and from State or local agencies, and (2) pursuant to subsection (a) (2) of this section, extend on an individual case basis such forbearance or

indulgence to such owner as the Administrator determines to be warranted by the facts of the case and the circumstances of such owner."

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DISASTER LOAN INTEREST RATES

Sec. 234. Any loan made under sections 231, and 232 of this Act shall not exceed the current cost of repairing or replacing the disaster injury, loss, or damage in conformity with current codes and specifications. Any loan made under sections 231, 232, 236(b) and 237 of this Act shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of ten to twelve years reduced by not to exceed 2 percentum per annum. In no event shall any loan made under this section bear interest at a rate in excess of 6 per centum per annum.

AGE OF APPLICANT FOR LOANS

Sec. 235. In the administration of any Federal disaster loan program under the authority of section 231, 232, or 233 of this Act, the age of any adult loan applicant shall not be considered in determining whether such loan should be made or the amount of such loan.

FEDERAL LOAN ADJUSTMENTS

Sec. 236. (a) In addition to the loan extension authority provided in section 12 of the Rural Electrification Act, the Secretary of Agriculture is authorized to adjust and readjust the schedules for payment of principal and interest on loans to borrowers under programs administered by the Rural Electrification Administration, and to extend the maturity date of any such loan to a date not beyond forty years from the date of such loan where he determines such action is necessary because of the impairment of the economic feasibility of the system, or the loss, destruction, or damage of the property of such borrowers as a result of a major disaster.

(b) The Secretary of Housing and Urban Development is authorized to refinance any note or other obligation which is held by him in connection with any loan made by the Department of Housing and Urban Development or its predecessor in interest, or which is included within the revolving fund for liquidating pro-

grams established by the Independent Offices Appropriation Act of 1955, where he finds such refinancing necessary because of the loss, destruction, or damage (as a result of a major disaster) to property or facilities securing such obligations. The Secretary may authorize a suspension in the payment of principal and interest charges on, and an additional extension in the maturity of, any such loan for a period not to exceed five years if he determines that such action is necessary to avoid severe financial hardship.

AID TO MAJOR SOURCES OF EMPLOYMENT

Sec. 237. (a) The Small Business Administration in the case of a nonagricultural enterprise, and the Farmers Home Administration in the case of an agricultural enterprise, are authorized to provide any industrial, commercial, agricultural, or other enterprise, which has constituted a major source of employment in an area suffering a major disaster and which is no longer in substantial operation as a result of such disaster, a loan in such amount as may be necessary to enable such enterprise to resume operations in order to assist in restoring the economic viability of the disaster area. Loans authorized by this section shall be made without regard to limitations on the size of loans which may otherwise be imposed by any other provision of law or regulation promulgated pursuant thereto.

(b) Assistance under this section shall be in addition to any other Federal disaster assistance, except that such other assistance may be adjusted or modified to the extent deemed appropriate by the Director under the authority of section 208 of this Act. Any loan made under this section shall be subject to the interest requirements of section 234 of this Act, but the President, if he deems it necessary, may defer payments of principal and interest for a period not to exceed three years after the date of the loan. Any such deferred payments shall bear interest at the rate determined under section 234 of this Act.

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FOOD COUPONS AND DISTRIBUTION

Sec. 238. (a) Whenever the President determines that, as a result of a major disaster, low-income households are unable to purchase adequate amounts of nutritious food, he is authorized, under such terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture coupon allotments to such households pursuant to the provisions of the Food Stamp Act of

1964 and to make surplus commodities available pursuant to the provisions of section 203 of this Act.

(b) The President, through the Secretary of Agriculture, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the major disaster on the earning power of the households to which assistance is made available under this section.

(c) Nothing in this section shall be construed as amending or otherwise changing the provisions of the Food Stamp Act of 1964 except as they relate to the availability of food stamps in a major disaster area.

LEGAL SERVICES

Sec. 239. Whenever the Director determines that low-income individuals are unable to secure legal services adequate to meet their needs as a consequence of a major disaster, consistent with the goals of the programs authorized by this Act, the Director shall assure that such programs are conducted with the advice and assistance of appropriate Federal agencies and State and local bar associations.

UNEMPLOYMENT ASSISTANCE

Sec. 240. The President is authorized to provide to any individual unemployed as a result of a major disaster, such assistance as he deems appropriate while such individual is unemployed. Such assistance as the President shall provide shall not exceed to maximum amount and the maximum duration of payment under the unemployment compensation program of the State in which the disaster occurred, and the amount of assistance under this section to any such individual shall be reduced by any amount of unemployment compensation or of private income protection insurance compensation available to such individual for such period of unemployment.

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COMMUNITY DISASTER GRANTS

Sec. 241. The President is authorized to make grants to any local government which, as the result of a major disaster, has suffered a substantial loss of property tax revenue (both real and personal). Grants made under this section may be made for the

tax year in which the disaster occurred and for each of the following two tax years. The grant for any tax year shall not exceed the difference between the annual average of all property tax revenues received by the local government during the three-tax-year period immediately preceding the tax year in which the major disaster occurred and the actual property tax revenue received by the local government for the tax year in which the disaster occurred and for each of the two tax years following the major disaster but only if there has been no reduction in the tax rates and the tax assessment valuation factors of the local government. If there has been a reduction in the tax rates or the tax assessment valuation factors then, for the purpose of determining the amount of a grant under this section for the year or years when such reduction is in effect, the President shall use the tax rates and tax assessment valuation factors of the local government in effect at the time of the disaster without reduction, in order to determine the property tax revenues which would have been received by the local government but for such reduction.

TIMBER SALE CONTRACTS

Sec. 242. (a) Where an existing timber sale contract between the Secretary of Agriculture or the Secretary of the Interior and a timber purchaser does not provide relief from major physical change not due to negligence of the purchaser prior to approval of construction of any section of specified road or of any other specified development facility and, as a result of a major disaster, a major physical change results in additional construction work in connection with such road or facility by such purchaser with an estimated cost, as determined by the appropriate Secretary, (1) of more than $1,000 for sales under one million board feet, (2) of more than $1 per thousand board feet for sales of one of three million board feet, or (3) of more than $3,000 for sales over three million board feet, such increased construction cost shall be borne by the United States.

(b) If the Secretary determines that damages are so great that restoration, reconstruction, or construction is not practical under the cost-sharing arrangement authorized by subsection (a) of this section, the Secretary may allow cancellation of the contract notwithstanding contrary provisions therein.

(c) The Secretary of Agriculture is authorized to reduce to seven days the minimum period of advance public notice required by the first section of the Act of June 4, 1897 (16 U.S.C. 476), in

connection with the sale of timber from national forests, whenever the Secretary determines that (1) the sale of such timber will assist in the construction of any area of a State damaged by a major disaster, (2) the sale of such timber will assist in sustaining the economy of such area, or (3) the sale of such timber is necessary to salvage the value of timber damaged in such major disaster or to protect undamaged timber.

(d) The President, when he determines it to be in the public interest, and acting through the Director of Emergency Preparedness, is authorized to make grants to any State or local government for the purpose of removing from privately owned lands timber damaged as a result of a major disaster, and such State or local government is authorized upon application, to make payments out of such grants to any person for reimbursement of expenses actually incurred by such person in the removal of damaged timber, not to exceed the amount that such expenses exceed the salvage value of such timber.

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MINIMUM STANDARDS FOR RESIDENTIAL STRUCTURE RESTORATION

Sec. 243. No loan or grant made by any relief organization operating under the supervision of the Director, for the repair, restoration, reconstruction, or replacement of any residential structure located in a major disaster area shall be made unless such structure will be repaired, restored, reconstructed, or replaced in accordance with applicable standards of safety, decency, and sanitation and in conformity with applicable building codes and specifications.

FEDERAL FACILITIES

Sec. 251. The President may authorize any Federal agency to repair, reconstruct, restore, or replace any facility owned by the United States and under the jurisdiction of such agency which is damaged or destroyed by any major disaster if he determines that such repair, reconstruction, restoration, or replacement is of such importance and urgency that it cannot reasonably be deferred pending the enactment of specific authorizing legislation or the making of an appropriation for such purposes. In order to carry out the provisions of this section, such repair, reconstruction, restoration, or replacement may be begun notwithstanding a lack or an insufficiency of funds appropriated for such purpose, where such lack or insufficiency can be remedied by the transfer, in

accordance with law, of funds appropriated to that agency for another purpose.

STATE AND LOCAL GOVERNMENT FACILITIES

Sec. 252. (a) The President is authorized to make contributions to State or local governments to repair, restore, reconstruct, or replace public facilities belonging to such State or local governments which were damaged or destroyed by a major disaster, except that the Federal contribution therefor shall not exceed 100 per centum of the net cost of repairing, restoring, reconstructing, or replacing any such facility on the basis of the design of such facility as it existed immediately prior to such disaster and in conformity with applicable codes, specifications, and standards.

(b) In the case of any such public facilities which were in the process of construction when damaged or destroyed by a major disaster, the Federal contribution shall not exceed 50 per centum of the net costs of restoring such facilities substantially to their prior to such disaster condition and of completing construction not performed prior to the major disaster to the extent the increase of such cost over the original construction cost is attributable to changed conditions resulting from a major disaster.

(c) For the purpose of this section "public facility" includes any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility, any non-Federal-aid street, road, or highway, and any other public building, structure, or system, other than one used exclusively for recreation purposes.

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PRIORITY TO CERTAIN APPLICATIONS FOR PUBLIC FACILITY AND PUBLIC HOUSING ASSISTANCE

Sec. 253. In the processing of applications for assistance, priority and immediate consideration may be given, during such period, not to exceed six months, as the President shall prescribe by proclamation, to applications from public bodies situated in major disaster areas, under the following Acts:

(1) title II of the Housing Amendments of 1955, or any other Act providing assistance for repair, construction, or extension of public facilities;

(2) the United States Housing Act of 1937 for the provision of low-rent housing;

(3) section 702 of the Housing Act of 1954 for assistance in public works planning;

(4) section 702 of the Housing and Urban Development Act of 1965 providing for grants for public facilities; or

(5) section 306 of the Consolidated Farmers Home Administration Act.

RELOCATION ASSISTANCE

Sec. 254. Notwithstanding any other provision of law, no person otherwise eligible for any kind of relocation assistance payment authorized under section 114 of the Housing Act of 1949 shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to reoccupy property from which he was displaced by such disaster.

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1.8a(1) SENATE COMMITTEE ON PUBLIC WORKS

S. REP. No. 91-1157, 91st Cong., 2d Sess. (1970)

DISASTER ASSISTANCE

AUGUST 31, 1970.—Ordered to be printed

Mr. BAYH, from the Committee on Public Works, submitted the following

REPORT

together with

INDIVIDUAL VIEWS

[To accompany S. 3619]

The Committee on Public Works, to which was referred the bill (S. 3619) having considered the same, reports favorably thereon with an amendment and unanimously recommends that the bill, as amended, do pass.

PURPOSE OF THE LEGISLATION

The purpose of S. 3619, as reported by the Committee on Public Works, is to provide a permanent, comprehensive program for Federal disaster assistance and to strengthen the organization and

administrative machinery needed to implement the program in an orderly and effective manner. It will enable the Federal Government, without further specific Congressional action, to extend needed emergency relief and recovery assistance to individuals, organizations, businesses, and States and local communities suffering from a major disaster.

The bill authorizes Federal assistance for private as well as public losses suffered in a *major disaster* which the President determines to be of "sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the efforts and available resources of States, local governments and relief organizations in alleviating the damage, loss, hardship or suffering caused thereby and respecting which the Governor of any State in which such catastrophe occurs or threatens to occur certifies the need for disaster assistance under this Act and gives assurance of expenditure of a reasonable amount of the funds of such State, its local governments, or other agencies for the same or similar purposes with respect to such catastrophe."

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As reported by the Committee the bill consolidates into one Act and repeals the three major existing Federal disaster assistance laws: the basic 1950 Act (P.L. 875, 81st Congress), the 1966 Disaster Relief Act (P.L. 89–769), and the Disaster Relief Act of 1969 (P.L. 91–79). This consolidation and the proposed broadening and enlargement of existing statutory provisions are designed to take into account the experience gained by the Congress and the Federal and State governments from the devastating catastrophe caused in August 1969 by Hurricane Camille, the largest known destructive force of wind and water ever to strike the United States, as well as the lessons learned from the tornado which struck Lubbock, Texas, in May this year.

Not only do private individuals who are suddenly and totally deprived of the means of providing themselves the basic necessities of life require emergency existence—food, clothing, shelter, and medical care—but also longer-term recovery assistance must be provided to such individuals, the sources of their employment and the communities in which they live.

The bill seeks to coordinate disaster relief and recovery efforts of all appropriate Federal, State and local authorities, and relief and disaster assistance organizations under a single, permanent law, so that when disaster strikes anywhere in the country—as inevitably it will—the full resources of both public and private

sectors may be brought to bear to meet the immediate challenge and to undertake the long, and difficult costly task of repair, rehabilitation, reconstruction and replacement.

NEED FOR LEGISLATION

Although Congress has enacted a number of beneficial disaster relief laws during the past twenty years, most of these have been limited in scope, temporary in duration and retroactive in response to particular catastrophes.

Moreover, the basic disaster assistance act of 1950 (P.L. 875, 81st Congress) was directed almost entirely toward the public sector; even though amendments have been added from time to time, especially in 1966 and 1969, which were designed to extend a helping hand to families and businesses, the severe financial losses and personal hardships often incurred by many helpless victims of major disasters are compensated by minimal assistance only.

Understandably, much of the present disaster relief legislation has been piecemeal in nature. Through the years new provisions have been added in accordance with immediate demonstrated needs in reaction to specific situations. Moreover, the bulk of the 1969 Act (P.L. 91–79), while general in scope, will expire on December 31, 1970. Scheduled to terminate on that date are important sections dealing with disaster assistance for the repair and reconstruction of roads and highways not on any Federal-aid system; timber sale contracts; the $1,800 forgiveness feature of Small Business Administration, Farmers Home Administration and Veterans Administration loans; expanded authority to provide temporary dwelling; food stamp allotments for low-income families; and unemployment assistance for those not eligible to receive compensation under State programs.

The advantages to be gained from codifying the many, diverse disaster assistance statutes, as well as the need to extend the life of the essential provisions of the 1969 Act, by themselves are sufficient justification for a careful examination by Congress of the whole matter of disaster relief. But there is an even more

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compelling reason for prompt and vigorous action by the national government in this field. Recent hearings conducted by the Senate Special Subcommittee on Disaster Relief on the Federal role in providing assistance to the thousands of people and scores of communities in Mississippi, Louisiana, Alabama, Virginia, and West

Virginia, which suffered devastating losses from Hurricane Camille, have convinced members of the Committee that certain new approaches should be considered.

The physical damage caused by Hurricane Camille and the human problems it created, while doubtless more extensive and longer lasting, were almost identical in kind with those following other major disasters. Tornadoes, earthquakes, floods, hurricanes and other catastrophes have occurred, and no doubt will continue to occur, in astounding numbers in the United States. During the last twenty years alone the havoc caused by these natural phenomena has been so great that the President has declared the existence of major disasters in more than 280 areas, an average of about 14 each year. During the last few years the number has been considerably higher than the average; for instance, there were 25 major disaster declarations in both 1964 and 1965, 19 in 1968, and an all time high of 29 was reached in 1969. So far in 1970 there have been 11 such declarations as of August 4, 1970.

While loss of life and limb has generally decreased, property losses attributed to violent acts of nature have greatly increased through the years. The development of sophisticated weather forecasting and warning techniques and the ability to track and to map out the expected path of great storms have permitted the evacuation of large numbers of people from endangered territories who otherwise might have been killed or injured.

On the other hand, the concentration of large and expensive residential, commercial and industrial facilities in relatively small areas, coupled with general escalation of overall values, has meant huge increases in property losses incurred by certain major disasters. For instance, the terrible Galveston flood at the beginning of the 20th century cost more than 6,000 lives but only $30 million property damage; in contrast, it has been estimated by the Office of Emergency Preparedness that 69 years later Camille caused 248 deaths but about $1.5 billion in property damages, while early estimates from Hurricane Celia in Corpus Christi, Texas, in August this year indicate only 9 deaths and an estimated $233 million in property losses.

The fact that economic loss attributed to natural catastrophes has soared so dramatically points to the need for new approaches to the problem.

During the last five years more than 100 major disasters have been decleared by the President of the United States. The response by Congress and our people has been highly praiseworthy; when

fellow citizens, or indeed those in foreign countries, have been stricken by a great catastrophe, the American public has always been compassionate and generous. That does not mean, however, that all needs have been met nor that improvements cannot be made.

The Committee's hearings this year have disclosed certain gaps in legislative authority and some deficiencies in administrative organization and operation which should be rectified. Among the most frequently voiced significant suggestions, complaints, and needs relating to disaster assistance programs which have come to [p. 3]

the attention of the Special Subcommittee on Disaster Assistance are the following:

1. delays and problems encountered in the provision, distribution, and leasing of temporary housing;

2. the insufficiency of insurance coverage and slowness in settling insurance claims;

3. the need for establishing immediate, effective communication systems;

4. inadequate centralized, coordinated administration and supervision;

5. relief for local governments not able to meet bonded indebtedness, matching requirements under Federal grant-in-aid programs, or essential public services, because of diminished tax base;

6. advantages to be gained from previously established State disaster plans providing systematic programs for refugee evacuation, emergency food and shelter, and longer-range assistance to individuals, organizations, and communities;

7. need for trained emergency support teams with capability of immediate deployment in major disaster areas;

8. need for emergency public transportation systems to provide access to such vital places as governmental offices, supply centers, stores, post offices, schools and major employment facilities;

9. charges of inequitable and discriminatory treatment, by both public and private agencies;

10. failure to recognize officially more than one charitable organization for the purpose of distributing goods and commodities provided by the United States;

11. lack of adequate dissemination of information and clear explanation about available benefits; need for assistance in the preparation of simplified application forms for various programs; and need for legal assistance for low-income disaster victims; and

12. larger Federal assistance to those whose homes, farms, and places of business have been damaged or destroyed.

The Committee is pleased to note that Federal agencies under the leadership of the Office of Emergency Preparedness brought the full force and scope of the 1969 Disaster Relief Act into action in the disaster caused by the Lubbock tornado. The agencies obviously had taken advantage of the lessons learned in Camille, and all indications are that they are continuing this high level of response in the aftermath of Hurricane Celia.

Congress cannot foresee nor provide in advance for every contingency nor for all the serious problems which inevitably arise from any major disaster. Nevertheless, every effort should be made to establish by law full authority for the President and the various Federal departments and agencies to respond quickly efficiently, and without unnecessary restrictions when confronted by a major disaster. It is no longer either expedient or wise for Congress to attempt to enact separate relief bills each time a major disaster occurs. Until 1964, most Federal disaster relief legislation had been given general application, although it authorized assistance primarily for public losses. Since then, however, Congress has enacted special bills for aid after the Alaskan earthquake, the Pacific Northwest floods, and Hurricane Betsy. The 1966 and 1969 acts did provide additional aid for the private

sector, but as mentioned earlier much of the latter will no longer be in force after this year.

The Committee believes it is time to bring together in one act the various features of disaster legislation which Congress has adopted from time to time and to supplement them with additional assistance and directions which testimony has indicated to be essential.

The following table shows the provisions of existing law that are extended or amended by S. 3619 and those which have been added to meet other needs of disaster victims and their communities.

Provisions in Existing Law That are Extended or Amended in S. 3619

Sec.	
101	Findings and Definitions
201	Federal Coordinating Officer
203	Cooperation of Federal Agencies
206	State Disaster Plans
208	Duplication of Benefits
210	Advisory Personnel
211	Disaster Warnings
224	Debris Removal
225	Fire Suppression Grants
226	Temporary Housing
231	Small Business Disaster Loans
232	FHA Emergency Loans
233	VA Loans
234	Disaster Loan Interest Rate
236	Federal Loan Adjustments
238	Food Coupons and Distribution
240	Unemployment Assistance
242	Timber Sale
243	Public Land Entrymen
251	Restoration of Federal Facilities
252(b)	Completion of damaged unfinished State and local projects
253	Priority for certain applications for grants

Provisions That are New in S. 3619

Sec.	
202	Emergency Support Teams
204	Use of Local Firms and Individuals
205	Federal Grant-in-aid Programs
207	Coordination of Relief Organizations
209	Non-Discrimination
221	Pre-Disaster Assistance
222	Emergency Communications
233	Emergency Public Transportation
235	Age of Applicant for Assistance
237	Aid to Major Sources of Employment
239	Legal Services
241	Community Disaster Loan Fund
244	Minimum Standards for Residential Structure Restoration
252(a)	Restoration of damaged or destroyed State or local facilities
254	Relocation Assistance

COMMITTEE ACTION

The Special Subcommittee on Disaster Relief this year conducted ten full days of public hearings on the Federal response to Hurricane Camille: three in Biloxi, Mississippi; two in Roanoke, Virginia; and five in Washington. Oral testimony was received from 233 witnesses.

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Taking fully into account what the Subcommittee had learned in its field hearings in Mississippi and Virginia during January and February, the Chairman of the Subcommittee, Senator Bayh, on March 20 introduced S. 3619 with 26 cosponsors. On April 23 Senator Cooper introduced the Administration bill, S. 3745. At hearings on April 27–29 the Subcommittee heard testimony from representatives of 12 departments and agencies of the Federal Government both on their performance during the Camille disaster and its aftermath and on their views concerning the pending legislation.

Under instructions given by the Subcommittee Chairman at the end of the final hearing the staff prepared a print incorporating provisions from both S. 3619 and S. 3745, as well as numerous technical amendments suggested by the Federal agencies charged with administering the law.

The following is a list of the provisions of S. 3745 incorporated, in whole or in part, in S. 3619 as reported:

Provisions of S. 3745 incorporated in S. 3619

The title of the Act was changed from the "Omnibus Disaster Assistance Act" (S. 3619) to the "Disaster Assistance Act of 1970."

Section 10 of S. 3745 relating to Federal interdepartmental groups was included as Section 203(e).

Section 9 of S. 3745 relating to Federal agency coordination by the President was included as Section 203(g).

Section 3(f) of S. 3745 relating to the continuing improvement of State disaster assistance plans was incorporated in S. 3619 as Section 206(e).

Section 6 of S. 3745, the predisaster assistance section was included in S. 3619 as Section 221.

Section 3 of S. 3745 relating to disaster loan interest rates was included as the interest rate section of S. 3619, Section 234; and the proviso that a loan not be denied on the basis of age was also included.

Section 5 of S. 3745 setting forth the Community Disaster Loan Fund's interest rate, maturity deferment payment, computation factors for tax values, and monies transferable for the disaster fund was incorporated in the Community Disaster Loan Fund, Section 228.

Section 3(a) and 3(b) of S. 3745 providing for a $2,500 cancellation and a higher interest rate for SBA and Farmer's Home Administration disaster loans were included as Sections 231(a)(1) and 232 in S. 3619.

In executive session on June 24, the Subcommittee adopted a major revision of the print. It eliminated from S. 3619, Titles II and IV.

Title II would have combined the major disaster relief functions of the Office of Emergency Preparedness and all the functions of the Office of Civil Defense and, at the discretion of the President, any disaster relief function of any other agency, into a new Office of Disaster Assistance. Administration spokesmen made strong representations to the Subcommittee that the executive branch of the Government should be allowed to organize its disaster relief activities, and the Subcommittee concurred. It is hoped that the Congress, through the Committees directly concerned, will give early consideration to a broad, national major disaster insurance program.

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Title IV would have established a National Major Disaster Insurance Program. The Subcommittee recognized that this Title was properly within the jurisdiction of the Committee on Banking and Currency and agreed to strike it from S. 3619 after receiving voluminous testimony on the insurance needs and problems of disaster victims and the views of the insurance industry.

The Subcommittee also approved amendments offered by Senator Spong, relating to private disaster assistance organizations; by Senator Gravel providing legal services for low-income disaster victims (Section 239) ; and by Senator Dole containing additional Administration proposals.

The full Committee in executive session on August 12 approved the Subcommittee recommendations and also gave careful attention to several amendments offered by Senators Tower and Yarborough designed to provide relief for the victims of the tornado which struck Lubbock, Texas, on May 11, 1970. The Committee approved in modified form two amendments by Senator Yarborough, No. 774, which is included in Section 226 of the bill as reported, and No. 783, which is contained in Section 204. Amendment No. 781 by Senator Yarborough was laid aside since the bill reported from Subcommittee already contained the Gravel amendment relating to legal services. Amendment No. 771, offered by Senator Tower, was approved in modified form.

In accordance with a Senate colloquy between Senator Randolph, Chairman of the Committee on Public Works, and Senator Sparkman, Chairman of the Committee on Banking and Currency, on April 20, 1970, the bill S. 3619, after being ordered reported,

was referred to the Banking Committee for its comments, proposed amendments or suggested report language on those sections of the bill over which that Committee has prime jurisdiction: housing, small business, and VA direct loans.

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EXPLANATION OF THE PROVISIONS OF S. 3619

TITLE I—FINDINGS AND DECLARATIONS, DEFINITIONS

Under this Title Congress recognizes that loss of life, human suffering, loss of income, property loss and damage caused by a major disaster disrupt the normal functions of government and the community and adversely affect individuals and families with great severity. Special measures to expedite provision of aid and assistance and emergency welfare services and reconstruction and rehabilitation of devastated areas are declared necessary.

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Accordingly, the Congress declares its intention to provide an orderly and continuing means of alleviating the suffering and damage which result from such a disaster by (1) revising and broadening existing disaster relief programs, (2) encouraging States to develop comprehensive relief plans and (3) achieving greater coordination and responsiveness in the administration of Federal dasaster assistance programs.

The definition of a major disaster, as used in the bill, is the same as that provided in Public Law 875, 81st Congress, with the addition of the words "tornado, high water, wind-driven water, and tidal wave." As in previous disaster relief laws, the provisions of this bill are applicable only in the case of a disaster which the President has determined to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the available resources of the State, local governments and private relief organizations * * *"

TITLE II—THE ADMINISTRATION OF DISASTER ASSISTANCE

Title II renews and strengthens several programs enacted in previous disaster laws and provides a number of new kinds of aid. Present authorization for appointment of a Federal coordinating officer; State disaster plans; debris removal from private property; temporary housing; subsidized loans to homeowners, farmers and businessmen; food coupons; unemployment compensation; repair, reconstruction, restoration or replacement of Federal facil-

ities; assistance in completing construction of damaged State and local projects; loan adjustments; timber sale contracts; and public land entry—several of which will expire at the end of this year—are extended indefinitely, although in some cases in modified form.

In response to extensive and convincing evidence of need for other types of assistance, the bill authorizes entirely new programs including a Community Disaster Loan Fund; special aid to enterprises constituting major sources of employment; repair, restoration, reconstruction or replacement of essential State and local public facilities; aid to individuals facing eviction from their homes; a waiver of restrictive conditions for Federal grant-in-aid; preference to local firms and businesses in recovery work; and priority for public facility and public housing assistance applications.

Assistance provided under Title II is classified into four groups: first, general provisions applicable to all major disaster relief; second, emergency relief to be made available immediately after a declaration of a major disaster by the President; third, recovery assistance for longer-range restoration and rehabilitation of a stricken area; and fourth, restoration of public facilities, Federal, State and local.

PART A—GENERAL PROVISIONS

The first category, General Provisions, requires the President to designate a major disaster area and to appoint a Federal coordinating officer to operate under the Office of Emergency Preparedness in such area. It also authorized the Director to form emergency support teams and personnel to assist the Federal coordinating officer in carrying out his responsibility.

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Congress stipulated in the 1969 Disaster Relief Act that the President shall designate a Federal coordinating officer who will be responsible for overseeing all relief activities in a particular disaster area. Testimony presented to the Special Subcommittee on Disaster Relief in recent months clearly bears out the need for such a unifying authority. Accordingly, Section 201 of the bill not only continues the requirement for such a coordinating officer but also strengthens and expands his role. Immediately, after declarations of a major disaster, the appointed Federal coordinator is directed to make an appraisal of the type of relief most urgently needed, establish field offices, coordinate the administration of relief with private organizations which agree to operate under his

advice and direction, and take any action he deems necessary to assist local citizens or public officials to obtain prompt assistance to which they are entitled.

Cooperation of Federal Agencies

Section 203, providing for cooperation of Federal agencies in mobilizing response to a major disaster, is the key section of the bill. Under it all Federal agencies are authorized, upon direction of the President, to provide disaster assistance in a number of ways. Based largely on a similar provision of Section 3 of Public Law 81–875, the first general disaster relief law enacted in 1950, the powers conferred therein are in this bill clarified, extended and expanded. All Federal agencies are enabled to utilize or lend to State and local governments their facilities, personnel, supplies and equipment, with or without compensation.

It is the intent of the Committee that actions of the Federal Agencies, under this section, shall be coordinated by the Director.

Federal agencies can also distribute food, medicine and other consumables through the American National Red Cross or other relief organizations, and render emergency aid through disaster assistance organizations. Likewise, they may donate or lend surplus government equipment and supplies.

Emergency work essential to protect and preserve life and property can be performed by Federal agencies on public or private lands or waters. This emergency work is to include clearance and removal of debris and wreckage, repair or restoration to service of public facilities belonging to State or local governments, provision of emergency shelter for individuals and families, and contributions to State or local governments to perform the above-mentioned types of work.

The Federal contribution to the emergency repair or restoration to service of State and local facilities essential for the protection and preservation of life and property shall not exceed the net cost of restoring such facilities to their predisaster capacity and to a minimum safe, usable condition.

Emergency work performed on public or private lands or waters does not preclude additional Federal assistance under other provisions of the Act.

Reimbursement of a Federal agency for services or supplies it furnishes is to be deposited to the credit of its appropriation for these items. A disclaimer clause exonerates the United States Gov-

ernment from any claim based on the exercise, performance or failure to perform any discretionary act in carrying out emer-
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gency assistance. There is provision for establishing special assistance groups, interdepartmental or otherwise, for employment of additional temporary personnel, for Presidential coordination of all Federal agency disaster relief activities, and for periodic Presidential revision of such activities.

Distinctions Between Sections 203 and 252

The Committee wishes to draw a careful distinction between the provisions for immediate emergency repair and restoration to service of public facilities under Section 203 and the long-term repair, restoration, reconstruction or replacement of facilities provided under Section 252. The emergency work should be designed to provide essential public services until such time as permanent work can reasonably be accomplished.

The net cost of emergency work performed under Section 203(4) (b) in order to restore a facility to its predisaster capacity will be paid for 100% by the Federal Government, either directly through the appropriate Federal agency or indirectly through contributions to the State or local government which does the work itself or through contract.

The net cost of reconstruction carried out under Section 252(a) in order to restore a facility to its predisaster capacity and in conformity with current codes and specifications will be paid for 50% by the Federal Government and 50% by the State or local government concerned.

The provisions for emergency repair or restoring to service under Section 203 require that the State or local public facility be essential for the protection and preservation of life and property. The types of facilities that may be rebuilt under Section 252 are specifically named and include "any other essential public facility".

The Committee intends that work performed pursuant to Section 203 shall be the work which must be done if a community suffering from a major disaster is to be revived and provided with the services and facilities essential to protect and preserve the lives and property of its citizens.

In the emergency phase immediately following a major disaster, a public facility which is in need of repair or restoration to

service shall be, when the emergency work is done, able to perform its function to the same extent as it did before the disaster.

In Section 203(4)(b) the words "restoring to service" are the critical words in the mandate and direction given to the Office of Emergency Preparedness.

Experience under existing law providing for "emergency repairs" and "temporary replacement" of public facilities has shown a strong tendency to stretch the meaning of the qualifying adjectives so as to permit permanent reconstruction of damaged or destroyed facilities, using 100% Federal funds. For example, it has been argued that it is wasteful, and indeed almost impossible, to replace a sewer system temporarily, and therefore it is more economical and sounder practice to replace a damaged sewer system with a modern one suitable to present-day needs.

The Committee agrees that the existing language is too restrictive, and has therefore in Section 252 added a new program through which the Federal Government will contribute 50 per centum of the net cost of restoring any damaged or destroyed [p. 11]

State or local facility to its predisaster capacity and in conformity with currently applicable codes and specifications. This is supplementary to the emergency provisions of Section 203, except that the total Federal costs of emergency work under Section 203 and of permanent work under Section 252 may not exceed one hundred percent of the overall permanent project costs. The past practice of "grants in lieu" for emergency work is discontinued.

There is precedent for the 50–50 matching formula in the Disaster Relief Act of 1969 which applied it to the reconstruction of non-Federal aid highways.

Use of Local Firms and Individuals

Section 204 provides that in the expenditure of Federal funds, for example, for debris clearance and reconstruction of public facilities, preference is to be given to persons or firms who work or do business in the disaster area. One outstanding feature of the aftermath of a great disaster is lack of ready cash. A Federal assistance program should be designed to revitalize the community by infusions of cash through the use of local people and business firms.

Federal Grant-in-aid Programs

Under Section 205 the conditions for receipt of Federal grants can be waived for the duration of a disaster proclamation if the inability of the State or local authorities to meet such conditions resulted from the disaster. Such conditions would not include payment of the local matching share of Federal grant-in-aid programs, for which loans could be available under Section 241, but would include conditions involving the terms of such payments.

Section 205 applies only to regular categorical Federal grant-in-aid programs. It is not intended to apply to the Federal contribution under Section 252 of the Act or to any other OEP grants provided under the Act.

State Disaster Plans

Section 206 clarifies and extends the provisions of the 1969 disaster relief act authorizing the President to make grants up to $250,000 to any State for not more than 50% of the cost of developing "comprehensive plans and practicable programs for assisting individuals suffering losses as a result of a major disaster."

The original intent of this section, dating back to S. 1861, introduced in 1965, was to assist States in developing a complete and thorough blueprint outlining in detail the necessary preparation, organization, procedures, supplies, equipment and other requirements which would enable a State to do everything possible to minimize the terrible effects of a major disaster and to bring restoration of the normal life and activities in any disaster area. However, in the formulation of the final language of Section 8 of P.L. 91–79, the wording appeared to limit its scope to plans and programs which would assist only "individuals" suffering losses. This has been narrowly interpreted by some to mean that State plans developed under this section cannot apply to assistance to

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local governments, public agencies or business enterprises.

In order to resolve any doubts about this matter, Section 206 authorizes the President to make grants to States to develop "comprehensive plans and practicable programs for preparation against major disasters, and for relief and assistance for individuals, businesses and governments." In addition the Committee has authorized the President to make 50% matching grants not ex-

ceeding $25,000 a year to any State to improve, maintain and update its State disaster assistance plan.

Although it is not possible to predict when or where catastrophes may occur, it seems only good sense to the Committee for State governments to do as much advance planning and to prepare themselves as much as possible in order to cope with the eventuality that their territory and population may be subjected to a major disaster. A number of States have already pioneered in this field, formulating at least a preliminary program, and several others have indicated intention to proceed with application for assistance.

The Director is required, from time to time, to make a report to the President for submission to the Congress, containing his recommendations for Federal programs to implement and fund comprehensive disaster relief plans and for the Federal role in disaster relief activities.

Use and Coordination of Relief Organizations

Section 207 authorizes the Director to arrange with the American National Red Cross, the Salvation Army, the Mennonite Board of Missions and Charities, and other relief or disaster assistance organizations for the use of their personnel and facilities in the distribution of medicine, food, supplies or other material or for the restoration, rehabilitation or reconstruction of community services and facilities, if he finds that this is necessary. This will resolve certain questions brought to the attention of the Subcommittee about the power of the national government to utilize officially the manpower, supplies and skills which private organizations, other than the Red Cross, might be willing to provide. Considerable testimony has been presented illustrating the tremendously helpful assistance which the Salvation Army, the Mennonite Board and others have rendered following disasters. There is no reason why the Director should lack authority to recognize them officially and call upon their services for disaster assistance.

On the recommendation of Senator Spong the Committee has also included in this section "disaster assistance organizations" which may volunteer their personnel and facilities in the restoration, rehabilitation, or reconstruction of community services and essential facilities. "Operation Bulldozer" managed by the Association of General Contractors and well-drilling operators of the National Disaster Committee of the National Water Well Association were cited to the Committee as such "disaster assistance

organizations." Any relief or disaster assistance organization entering into an agreement with the Director for this purpose will have to comply with regulations issued under Section 208 referring to duplication of benefits and under Section 209 pertaining to impartial and non-discriminatory administration.

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Duplication of Benefits

Section 208 is designed to prevent any person, business concern or other entity from receiving duplicate disaster relief benefits. It will be the duty of the Director to be sure that financial assistance will not be given for any major disaster loss for which compensation has been received from any other Federal program, insurance policy or other source. This, however, will not preclude Federal assistance for any part of a loss which has not been compensated otherwise. Whenever the Director determines that a person or business has received assistance from more than one source which exceeds the amount of the loss, he will direct that person or business to reimburse the Federal Government for the part he deems excessive but not in excess of the amount of Federal assistance received.

Non-discrimination in Disaster Assistance

Allegations have been made that there were some instances of inequitable and discriminatory treatment, especially after the first emergency period, in providing aid following Hurricane Camille. Such charges have been levied against both public and private agencies. Certainly, differential treatment in the handling of disaster assistance should not be tolerated.

In order to assure that aid will be provided to all, irrespective of their personal background or status, Section 209 of the bill authorizes the Director to establish regulations which will be applicable to the personnel and procedures of both public and private agencies involved in handling Federal disaster assistance programs. These guidelines will stipulate that there shall be no discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status in distributing supplies, processing applications or managing other relief activities.

Advisory Personnel

The Director is authorized by Section 210 to assign advisory personnel he deems to be necessary. To meet a need often ex-

pressed to the Subcommittee, he also can upon request send trained and experienced representatives to advise State or local government officers about various kinds of Federal programs and procedures. The Subcommittee has been informed that in smaller communities, especially, where the chief executives often are part-time officers with little experience in or knowledge about national programs, it would be extremely helpful if well-informed consultants could be provided who would work closely with local governments when a major disaster overtakes them. These representatives, of course, will be strictly advisory and will be assigned only if the Director believes they will help enable communities to apply for and utilize fully various assistance programs.

Disaster Warnings

In Section 211 the President is authorized to provide needed warnings to governmental authorities and the civilian population in areas threatened by imminent natural disasters.

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PART B—EMERGENCY RELIEF

Predisaster Relief

In order to avert or diminish the impact of disasters in advance, Section 221 authorizes the President to use Federal resources to assist any State or local government in circumstances which clearly indicate the imminent occurence of a major disaster.

Emergency Communications

Section 222 gives the Director authority to establish emergency communications in any major disaster area. From testimony on Hurricane Camille the Committee learned that one of the greatest deficiencies immediately following the disaster was the lack of adequate communications both within the disaster area and with the outside. The Committee believes the Director should take the necessary steps to provide effective communications in emergency situations, including mobile radios, area-wide networks, pools of battery-operated portable equipment and any other appropriate devices and facilities.

Emergency Transportation

Emergency public transportation service in a major disaster area can be provided by the Director under Section 223. The

purpose is to enable local residents who have lost all means of transportation to make necessary trips to distant governmental offices, supply centers, employment centers, post offices, schools, stores and other similar places of business. The emergency service will be provided only until regular public transportation is restored, or for a maximum period of one year after the disaster.

Although the number of major disasters in which there would be need for such temporary transportation system may be few, the Subcommittee was impressed with the plight of many residents of the Mississippi Gulf Coast who found it very difficult to transact business, make applications for assistance, pick up food and clothing or talk with officials. When neighborhood shopping centers and stores have been destroyed, private automobiles have been damaged beyond repair, and public buses are no longer running, those living in isolated removed sections of large communities or in rural areas have great difficulty in carrying on normal life activities. In such limited cases the Committee believes the Director should be authorized to provide temporary transportation until regular service can be restored. The type, frequency, routes and fares charged, if any, for such service are left to the discretion of the Director.

Debris Removal

Under Section 224 grants can be made by the President, whenever he determines it to be in the public interest, to any state or local government for the removal from privately owned lands or waters of debris deposited as a result of a major disaster. State or local governments will in turn be authorized to reimburse any person for actual debris removal costs, less any salvage value of the debris. This provision is almost identical with section 14 of

P.L. 91–79, now scheduled to terminate on December 31, 1970.

The Committee intends that the broadest possible interpretation be given the term "in the public interest". Considerations in determining the public interest should include threats to health, well-being or safety of the public; fire or flood hazards; economic recovery of the community; restoration of the land to a productive condition; and effects on the overall environment, including the appearance of the community.

Fire Suppression Grants

The 1969 Disaster Relief Act authorized grants and loans to States to assist in suppressing any fire on publicly- or privately-owned forest or grass lands which might threaten to become a major disaster. Congress took this action after it had been pointed out that a small conflagration, beginning either on public or private property, could become a major fire threatening large areas if there were not sufficient manpower and equipment to quell it at the start. Such a holocaust would pay no attention to jurisdictional or ownership boundary lines and could in a short time devour huge quantities of timber and grasslands. Although the U.S. Forest Service has a number of able, well-trained firefighters and extensive equipment, this is often not true on privately-owned tracts and sometimes on State and local lands as well. To help reduce great losses from fires of the type which desolated thousands of acres of timber in the Northwest during 1967, Section 225 of the bill re-enacts the grant provision of the 1969 act. Provision for loans for this purpose has been omitted on the basis of information that only grants are used.

Temporary Housing Assistance

In order to provide dwelling accommodations for individuals and families whose homes have been made uninhabitable by a major disaster, Section 226 authorizes the Director for this purpose to use any unoccupied housing owned by the United States, to arrange with a local public housing agency for any unoccupied housing units, or to acquire, either by purchase or lease, already existing dwellings. Mobile or specially fabricated dwellings can be installed complete with utilities on sites furnished without charge to the United States by a State or local government or by the owner or occupant of the site. After an initial 90-day rent-free period, rental collected for occupancy of these temporary dwelling accommodations can be adjusted or completely waived, according to the financial ability of the tenants, for as long as one year from date of occupancy, but in no case will disaster victims be required to pay more than 25 percent of the family monthly income for housing expenses, including the amortization of debt on a destroyed or damaged house.

The only significant difference between Section 226 (a) and (b) of the bill and Section 10 of P.L. 91–79 is that the authority conferred on the Director to acquire housing includes the right to purchase as well as to lease dwellings or mobile homes. The three

previous disaster relief bills (S. 1861, S. 438 and S. 1685) would have authorized the purchase of housing for this purpose, and each of the two bills which passed the Senate in 1965 and 1969 included such a provision. Because the cost to the Government of

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leasing mobile homes from manufacturers or distributors for a year is very high, it may be less expensive under certain circumstances to purchase them outright. They can be either stockpiled or sold later, either to the disaster victim-occupant or on the open market. The fact that mobile homes have recently become eligible for Government-insured loans may facilitate their disposal, perhaps in some cases to the disaster victim himself.

More important, however, is the time which may be gained in some disasters by immediate purchase of temporary dwellings. Several weeks elapsed before mobile homes in any quantity were brought into the Gulf Coast areas most damaged by Camille, and there were many reports of other delays in installing and connecting them up promptly with public services. Some of this can be attributed to poor road conditions and destroyed facilities, but considerable time was lost through advertisement for bids, negotiating and letting contracts, and manufacturing and shipping units from factories hundreds of miles away. At the same time, it has been estimated that within a hundred miles or so of the disaster area there were local dealers who had hundreds of mobile homes which could have been purchased and moved into place quickly if the agency had been authorized to do so. The Committee believes that the Director should be empowered to purchase such temporary dwellings; he would use that power only if in his opinion it were more in the public interest to do so.

The Committee has added a new subsection (c) which is a modified form of an amendment (No. 774) proposed by Senator Yarborough following the tornado in Lubbock, Texas. It authorizes the Director to provide temporary assistance in the form of mortgage or rental payments to individuals who have lost their jobs or are otherwise suffering financial hardship due to a major disaster and who have received written notice of dispossession or eviction from their residence because of foreclosure of a mortgage or lien, cancellation of any contract of sale or termination of a written or oral lease. This assistance is to be provided only for a period not exceeding one year, or for the duration of financial hardship, whichever is lesser. The Committee intends that the term "written notice" shall mean any notice required by the law of

the State or which the Director determines is valid evidence of imminent dispossession or eviction. In addition the Director shall provide reemployment assistance services in order to find job opportunities. Such assistance may also include training or retraining under existing Federal programs.

The effective date of Section 226(c) is August 1, 1969.

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PART D—RESTORATION OF PUBLIC FACILITIES

Federal Facilities

Section 251 of the bill, which authorizes the restoration of Federal facilities damaged in a major disaster, restates in somewhat simpler language the provisions of Section 6 of P.L. 875, 81st Congress, the Disaster Relief Act of 1950. If the President determines such action to be so urgent that it cannot be deferred, he is authorized to allow any Federal agency to repair, restore, reconstruct, or replace facilities owned by the United States which were damaged or destroyed in a major disaster. Work on the project can begin, even if sufficient funds have not been appropriated, if other funds can be transferred from funds appropriated for another purpose.

State and Local Government Facilities

Section 252 authorizes 50% matching grants for restoring public works facilities and projects of States or local communities which were damaged or destroyed in a major disaster, including projects for flood control, navigation, reclamation, electric power, water and sewage treatment, watersheds, airports and non-Federal-aid streets, roads and highways and any other essential public facility. Similar grants could also be made to meet the additional costs of completing such types of projects or facilities which were in the process of construction when the disaster struck. It is the intent of the Committee that under this section the Federal Government's share of the cost of repair, restoration, reconstruction or replacement relates only to those portions of the facility which were damaged or destroyed. (See explanation under Section 203 of the differences between that section and Section 252.)

The effective date of Section 252(a) is made retroactive to August 1, 1969.

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Priority for Certain Applications

Section 253 gives priority in the processing of applications for various housing programs from public bodies located in disaster areas for a period not to exceed six months as prescribed by Presidential proclamation.

Relocation Assistance

Section 254 would authorize the making of relocation payments under the urban renewal program in certain cases to persons displaced by a major disaster. Under present law and regulations, if the area of a major disaster is subsequently approved for an urban renewal project, persons who have been displaced because of the disaster cannot receive relocation payments even though the property they occupied and may have owned is acquired as part of that project, unless they have been able to return and reoccupy that property, or what remains of it, prior to the time of its acquisition. Under the amendment, relocation payments can be made without regard to whether persons displaced by the disaster are able to return to the area, provided that they are in all other respects eligible for such payments. The effective date of this section is made retroactive to August 1, 1969.

TITLE III—MISCELLANEOUS

Repeal of Existing Law

Section 302 repeals the three existing major disaster relief laws: The Act of September 30, 1950 (64 Stat. 1109); the Disaster Relief Act of 1966 (80 Stat. 1316) except section 7 (Higher Education Facilities Assistance); and the Disaster Relief Act of 1969 (83 Stat. 125).

Authorization of Appropriations

Section 303 authorizes the appropriation of such sums as may be necessary except as provided in Sections 206 (State Plans) and 228 (Community Disaster Loan Fund) where specific amounts are authorized.

Effective Date

Section 304 provides that the Act shall take effect immediately upon enactment, except that Sections 226(c), 237, 241, 252(a) and 254 shall take effect as of August 1, 1969. Senator Yarborough

had proposed in his amendment No. 783 to make Parts A (General Provisions), C (Recovery Assistance) and D (Restoration of Public Facilities) of Title II retroactive for a full year prior to enactment of the legislation. The Committee recommends that only five new programs authorized in the bill be made retroactive and, in order to include the Camille disaster of August, 1969, to make the effective date of these programs August 1, 1969. The five new programs are (1) Aid to Major Sources of Employment (Section 237); (2) Community Disaster Loan Fund (Section 241); (3) Restoration of State and Local Government Facilities (Section 252(a)); (4) Temporary Housing Assistance (Section 226(c)); and (5) Relocation Assistance (Section 254).

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SECTION-BY-SECTION ANALYSIS

TITLE I—FINDINGS AND DECLARATIONS, DEFINITIONS

Section 101—Findings and Declarations

The Congress would find and declare that because major disasters cause loss of life, human suffering, loss of income, property loss and damage and because such disasters disrupt the normal functioning of government and the community special measures are required to expedite assistance and emergency welfare services and reconstruct and rehabilitate devastated areas.

The Congress would under this Act provide orderly and continuing means of alleviating suffering and damage by (1) revising and broadening existing major disaster relief programs (2) encouraging development of comprehensive State disaster plans and (3) achieving greater coordination and responsiveness of Federal major disaster relief programs.

Section 102—Definitions

Definitions in this section are the same as P.L. 875, 81st Congress, except for the addition of the words "tornado, highwater, wind-driven water, and tidal wave" to the definition of "major disaster." No provision of S. 3619 would be operative except in those instances and areas where the President has declared that a major disaster has occurred.

PART A—GENERAL PROVISIONS

Section 201—Federal Coordinating Officer

Section 201 provides for the presidential appointment of a Federal Coordinating Officer for the designated disaster area. The

duties of this officer would include but not necessarily be limited to these functions: 1) initial appraisal of the relief most needed, 2) establishment of field offices, 3) coordination of relief distribution activities, and 4) supervision of emergency support teams and other actions to assist local citizens and officials to receive aid.

Section 202—Emergency Support Teams

Section 202 would authorize the Director to form emergency support teams and personnel to assist the Federal Coordinating Officer in carrying out his responsibilities as defined under Section 201.

Section 203—Cooperation of Federal Agencies

This section would authorize Federal agencies to assist disaster areas in several ways, including: the utilization or lending of personnel, facilities, supplies, equipment, and other resources except extension of credit, with or without compensation, to State and local governments; the distribution of medicine, food and other consumable supplies and the rendering of emergency services through relief and disaster assistance organizations; the donation or lending of Federal surplus equipment and supplies; and the performing on public or private lands or waters of any emergency work essential for the protection and preservation of life and property.

Such emergency work would include clearing and removing debris and wreckage. It would also include making repairs, or restoring to service, damaged or destroyed public facilities belonging

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to State and local governments, except that the Federal contribution would not exceed the net cost of restoring such facilities to their predisaster capacity.

Assistance by Federal agencies would also provide for emergency shelter for individuals and families who require such assistance because of a major disaster.

Federal agencies could also make contributions to State or local governments for the purpose of carrying out the types of assistance authorized under Section 203(a) (4).

Emergency work performed under section 203(a) (4) would not bar additional Federal assistance under any other section of the Act.

Federal agencies could be reimbursed for services and supplies under Section 203(a) from funds appropriated under this Act.

Any funds paid to Federal agencies for services or supplies furnished under the provisions of this section would be deposited to the credit of the appropriation or appropriations currently available for such services or supplies.

The Federal Government would not be liable for any claim based on the exercise or performance, or failure to exercise or perform, of a Federal agency or employee in carrying out the provisions of this section.

Any Federal agency designated by the President to exercise authority under this Act could establish and fund the necessary expenses of special groups, interdepartmental or otherwise, which it deemed appropriate to assist in carrying out Federal disaster preparedness and assistance laws.

Any Federal agency carrying out the provisions of this Act could accept and utilize facilities, funds, and services furnished by State or local governments or their personnel, and such Federal agency could temporarily employ additional personnel without regard to civil service laws and could contract or incur obligations on behalf of the United States for acquisition or rental of equipment, services, materials or supplies for shipping, drayage, travel and communications, and for supervising and administering such activities. Such obligations, including those for employment of temporary additional personnel could be incurred by a Federal agency in whatever amount the President made available to it.

The President would further be authorized to coordinate the activities of Federal agencies providing disaster assistance, direct any Federal agency to utilize its funds, personnel, equipment, supplies, facilities, and other resources, prescribe such rules and regulations as may be necessary, and exercise any power or authority conferred on him by any section of this Act either directly or through whatever Federal agency he designates.

Finally, through the Office of Emergency Preparedness, the President would periodically review the disaster assistance activities of Federal and State departments and agencies, in order to assure maximum coordination, and to evaluate progress in the development of Federal, State and local preparedness to cope with major disasters.

Section 204—Use of Local Firms and Individuals

Section 204 provides that in expending Federal funds for debris clearance, distribution of supplies, reconstruction and other major disaster assistance activities carried out by contract with private

organizations, firms or individuals, preference should be given in awarding such contracts to residents and persons who do business primarily in the disaster area.

Section 205—Federal Grant-in-Aid Programs

Any agency administering aid to disaster areas would be authorized to waive the conditions, except matching provisions, for receipt of Federal grant-in-aid programs as would otherwise prevent the giving of assistance for the duration of the disaster proclamation, if inability to meet such conditions resulted from the disaster.

Sections 206—State Disaster Plans

This section provides for the formulation by the States of comprehensive plans and programs for preparation against major disasters and their losses. Grants up to $250,000 would be made by the President to any applicant State on a matching basis for no more than half the cost of developing such plans and programs and up to $25,000 per annum would be made available to update and improve the developed plans.

To be eligible for a planning grant, a State would have to establish or designate an agency which would be responsible for developing and administering its disaster relief plan and program.

The resultant plan should include a comprehensive and detailed State program for preparation against and relief following a major disaster and include provisions for the appointment of a State coordinating office to assist the Federal coordinating officer appointed under Section 201 of this Act.

From time to time, the Director would prepare a report to the President, for submission to the Congress, containing his recommendations for the Federal role in implementing, funding, and coordinating disaster relief activities.

Section 207—Use and Coordination of Relief Organizations

The Director would be authorized to make agreements with relief or disaster assistance organizations, including but not limited to the American National Red Cross, the Salvation Army, the Mennonite Board of Missions and Charities, to help the distribution of food, clothing, medicine and other supplies, and the restoration rehabilitation or reconstruction of community services and facilities. The Director would be authorized to make agreements with organizations which would allow the Federal coordinating

officer to coordinate all relief activities of private agencies in a given disaster area. Such agreements would have to include provisions for compliance with regulations promulgated under Sections 208 (Duplication of Benefits) and 209 (Nondiscrimination).

Section 208—Duplication of Benefits

The Director would be required to ascertain that no person or business would be receiving aid from more than one source for the same disaster damage. No person or business could receive assistance from the government for any loss compensated by insurance, but partial compensation for a loss would not preclude additional Federal assistance for such part of the loss not compensated for otherwise. The Director would be required to determine whether any person had received duplicate benefits. Whenever the Director determined that a person or business had received assistance from

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more than one source which exceeded the amount of the loss, he would direct that person or business to reimburse the Federal Government for the part he deemed excessive but not in excess of the amount of Federal assistance received.

Section 209—Non-discrimination in Disaster Assistance

The Director would be required to issue regulations forbidding discrimination by race, color, age, sex, nationality, religion or economic status in providing disaster relief supplies and services. Any relief organization participating in the distribution of assistance or supplies under Section 207 must comply with these regulations relating to non-discrimination.

Section 210—Advisory Personnel

The Director would be authorized to assign advisory personnel to the chief executive officer of a State or local government upon the request by such executive officer, in order to insure full utilization of relief and assistance resources and programs.

Section 211—Disaster Warnings

The President would be authorized to provide needed warning to governmental authorities and civilian population in areas endangered by imminent natural disasters.

PART B—EMERGENCY RELIEF

Section 221—Predisaster Assistance

The President would be authorized to utilize Federal resources to assist States or local governments in preparations for an imminent major disaster to avert or lessen its effects.

Section 222—Emergency Communications System

The Director would be authorized to establish emergency communications in any major disaster area which would be made available to State and local government officials and other persons as he saw fit.

Section 223—Emergency Public Transportation

Emergency public transportation to governmental offices, supply centers, stores, post offices, schools, and major employment centers would be authorized in a major disaster area where regular public transportation had been disrupted in order that the community's normal pattern of life could be resumed as soon as possible.

Section 224—Debris Removal Grants

The President would be authorized to make grants to State and local governments for removal of debris from private lands or waters whenever he determined it to be in the public interest: except that these benefits would not be available unless State or local governments arranged unconditional authorization for the removal of debris and agreed to indemnify the Federal government for any claims resulting from this debris removal. Payments could also be made to remove debris from community areas which included an individual's private property.

Section 225—Fire Suppression Grants

The President would be authorized to make grants to any State in order to assist in the suppression of fires on publicly or pri-

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vately owned forest and grass lands which threatened such destruction as would constitute a major disaster.

Section 226—Temporary Housing Assistance

The Director would be authorized to provide necessary shelter for owners or tenants whose places of residence had been made uninhabitable by a major disaster. Dwelling accommodations necessary for this purpose, including mobile homes, could be pur-

chased or leased, and in turn could be rented or sold outright to the disaster victims to provide them with suitable housing. The housing would be placed by the State or local government or by the owner or occupant on sites complete with utilities without charge to the United States. The Director could decide in the public interest to provide more economical and accessible sites at Federal expense.

After an initial 90 days of occupancy rentals could be established. These rentals could be compromised, adjusted or waived for a period of not to exceed one year from date of occupancy according to the financial ability of the occupants, but in no case could the family's monthly housing expense be required to be more than one-fourth the family's monthly income.

The Director would be further authorized to provide grants as temporary assistance in the form of mortgage or rental payments to individuals who had suffered severe financial hardship caused by a major disaster and who had received written notice of dispossession or eviction from their residence because of foreclosure of a mortgage or lien, cancellation of a contract of sale, or termination of an oral or written lease. This assistance could be furnished for not in excess of one year or until the individual's financial hardship ended, whichever was the lesser. In addition the Director would provide reemployment assistance services to individuals who were unemployed as a result of a major disaster.

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PART D—RESTORATION OF PUBLIC FACILITIES

Section 251—Federal Facilities

Upon the President's determination that repair, reconstruction, restoration or replacement of facilities owned by the United States was so important and urgent that it could not reasonably be deferred pending enactment of specific authorizing legislation or the making of an appropriation, he could authorize any Federal agency to repair, reconstruct, restore or replace any facilities damaged or destroyed in a major disaster that were under its jurisdiction. This work could begin notwithstanding a lack of insufficiency of funds where such lack or insufficiency could be remedied by transfer, in accordance with law, of funds appropriated for another purpose.

Section 252—State and Local Government Facilities

The President would be authorized to make contributions to States or local communities for repairing, restoring, reconstruct-

ing or replacing damaged portions of public facilities belonging to State or local governments, including flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, airport, non-Federal-aid street, road or highway, and any other essential facility damaged by a major disaster. Such Federal contribution could not exceed 50% of the net cost of restoring such facility to its predisaster capacity and in conformity with applicable codes and specifications.

The President could also make contributions to States or local governments in amounts not in excess of 50% of the net cost of restoring such public facilities, which were in the process of construction when damaged or destroyed, to substantially their condition prior to the disaster and of completing construction not performed before the disaster to the extent that the increase in cost over the original construction cost was attributable to changed conditions caused by the disaster.

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Section 253—Priority to Certain Applications for Public Facilities and Public Housing Assistance

The President by proclamation would prescribe a period not to exceed six months during which processing of applications for assistance would be given priority and immediate assistance under the following Acts: Title II of the Housing Amendments of 1955 or any other act providing assistance for repair, construction or extension of public facilities; the United States Housing Act of 1937 providing low-rent housing; Section 702 of the Housing Act of 1954 providing assistance in public works planning; Section 702 of the Housing and Urban Development Act of 1965 providing grants for public facilities; or Section 306 of the Consolidated Farmers Home Administration Act.

Section 254—Relocation Assistance

This section would provide that no person otherwise eligible for relocation assistance payments under the Housing Act of 1949 would be denied eligibility as a result of a Presidentially declared major disaster.

COMMITTEE RECOMMENDATIONS

The Committee on Public Works, having considered this legislation and having incorporated therein to the greatest extent possible the proposals of all interested parties, is of the opinion that its

provisions are of vital importance to those individuals, organizations and communities suffering hardship as a result of a major disaster. Enactment of S. 3619, as reported, is therefore unanimously recommended.

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INDIVIDUAL VIEWS OF MR. DOLE

In 1969 there were 29 major disasters affecting 23 States. Both in number and in scope of destruction, these disasters surpassed those of any single year since the first comprehensive Federal Disaster Act was passed in 1950. The California flood and Hurricane Camille were exceptionally destructive. As a result, the Federal Government allocated a total of $148,970,000 from the President's disaster fund, the largest sum for any year in history. In addition, the disaster loan programs of the Small Business Administration and the Farmers Home Administration were of major assistance during 1969 to homeowners, businessmen, and farmers. Food supplies from the Department of Agriculture, community relations services from the Department of Justice, and legal assistance grants from OEO also helped many disaster victims.

Operation Foresight, a flood-prevention program, was initiated by President Nixon early in 1969. This innovation has been eminently successful; it prevented widespread human suffering and an estimated $200 million in damage at a cost of $20 million.

Because of the recordbreaking demands of 1969, the Subcommittee on Disaster Relief was created to review our Federal disaster assistance laws. The subcommittee held hearings in the field and in Washington, receiving an abundance of testimony indicating the need to make our disaster assistance more effective and efficient.

On April 22, 1970 President Nixon, in the first special message to Congress on the subject of disaster assistance in 18 years, proposed far-reaching legislative and administrative changes to improve our response to major natural disasters. The President pointed out that our disaster assistance program has "* * * grown in a piecemeal and often haphazard manner, involving over 50 separate congressional enactments and Executive actions." He noted that "This slow development process has created a complex program, one which has a number of gaps and overlaps and needs increased coordination."

The bill reported from committee includes the best concepts and proposals of S. 3619 introduced by Senator Bayh, chairman of the

Subcommittee on Disaster Relief, and S. 3745, introduced by Senator Cooper, ranking minority member of the full Committee on Public Works, on behalf of the administration. Specifically, the following provisions from S. 3475 are included in the committee bill:

1. Provision for removal of the "emergency repair of temporary replacement" criteria of work on essential public facilities, with the proviso that the Federal cost of permanent repair or replacement not exceed the net worth of the facility to its predisaster capacity.

2. Provisions to allow the President to contract or make agreements with private relief organizations in order that the activities of these organizations can be coordinated by appropriate officials and conditioning of such agreements on compliance with Title VI of the Civil Rights Act of 1964.

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3. Provisions to provide for forgiveness of up to $2,500 on losses or damage in excess of $500 on the principle of an SBA or FHA disaster loan.

4. Provision that the State planning program would be an ongoing activity rather than expire on December 31, 1970. Additionally, provisions to limit the amount of assistance available to any one State to $25,000 per annum and in amounts which shall comprise more than 50 percent of the total cost of such planning.

5. Provision that debris-clearance assistance to the States and local governments not be made unless the State or local jurisdiction agrees to unconditionally indemnify the Federal Government from any claims arising as a consequence of the debris removal.

6. Provision to establish a community disaster loan fund in the Treasury for assistance to local communities suffering substantial loss because of a major disaster.

7. Provision to authorize assistance in advance of an imminent disaster.

8. Provisions dealing with antidiscrimination in the administration of assistance; with the establishment of advisory groups on disaster relief, and on the assignment of advisory personnel to local communities.

In addition, the President's program improvements to be achieved administratively have been accomplished or are well underway:

A National Council on Federal Disaster Assistance has been established. The Council brings together senior level officials of Federal agencies to improve coordination of Federal assistance efforts.

One-stop centers—the concept has been tried and proven in the recent Lubbock and Corpus Christi, Tex., disasters, making it easier for disaster victims to get information and assistance.

Disaster assistance teams—teams of knowledgeable Federal officials, supervised by OEP disaster assistance coordinators, are helping communities and individuals in disaster relief and recovery efforts.

Disaster research—within OEP, a research effort is being initiated, wherein the agency serves as the clearinghouse on all disaster-related research.

As the President said in his disaster message, "* * * the general framework of our present program provides an effective mechanism for channeling Federal disaster assistance to individuals and communities", but this legislation for the first time consolidates our major disaster assistance programs and provides additional assistance in areas in which we have been deficient in the past. It is the result of bipartisan efforts of members of the committee and the responsible officials in the executive branch. As ranking minority member of the Subcommittee on Disaster Relief, I join my colleagues in favorably reporting the Disaster Assistance Act of 1970, and allow us, in the President's words, "as we move into a new decade * * * to respond effectively when nature gets out of control and victimizes our citizens."

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1.8a(2) HOUSE COMMITTEE ON PUBLIC WORKS

H.R. REP. No. 91-1524, 91st Cong., 2d Sess. (1970)

DISASTER RELIEF ACT OF 1970

SEPTMEBER 29, 1970.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. FALLON, from the Committee on Public Works, submitted the following

REPORT

[To accompany S. 3619]

The Committee on Public Works, to whom was referred the bill (S. 3619) to revise and expand Federal programs for relief from the effects of major disasters, and for other purposes, having considered same, reports favorably thereon with amendment and recommends that the bill as amended do pass. The amendment is as follows:

Strike out all after the enacting clause and insert a substitute text which is printed in the reported bill in italic type.

PURPOSE

The purpose of S. 3619 as amended, is to—

1. Amend the Act, approved September 30, 1950 (Public Law 875, Eighty First Congress; 42 U.S.C. 1855–1855g; to clarify the scope and extent of Federal assistance authorized by the Congress for repair or restoration of facilities; to provide for temporary housing of disaster victims; and for use of the Salvation Army in Federal disaster relief activities.

2. Amend the Disaster Relief Act of 1969 (Public Law 91–79; Stat. 125) by extending, or terminating, its temporary provisions and modifying certain permanent sections.

3. Provide for relocation assistance payments under section 114 of the Housing Act of 1949 that might otherwise be denied as a result of a major disaster as determined by the President.

4. Provide grants to local governments to compensate for substantial loss of property tax revenue.

5. Provide for Federal assistance in advance of an imminent major disaster.

6. Provide for study by Office of Emergency Preparedness to determine what plans, procedures, and facilities are needed for hazard reduction purposes related to various types of major disasters.

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7. Amend the Disaster Relief Acts of 1950, 1966 and 1969 to make applicable certain provisions of the Disaster Relief Act of 1950 to the two subsequent Acts and to this legislation.

8. Provide for the directive authority of the Disaster Relief Act of 1950 to be applicable to the two subsequent Acts and to this legislation.

9. Provide for disposition of temporary housing by direct sale to disaster victims.

10. Establish the effective dates for Federal disaster assistance authorized by this Act.

SECTION-BY-SECTION SUMMARY

Section 1. Provides that the act may be cited as the "Disaster Relief Act of 1970".

Section 2. Amends Public Law 875, Eighty-first Congress, as follows:

(1) Strikes out "essential" from section 1, Public Law 81–875. The intent is to permit the repair or restoration of public facilities without regard to essentiality.

(2) Amends the definition of the term "major disaster" in Public Law 81–875 to require that Governors certify a need for "Federal disaster assistance" rather than just assistance under Public Law 81–875. The amendment also deletes a reference to the Board of Commissioners of the District of Columbia since that Board no longer exists.

(3) Amends the definition of the term State to include the District of Columbia.

(4) Deletes the reference to the District of Columbia in the definition of local government.

(5) Revises section 3(d) of Public Law 81–875 to provide that Federal contributions for permanent repair or replacement of public facilities of State and local governments shall not exceed the net cost of restoring such facilities, using the basis of design of the facilities as they existed immediately prior to the disaster,

but in conformity with current codes and specifications. This section has been further amended to provide that no rental shall be charged for the first twelve months for temporary housing. After that, rentals would be charged, based on fair market value adjusted to take into consideration the financial ability of the occupant to pay.

(6) Revises section 4, Public Law 81–875 to add the Salvation Army as a private relief organization authorized to distribute needed supplies in a disaster area.

Section 3. Amends certain provisions of the Disaster Relief Act of 1969 (Public Law 91–79) as follows:

(1) Amends section 6 of the Disaster Relief Act of 1969, concerning the disaster loan authorities of the Small Business Administration by:

(*a*) Including as eligible for SBA disaster loans, such injury, loss, or damage which may result from a disaster when determined by (a) the Secretary of Agriculture; (b) the Administrator of the Small Business Administration; and (c) the President.

(*b*) Providing for standardizing the interest rates on loans. [even though assistance may be available from private sources.] The *maximum* allowable interest rate would be 6 percent.

(*c*) Providing that loans shall not be denied on the basis of the age of the applicant.

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(*d*) Providing that such loans may not exceed the current repair or replacement cost of the disaster loss.

(*e*) Providing that in cases of hardship resulting from Presidentially determined disaster, the borrower may cancel the principal of any loan in excess of $500, up to $2,500.

(*f*) Provide for refinancing of mortgages and loans.

(*g*) Provide for loans without regard to whether private sources are available for such loans.

Section 3(2) provides the same amendments for Farmers Home Administration as for the Small Business Administration.

Section 3(3)(A) amends section 8(A) of Public Law 91–79 by adding assistance to "local governments". The act now only refers to individuals.

Section 3(3)(B) amends section 8(c) of Public Law 91–79 to eliminate the cutoff date for State plans and provides that plans

developed under this section shall be applicable to local governments as well as individuals.

Section 3(3) (C) further amends section 8 of Public Law 91–79 by authorizing matching grants to States up to $25,000 per annum for purposes of improving, maintaining, and updating State disaster assistance plans.

Section 3(4) amends section 14, Public Law 91–79 to authorize the use of Federal agencies to clear debris from publicly and privately owned lands and waters, when determined to be in the public interest. Authorization is also provided for grants to any State for similar debris clearance. A requirement is imposed that State and local governments must arrange to provide unconditional authorizations for the removal of such debris and that the Federal Government be indemnified against claims arising from such removal.

Section 3(5) (A) amends section 15, Public Law 91–79 to delete the final date for assistance under that Act, established by existing law as December 31, 1970.

Section 3(5) (B) provides that sections 2, 4, and 10 of Public Law 91–79 shall not be in effect after December 31, 1970. Section 2 provides for a 50 percent Federal contribution for the permanent repair or reconstruction of non-Federal aid highways and is not necessary in view of a revised standard of repair for public facilities eligible for assistance under Public Law 81–875. Section 4 with respect to public land entryman is considered a duplication of existing authority. Section 10 which provides for temporary housing has been deleted in favor of a modified temporary housing provision. All other sections of Public Law 91–79 would remain in effect.

Section 4. Provides that no person otherwise eligible for relocation assistance payments authorized by section 114 of the Housing Act of 1949 shall be denied such eligibility as a result of a major disaster.

Section 5. Authorizes grants to any local government, which, as a result of a major disaster, has suffered a substantial loss of property tax revenue (both real and personal). Grants made under this Section may be made for the tax year in which the disaster occurred and for each of the following two tax years.

Section 6. Permits the President to take effective action to avert or lessen the effects of a catastrophe which threatens to become a major disaster. It is not necessary for the President to declare a

major disaster before assistance can be provided under this section.

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Section 7. Provides for the Director, OEP, to study and investigate what can be done to provide effective action to prevent or lessen losses of property and personal injury or deaths which could result from forest or grass fires, earthquakes, tornadoes, freezes and frosts, tsunami, storm surges and tides and floods which are or threaten to become major disasters. A report of the study and investigation to include recommendations should be submitted to the Congress no later than one year after enactment.

Section 8. Adopts for the purposes of this act, Public Law 89–769, and Public Law 91–79, the following definitions contained in Public Law 81–875: "major disaster", "United States", "State", "Governor", "local government", and "Federal agency". This section also (1) amends section 7 of Public Law 81–875 to include Public Law 91–79 and Public Law 89–769 within that part of section 7 which authorizes Federal agencies to accept and utilize local services and facilities of consenting State and local governments; and extends that provision of section 7 of Public Law 81–875 which authorizes Federal agencies to liberalize employment and contracting practices; (2) amends section 7 of Public Law 81–875 so that obligations may be incurred by any Federal agency in such amount as may be made available to it by the President out of funds available under this act; (3) further amends section 7, Public Law 81–875 to include this act, section 9, Public Law 99–769 and Public Law 91–79 so that Federal agency work performed and expenditures made under section 3, Public Law 81–875, would be eligible for reimbursement in such amounts as the President may deem appropriate.

Section 9. Authorizes the President to utilize the resources of Federal departments or agencies for use in disaster relief, with or without reimbursement, as he deems appropriate. Similar authority was granted by sections 3 and 7 of Public Law 81–875 but not by Public Law 89–769 or Public Law 91–79.

Section 10. Provides that, notwithstanding any other provision of law, such temporary housing including, but not limited to mobile homes or other readily fabricated buildings which were purchased under proper disaster authorities for disaster victims requiring accommodations may be sold directly to disaster victims who are occupants at fair and equitable prices.

Section 11. This section would authorize the President to provide financial assistance in the form of mortgage or rental payments to individuals or families who had suffered financial hardship caused by a major disaster, and who had received written notice of dispossession or eviction from their residence. The assistance could be furnished for not in excess of one year, or for the duration of the financial hardship, whichever is the lesser.

Section 12. Provides that the benefits of this act, and the amendments made by this act, shall apply to those Presidentially declared major disasters, and those disasters and natural disasters as determined by the Secretary of Agriculture and the Administrator of the Small Business Administration which occurred on or after December 1, 1968. In the case of any such disaster which occurs on or after December 1, 1968, and before the date of enactment of this act, the eligible applicant for assistance shall elect to receive such assistance either under this act (including the amendments made by this act) or under the law applicable to such disasters which occurred prior to December 1, 1968. It is impor-

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tant to distinguish between the several "declaration" authorities cited herein. Each type of "declaration" provides specific statutory disaster benefits. A disaster determination by the Secretary of Agriculture and the Small Business Administration would generate certain disaster relief benefits only under their respective authorities; such disaster determinations do not, either individually or together, trigger the disaster relief benefits available under a Presidential declaration of a major disaster.

NEED FOR LEGISLATION

Public Law 81–875, as amended, is the basic authority for Federal disaster assistance. This law provides Federal assistance to State and local governments in restoring public facilities damaged or destroyed in a major disaster. The general framework of the program followed a stable pattern throughout the 1950's due to its emphasis on assisting the public sector, requiring relatively small expenditures from the President's Disaster Relief Fund.

In recent years, the extent of Federal participation in disaster relief has shown a marked increase. During the period 1953–60, disaster assistance funds totaled $86.6 million. This can be compared with Federal expenditures of $655.5 million for major disasters declared during 1962–1969.

Fortunately, the loss of lives and personal injuries caused by disasters have decreased. This is due to the development of more accurate weather forecasting and warning techniques. On the other hand, property losses have significantly increased. The expanding populace and surging property values—residential, commercial, and industrial—have greatly increased the replacement costs of these facilities.

Calendar year 1969 exemplifies the increased requirement for Federal response to disasters under modern conditions of population and environment. During that year the President declared 29 major disasters—the largest number since passage of Public Law 81–875 in 1950. Twenty-three States were affected, six of them twice. During the period 1953 through 1960, an average of 14 major disasters were declared.

Hurricane Camille slammed into the gulf coast in August of 1969. Known deaths totaled 262 and public and private property loss is estimated at $1.5 billion. The Office of Emergency Preparedness has allocated approximately $72 million for the five States affected by this disaster.

Updating and expanding of the Federal disaster relief program was provided by the Disaster Relief Act of 1966 (Public Law 89–769) and by the Disaster Relief Act of 1969 (Public Law 91–79).

Public Law 91–79 expanded Federal assistance to include certain areas in need of further attention. Permanent sections of this Act are those providing for the appointment of a Federal coordinating officer, and authority for the President to make grants and loans to any State in the suppression of forest or grassland fires which may threaten to become a major disaster. The sections scheduled to expire on December 31, 1970, are those providing for permanent repair of road and highway facilities; timber sale contracts; public land entrymen; liberalized loan programs of Small Business Administration and Farmers Home Administration; debris removal; temporary housing; food stamps; unemployment

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compensation and development of comprehensive plans for individuals.

Basically, Public Law 81–875 is sound legislation and has withstood the test of time. Obviously some amendments are needed to incorporate provisions for additional assistance in both the public and private sectors to preclude the need for special legislation after each major disaster impacting large areas and populations.

Sufficient time has not elapsed since passage of Public Law 91–79 to evaluate thoroughly the results of each section of this law. An approach in the form of omnibus legislation is not recommended at this time as undoubtedly further revisions will be required based upon experience gained with new programs in the next two or three years.

S. 3619, as amended, meets all of the essential requirements of an effective legislative program for Federal assistance for three types of disasters. These three types are: (1) major disasters declared by the President; (2) natural disasters designated by the Secretary of Agriculture; and (3) disaster loan areas designated by the Administrator, Small Business Administration.

COMMITTEE HEARINGS

The Subcommittee on Flood Control, House Committee on Public Works, visited during 1969, the areas in Mississippi and Louisiana devastated by Hurricane Camille to observe disaster relief activities and to evaluate the effectiveness of existing legislative authorities. During the public hearings, before the Subcommittee on Flood Control many witnesses appeared and testified on the needs for disaster relief legislation, additional witnesses made their position known through submission of written reports while affected Federal agencies submitted reports and analyses. Each of these presentations received complete and careful attention from the subcommittee.

COMMITTEE VIEWS

The committee hopes that S. 3619, as amended and submitted to the House of Representatives will receive the support it deserves, as an act designed to clarify and update existing legislation and to provide for new legislative authorities where needed for new programs such as tax revenue maintenance. Emphasis is properly given to preparedness measures and to prevention of disasters. Further experience is needed with debris clearance from private property, temporary housing and unemployment compensation to evaluate the cost and effectiveness of those forms of assistance to disaster victims. Some programs, such as maintenance of tax revenues, mortgage payments, and relocation assistance are as yet untried. Experience with such programs is desirable before an effort is made to codify all existing disaster assistance legislation into a single act.

MONETARY AUTHORIZATION

S. 3619, as amended, provides for no specific dollar authorization, the exact amount of funds needed will depend upon the frequency and magnitude of disasters that occur and the elections of options made by eligible applicants for those disasters which have occurred during the period of overlap of recent disaster legislation.

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EXPLANATION OF THE BILL

Section 2

Paragraph (1) strikes out "essential" from section 1 of Public Law 81–875. This provides for greater latitude in the administration in the repair of public facilities, however it is not intended to provide for repairs to facilities which are obsolete and not in use.

Paragraph (2) changes the definition of "major disaster" by requiring the Governor of a State to certify the need for "Federal disaster assistance" instead of merely "disaster assistance under this Act." Paragraphs (3) and (4) ensure that the District of Columbia would be listed as a State instead of a local government.

Paragraph (5) removes the authority for "clearing debris and wreckage" from section 3(d) of Public Law 81–875, and extends the scope of Federal aid to permit making permanent repairs and replacements of public facilities instead of only emergency repairs and temporary replacements. The Federal contribution would be limited to the net cost of restoring the facility using the basis of design of that facility as it existed immediately prior to the disaster, but in accordance with current codes, standards and specifications. The intent here is to provide for Federal payment for a new facility that would provide the same capacity as the old facility if it were to be built today according to up-to-date standards. Two examples, (1) If a 400 pupil school constructed in 1950 was designed on then existing criteria to provide a certain number of square feet per student, a cafeteria and library, but no gymnasium or swimming pool, the Federal contribution would be available to the amount that would be required for a 400 pupil school with a cafeteria and library. It would not pay for a swimming pool and gymnasium even though such amenities would be required if the school were to be built now. Nor would the Federal government pay for a 600 pupil school which would be called for if the school were to be designed new today. If, however, today's standards called for a greater number of square feet per student the Federal

contribution would properly pay for space based on the new figure; similarly lighting levels, plumbing and installed fixtures based on 1970 levels rather than 1950 criteria would be used in determining the Federal contribution. Example (2): An old bridge containing two ten foot lane without shoulders or sidewalks was washed out as a result of a disaster. Assuming that the average daily traffic would now justify a four lane bridge, the Federal contribution would nevertheless be limited to 100% of the net cost of replacing two lanes. If current standards now require twelve foot lanes, shoulders and sidewalks, the Federal contribution would properly include those costs. If the State or local government decided to build a four lane bridge; it could do so but the Federal contribution would be limited to the cost of a new two lane bridge.

Paragraph (5) of section 2 of the committee amendment provides further, if temporary housing or emergency shelter is provided, the first twelve months of occupancy would be rent-free. After that, rentals would be based on the fair market rental value of the accommodations furnished. Adjustment of the rentals charged to disaster victims occupying temporary housing shall be made downward based upon the financial ability of the occupants to pay. There would be no limitation upon the type of acquisition available to the Federal Government in acquiring temporary hous-

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ing or other emergency shelter, including but not limited to, mobile homes or other readily fabricated dwellings.

Paragraph (6) provides that the Salvation Army may act as a distribution organization in addition to the "Red Cross or otherwise."

Section 3

Paragraph (1) of section 3 of the committee amendment would amend the Disaster Relief Act of 1969 (Public Law 91–79, 83 Stat. 125) by (1) amending Section 6 to include as eligible for Small Business Act disaster relief loans losses, damage or economic injury resulting from a natural disaster as determined by the Secretary of Agriculture, a disaster as determined by the Administrator of the SBA as well as the now included major disaster as determined by the President. "Injury" is understood to be economic injury, "Loss or damage" is no longer confined to property loss or damage.

The authority contained in existing section 6(2) of Public Law 91–79 for the granting of any loan for repair, rehabilitation or replacement of property damaged or destroyed is retained. However, the interest rate would be determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods of maturity of ten to twelve years reduced by not to exceed 1 per centum per annum. However, the maximum allowable interest rate would be 6 percent. The existing statute requires the loan to bear an interest rate based upon all interest bearing obligations of the United States with maturities of 20 years or more.

This provision also eliminates the requirement in existing section 6(2) of Public Law 91–79 to the effect that a loan granted without regard to whether the required financial assistance is otherwise available from private sources would not be eligible for cancellation or deferral. The revised section 6(a), paragraphs (1), (3) and (4) would make such loans eligible for deferral or cancellation without regard to availability of financial assistance from private sources.

Existing section 6(1) provides that to the extent loss or damage is not compensated for by insurance or otherwise, the borrower of any loan in excess of $500 shall have the option to cancel the interest on the loan or the principal of the loan or any compensation of interest or principal not to exceed $1,800 and the Small Business Administration may defer interest payments or principal payments or both during the first three years of the term of the loan without regard to the ability of the borrower to make such payments. The committee amendment permits, in cases of hardship resulting from Presidentially determined disasters, the cancellation of the principal only of the loan in excess of $500 up to $2,500. This means that the borrower in such case would no longer be able to cancel the interest due but would have the advantage of cancelling principal up to $2,500 rather than $1,800. Hardship as used herein is to be liberally interpreted.

The revised section 6(4) contained in the committee amendment retains provision for deferral of interest and principal payments during the first three years of the term of the loan but eliminates the existing requirement that the deferral shall be made "without regard to the ability of the borrower to make such payment." It further requires that the new interest rate based on 10 to 12 year obligations of the U.S. (but in no event to exceed 6 percent per annum) shall be used.

The existing section 6(3) permitting refinancing of mortgage or other liens in the case of total destruction or substantial property

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damage of a home or business concern is replaced by the revised section 6(2) which permits refinancing only to the amount of the physical loss sustained. This subsection applies only to major disasters declared by the President.

A new section 6(c) provides that a loan shall not be denied on the basis of the age of the applicant.

Paragraph (2) of section 3 of the committee amendment provides for a revised section 7 dealing with emergency farm loans under the Consolidated Farmers Home Administration Act of 1961, as amended (7 U.S.C. 1961–1967) and provides the same requirements for these FHA Act loans as are provided in revised section 6 for the Small Business Act loans.

Paragraph (3)(A) of section 3 of the committee amendment authorizes the President to provide assistance to the States in developing disaster relief plans and programs to include assistance to "local governments", thus adding local governments into the Disaster Relief Act of 1969 which now refers only to individuals.

Paragraph (3)(B) of this section makes section 8 of the 1969 Act permanent law by eliminating the deadline date of December 31, 1970, by which the States were to submit their State plans to the President.

Paragraph (3)(C) of this section authorizes the President to make grants not to exceed 50% of the cost of improving, maintaining and updating State disaster assistance plans. This is limited to $25,000 per annum to each State.

Paragraph (4) of this section would amend section 14 of the existing 1969 act relating to debris removal to permit removal of debris or wreckage from both publicly and privately owned lands and waters. It also authorizes the President to use Federal departments, agencies and instrumentalities to clear the debris; however, this authority shall not be exercised unless the State or local government first arranges for an unconditional authorization for removal of the debris or wreckage from public and private property. The existing authority to make grants to States for the purpose of debris removal from privately owned lands and waters is expanded to permit grants to local governments and also to cover both publicly and privately owned lands and waters. The authority of the State to make payments to any person for reim-

bursement of expenses actually incurred by such person for the removal of debris would be removed from the Federal law.

In the case of debris removal from private property, the State or local government must first agree to indemnify the Federal government against any claim arising from the removal.

Paragraph (5) (A) of this section eliminates the cutoff date for eligibility for assistance under the 1969 Act by striking out "December 31, 1970."

Paragraph (5) (B) repeals sections 2, 4 and 10 of the 1969 Act [Public Law 91–79] dealing with highway repairs, public land entrymen, and temporary dwellings, respectively, after December 31, 1970. This is no change from the existing law. However, the result of these amendments will be to continue in effect sections 3 (timber sales contracts), 6 (SBA disaster loans, as amended), 7 (emergency farm loans, as amended), 11 (food coupon allotments), 12 (unemployment assistance) and 14 (debris removal, as amended), all of which would have otherwise been terminated as of December 31, 1970. Sections 5, 8, 9 and 13 would have remained

in effect in any case. These amendments made by paragraph (5) are to go into effect upon the date of enactment of this act.

Section 4

This section requires that no person otherwise eligible for relocation assistance payments authorized by section 114 of the Housing Act of 1949 shall be denied such eligibility as a result of a major disaster.

This section would make clear the authority of the Secretary of Housing and Urban Development to authorize the making of relocation payments under the urban renewal program in certain cases to persons displaced by a major disaster. If the area of a major disaster is subsequently approved for an urban renewal project, persons who have been displaced because of the disaster may be unable to return and reoccupy property they may have owned or what remains of it, prior to the time of its acquisition. Under the amendment, relocation payments could be made in such cases without regard to whether persons displaced by the disaster are able to return to the area, provided that they are in all other respects eligible for such payments.

Section 5

This section would authorize the President to make grants to any local government, which, as a result of a major disaster has suffered a substantial loss of property tax revenue (both real and personal). The limitations placed upon these grants are: (1) They may only be made for the tax year in which the disaster occurred and for each of the following two tax years. (2) The grant shall not exceed the difference between the annual average of all property tax revenues received during the three tax year period immediately preceding the tax year in which the major disaster occurred and the actual property tax revenue received for the tax year in which the disaster occurred and for each of the two succeeding tax years. (3) There must be no reduction in tax rates and tax assessment evaluation factors of the local government. If, however, there has been such a reduction, a grant may still be made for the year or years when such reduction is in effect, but, the President shall use the tax rates and tax assessment factors in effect at the time of the disaster without reduction in order to determine revenues which would have been received. These revenues will then be used in calculating the difference as the basis of determining the grant instead of the actual revenues.

Section 6

This section contains broad authority that would permit the President, if he determines that a major disaster is imminent, to use Federal departments, agencies and instrumentalities to divert or lessen the effects of a disaster before it actually occurs.

Section 7

This section directs the Director of the Office of Emergency Preparedness to study and investigate ways and means to provide effective action to prevent or lessen losses of property and personal injury or deaths which could result from forest or grass fires, earthquakes, tornadoes, freezes and frosts, tsunami, storm surges and tides and floods which are or threaten to become major disasters. The report is due not later than one year after date of enactment of the Act and is required to contain recommendations.

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Section 8

Subsection (a) applies the definitions of "major disaster" and other definitions as used in the Act of September 30, 1950, as

amended, (42 U.S.C. 1855A) to this Act, the Disaster Relief Act of 1969 and Section 9 of the Disaster Relief Act of 1966.

Subsection (b) would amend the Act of September 30, 1950, as amended, 42 U.S.C. 1855 (f), to include this Act, the Disaster Relief Act of 1969 and section 9 of the Disaster Relief Act of 1966 within the provision authorizing Federal agencies to accept and utilize local services and facilities of consenting States or local governments. It would also extend that Act's provision authorizing Federal agencies to employ temporary additional personnel without regard to the civil service laws. (Section 9 of the Disaster Relief Act of 1966 authorizes sums necessary to reimburse not more than 50 percent of eligible costs incurred to repair, restore or reconstruct any State, county municipality, or local government agency project for flood control, navigation, irrigation, reclamation, public power, sewage treatment, water treatment, watershed development, or airport construction.) The 1950 act would be further amended to provide that obligations may be incurred by an agency in the amount as may be made available out of funds specified to carry out this act or section 9 of the Disaster Relief Act of 1966 and the Disaster Relief Act of 1969 instead of only the funds specified under section 8 of the 1950 Act. A further amendment to section 7 of the September, 30, 1950 Act would again add this Act, section 9 of the Disaster Relief Act of 1966 and the Disaster Relief Act of 1969 to expenditures under section 3 of the 1950 act as eligible for reimbursement to a Federal agency. (Section 3 authorizes Federal assistance by utilizing or lending to States or local governments equipment, supplies, facilities, personnel and other resources.)

Section 9

This section grants the President authority to use all Federal departments or agencies to the best advantage under varying conditions to exercise the authorities granted him by this act, the act of September 30, 1950 (42 U.S.C. 1855–1855g), the Disaster Relief Act of 1966 and the Disaster Relief Act of 1969.

Section 10

This section provides that mobile homes or other readily fabricated dwellings used as temporary housing in major disasters may be sold directly to the occupants thereof at fair and equitable prices. The intent of this provision is to provide primary housing

to persons who have lost their dwelling place as the result of a major disaster, not to provide secondary or recreational housing. It is intended that the purchaser would have the responsibility to provide a location where the dwelling could be placed which met current requirements of State or local zoning ordinances or other laws respecting such dwelling units, and for movement of such dwelling to that location.

Section 11

This section authorizes grants as temporary assistance in the form of mortgage or rental payments to individuals who have suffered severe financial hardship caused by a major disaster and who have received written notice of dispossession or eviction from

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their residence because of foreclosure of a mortgage or lien, cancellation of a contract of sale, or termination of a lease. This assistance could be furnished for not in excess of one year or until the individual's financial hardship ended, whichever was the lesser.

Section 12

This section provides that this Act, and the amendments made by this Act, would apply to major disasters as determined by the President; to any natural disaster as determined by the Secretary of Agriculture; and to disasters as determined by the Administrator of Small Business, which disasters occur on or after December 1, 1968. A declaration by the Administrator or Secretary would make available only the benefits of the sections of this Act which each such officer administer. In any of the above mentioned types of disasters which occurred on or after December 1, 1968 and before the date of enactment of this Act, whoever is eligible for Federal disaster relief assistance as a result of such a declaration shall have the opportunity to make an election to receive benefits either under this Act (including the amendments made by this Act) or under the laws applicable to such disasters occurring prior to December 1, 1968. Each applicant who has already received benefits under PL 91–79 would have to determine whether he would accept benefits available under this Act or those Acts applicable to disasters occurring prior to December 1, 1968, but in no case will duplicate benefits be provided.

NATURAL DISASTERS DECLARED BY THE PRESIDENT WHICH OCCURRED DEC. 1, 1968, TO SEPT. 25, 1970

Contract No.	Date of declaration	Type	State	Congressional districts
253	Jan. 26, 1969	Severe storms and flooding	California	1, 2, 3, 4, 12–14, 16–35, 38.
254	Feb. 15, 1969	...do	Arkansas	1–4.
255	Apr. 18, 1969	Flooding	Minnesota	1–8.
256	...do	...do	North Dakota	1, 2.
257	...do	...do	South Dakota	1, 2.
258	Apr. 19, 1969	...do	Nevada	1.
259	Apr. 25, 1969	...do	Iowa	1, 2, 4–7.
260	May 1, 1969	...do	Wisconsin	3, 7, 10.
261	May 19, 1969	Severe storms and flooding	Colorado	1–4.
262	June 6, 1969	Flooding	Illinois	16, 19, 20.
263	July 11, 1969	Severe storms and flooding	Tennessee	4, 6.
264	...do	...do	Wisconsin	1–5.
265	July 15, 1969	...do	Kentucky	1, 2, 5.
266	...do	Tornados, severe storms, and flooding	Ohio	5, 8–11, 13, 14, 16–23.
267	...do	...do	Kansas	1–5.
268	Aug. 5, 1969	Heavy rains and flooding	Minnesota	2.
269	Aug. 14, 1969	Severe storms, heavy rains, and flooding	Iowa	1–6.
270	Aug. 15, 1969	Flooding	California	12.
271	Aug. 18, 1969	Hurricane Camille	Mississippi	3, 4, 5.
272	Aug. 19, 1969	...do	Louisiana	1, 6.
273	...do	Severe storms and flooding	Pennsylvania	6, 11, 11, 15.
274	Aug. 23, 1969	...do	Virginia	4, 5, 6, 7, 8.
275	Aug. 26, 1969	Heavy rains and flooding	New York	27.
276	Aug. 30, 1969	...do	Illinois	16, 19, 20, 21, 23, 24
277	...do	Severe storms and flooding	Vermont	1.
278	Sept. 3, 1969	...do	West Virginia	2, 3.
279	Sept. 24, 1969	...do	...do	2.
280	Nov. 7, 1969	Hurricane Camille	Alabama	1, 2.
281	Dec. 19, 1969	Heavy rains and a landslide	Alaska	1.
282	Feb. 2, 1970	Heavy snow, rains and flooding	Kentucky	5, 7.
283	Feb. 16, 1970	Severe storms and flooding	California	1, 2, 4, 8.
284	Feb. 27, 1970	Severe storms, ice jams, and flooding	Maine	1, 2.
285	Apr. 9, 1970	Tornadoes, exeessive rains, and flooding	Alabama	3, 4, 5, 6.
286	May 13, 1970	Tornadoes, windstorms, and flooding	Texas	18, 19.
287	June 5, 1970	Severe storms and flooding	North Dakota	1, 2.
288	...do	...do	Kentucky	2, 5.
289	July 3, 1970	Heavy rains and flooding	Florida	1.
290	July 22, 1970	...do	New York	27, 33, 38.
291	...do	...do	Minnesota	7, 8.
292	Aug. 4, 1970	Hurricane Celia	Texas	14, 23.
293	Sept. 22, 1970	Heavy rains and flooding	Colorado	4.
294	...do	Heavy rains and flash flooding	Arizona	1, 3.

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CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

DISASTER RELIEF ACT OF 1969

* * * * * * *

[SEC. 6. In the administration of the disaster loan program under section 7(b)(1) of the Small Business Act, as amended (15 U.S.C. 636(b)), in the case of property loss or damage in any affected State resulting from a major disaster the Small Business Administration—

[(1) to the extent such loss or damage is not compensated for by insurance or otherwise, (A) shall at the borrower's option on that part of any loan in excess of $500 cancel (i) the interest due on the loan, or (ii) the principal of the loan, or (iii) any combination of such interest or principal except that the total amount so canceled shall not exceed $1,800, and (B) may defer interest payments or principal payments, or both, in whole or in part, on such loan during the first three years of the term of the loan without regard to the ability of the borrower to make such payments.

[(2) may grant any loan for the repair, rehabilitation, or replacement of property damaged or destroyed, without regard to whether the required financial assistance is otherwise available from private sources, except that (A) any loan made under authority of this paragraph shall bear interest at a rate equal to the average annual interest rate on all interest-bearing obligations of the United States having maturities of 20 years or more and forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan, adjusted to the nearest one-eighth of one per centum, and (B) no part of any loan made under authority of this paragraph shall be eligible for cancellation or deferral as authorized in paragraph (1) of this section.

[(3) may in the case of the total destruction or substantial property damage of a home or business concern refinance any mortgage or other liens outstanding against the destroyed or damaged property if such financing is for the repair, rehabilitation, or replacement of property damaged or destroyed as a result of such disaster and any such refinancing shall be subject to the provisions of paragraphs (1) and (2) of this section.]

Sec. 6. (a) In the administration of the disaster loan program under sections 7(b) (1), (2), and (4) of the Small Business Act, as amended (15 U.S.C. 63(b)), in the case of injury, loss, or damage resulting from a major disaster as determined by the

President, a natural disaster as determined by the Secretary of Agriculture, and a disaster as determined by the Administrator of the Small Business Administration—

(1) to the extent such injury, loss, or damage is not compensated for by insurance or otherwise, may grant any loan for repair, rehabilitation, or replacement of property injured, damaged, or destroyed, without regard to whether the required financial assistance is otherwise available from private sources.

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(2) may, in the case of the total destruction or substantial property damage of a home or business concern, refinance any mortgage or other liens outstanding against the destroyed or damaged property if such property to is to be repaired, rehabilitated, or replaced, except that the amount refinanced shall not exceed the amount of the physical loss sustained. This clause shall apply only to loans made to cover injury, losses, and damage resulting from major disasters as determined by the President.

(3) to the extent that repayment of a loan made under this section would constitute a hardship upon the borrower, may, on that part of any loan in excess of $500, cancel the principal of the loan, except that the total amount so canceled shall not exceed $2,500. This clause shall apply only to loans made to cover injury, losses, and damage resulting from major disasters as determined by the President.

(4) may defer interest payments or principal payments, or both, in whole or in part, on any loan made under this section during the first three years of the term of the loan, except that any such deferred payments shall bear interest at the rate determined under subsection (b) of this section.

(b) Any loan made under this section shall not exceed the current cost of repairing or replacing the disaster injury, loss, or damage in conformity with current codes and specifications. Any such loan (including any refinancing under clause (2) and any deferred payment under clause (4) of subsection (a)) shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of ten to twelve years reduced by not to exceed 1 per centum per annum. In no event shall any loan

made under this section bear interest at a rate in excess of 6 per centum per annum.

(c) *A loan under this section shall not be denied on the basis of the age of the applicant.*

[SEC. 7. In the administration of the emergency loan program under subtitle C of the Consolidated Farmers Home Administration Act of 1961, as amended (7 U.S.C. 1961–1967), in the case of property loss or damage in any affected State resulting from a major disaster the Secretary of Agriculture—

[(1) to the extent such loss or damage is not compensated for by insurance or otherwise, (A) shall at the borrower's option on that part of any loan in excess of $500 cancel (i) the interest due on the loan, or (ii) the principal of the loan, or (iii) any combination of such interest or principal except that the total amount so cancelled shall not exceed $1,800, and (B) may defer interest payments or principal payments, or both, in whole or in part, on such loan during the first three years of the term of the loan without regard to the ability of the borrower to make such payments.

[(2) may grant any loan for the repair, rehabilitation, or replacement of property damaged or destroyed, without regard to whether the required financial assistance is otherwise available from private sources, except that (A) any loan made under authority of this paragraph shall bear interest at a rate equal to the average annual interest rate on all interest-bearing obligations of the United States having maturities of 20 years or more and forming a part of the public debt as computed at the end of the fiscal year next preceding the date

of the loan, adjusted to the nearest one-eighth of one per centum, and (B) no part of any loan made under authority of this paragraph shall be eligible for cancellation or deferral as authorized in paragraph (1) of this section.

[(3) may in the case of the total destruction or substantial property damage of a home or business concern refinance any mortgage or other liens outstanding against the destroyed or damaged property if such financing is for the repair, rehabilitation, or replacement of property damaged or destroyed as a result of such disaster and any such refinancing shall be subject to the provisions of paragraphs (1) and (2) of this section.]

Sec. 7. (a) In the administration of the emergency loan program under subtitle C of the Consolidated Farmers Home Administration Act of 1961, as amended (7 U.S.C. 1961–1967), and the rural housing loan program under section 502 of title V of the Housing Act of 1949, as amended (42 U.S.C. 1472), in the case of loss or damage resulting from a major disaster as determined by the President, or a natural disaster as determined by the Secretary of Agriculture, the Secretary of Agriculture—

(1) to the extent such loss or damage is not compensated for by insurance or otherwise, may grant any loan for the repair, rehabilitation, or replacement of property damaged or destroyed, without regard to whether the required financial assistance is otherwise available from private sources.

(2) may, in the case of the total destruction or substantial property damage of homes or farm service buildings and related structures and equipment, refinance any mortgage or other lines outstanding against the destroyed or damaged property if such property is to be repaired, rehabilitated, or replaced, except that the amount refinanced shall not exceed the amount of the physical loss sustained. This clause shall apply only to loans made to cover losses and damage resulting from major disasters as determined by the President.

(3) to the extent that repayment of such loan made under this section would constitute a hardship upon the borrower, may, on the part of any loan in excess of $500, cancel the principal of the loan, except that the total amount so canceled shall not exceed $2,500. This clause shall apply only to loans made to cover losses and damage resulting from major disasters as determined by the President.

(4) may defer interest payments or principal payments, or both, in whole or in part, on loans made under this section during the first three years of the term of the loan, except that any such deferred payments shall themselves bear interest at the rate determined under subsection (b) of this section.

(b) Any loan made under this section shall not exceed the current cost of repairing or replacing the disaster loss or damage in conformity with current codes and specifications. Any such loan (including any refinancing under clause (2) and any deferred payment under clause (4) of subsection (a)) shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining peri-

ods to maturity of ten to twelve years reduced by not to exceed 1 per centum per annum. In no event shall any loan made under this section bear interest at a rate in excess of 6 per centum per annum.

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(c) A loan under this section shall not be denied on the basis of the age of the applicant.

SEC. 8. (a) The President is authorized to provide assistance to the States in developing comprehensive plans and practicable programs for assisting individuals *and local governments* suffering losses as the result of a major disaster. For the purposes of this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(b) The President is authorized to make grants not to exceed $250,000 to any State, upon application therefor, in an amount not to exceed 50 per centum of the cost of developing the plans and programs referred to in subsection (a).

[(c) Any State desiring assistance under this section shall designate or create an agency which is specially qualified to plan and administer such a disaster relief program, and shall, through such agency, submit a State plan to the President not later than December 31, 1970, which shall (1) set forth a comprehensive and detailed State program for assistance to individuals suffering losses as a result of a major disaster and (2) included provision for the appointment of a State coordinating officer to act in cooperation with the Federal coordinating officer required by section 9 of this Act.]

(1) Any State desiring assistance under this section shall designate or create an agency which is specifically qualified to plan and administer a disaster relief program, and shall, through such agency, submit a State plan to the President, which shall (1) set forth a comprehensive and detailed State program for assistance to individuals and to local governments suffering losses as a result of a major disaster and (2) include provisions for the appointment of a State coordinating officer.

(d) The President shall prescribe such rules and regulations as he deems necessary for the effective coordination and administration of this section.

(e) Upon the submission of such plans the President is authorized to report and recommend to the Congress, from time to time,

programs for the Federal role in the implementation and funding of comprehensive disaster relief plans, and such other recommendations relating to the Federal role in disaster relief activities as he deems warranted.

(f) The President is authorized to make grants not to exceed 50 per centum of the cost of improving, maintaining, and updating State disaster assistance plans, except that no such grant shall exceed $25,000 per annum to any State.

* * * * * * *

SEC. 14. The President, whenever he determines it to be in the public interest, and acting through the Director of the Office of Emergency Preparedness, is authorized to make grants to any State or political subdivision thereof for the purpose of removing debris deposited on privately owned lands and on or in privately owned waters as a result of a major disaster, and such State or political subdivision is authorized, upon application, to make payments to any person for reimbursement of expenses actually incurred by such person in the removal of such debris, but not to exceed the amount that such expenses exceed the salvage value of such debris.]

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Sec. 14. (a) The President, whenever he determines it to be in the public interest, is authorized—

(1) through the use of Federal departments, agencies, and instrumentalities, to clear debris and wreckage resulting from a major disaster from publicly and privately owned lands and waters.

(2) to make grants to any State or local government for the purpose of removing debris or wreckage resulting from a major disaster from publicly or privately owned lands and waters.

(b) No authority under this section shall be exercised unless the affected State or local government shall first arrange an unconditional authorization for removal of such debris or wreckage from public and private property, and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the Federal Government against any claim arising from such removal.

SEC. 15. (a) As used in this Act the term "major disaster" means a major disaster as determined by the President pursuant to the Act entitled "An Act to authorize Federal assistance to

States and local governments in major disasters, and for other purposes", approved September 30, 1950, as amended (42 U.S.C. 1855–1855g), which disaster occurred after June 30, 1967, [and on or before December 31, 1970].

[(b) This Act, other than sections 5, 8, 9, and 13, shall not be in effect after December 31, 1970, except as is applies to major disasters occurring before such date.]

(b) Sections 2, 4, and 10 of this Act shall not be in effect after December 31, 1970.

* * * * * * *

ACT OF SEPTEMBER 30, 1950

* * * * * * *

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the intent of Congress to provide an orderly and continuing means of assistance by the Federal Government to States and local governments in carrying out their responsibilities to alleviate suffering and damage resulting from major disasters, to repair [essential] public facilities in major disasters, and to foster the development of such State and local organizations and plans to cope with major disasters as may be necessary.

SEC. 2. As used in this Act, the following terms shall be construed as follows unless a contrary intent appears from the context:

(a) "Major disaster" means any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe in any part of the United States which, in the determination of the President, is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the efforts and available resources of States and local governments in alleviating the damage, hardship, or suffering caused thereby, and respecting which the governor of any State [(or the Board of Commissioners of the District of Columbia)] in which such catastrophe may occur or threaten certifies the need for [disaster assistance under this Act] *Federal disaster assistance,* and shall give assurance of expenditure of a reasonable amount of the funds

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of the government of such State, local governments therein, or other agencies, for the same or similar purposes with respect to such catastrophe;

(b) "United States" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands;

(c) "State" means any State in the United States, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands[.], *and the District of Columbia;*

(d) "Governor" means the chief executive of any State;

(e) "Local government" means any county, city, village, town, district, or other political subdivision of any State, [or the District of Columbia] and includes any rural community or unincorporated town or village for which an application for assistance is made by a State or *local government or governmental agency;*

(f) "Federal agency" means any department, independent establishment, Government corporation, or other agency of the executive branch of the Federal Government, excepting, however, the American National Red Cross.

SEC. 3. In any major disaster, Federal agencies are hereby authorized when directed by the President to provide assistance (a) by utilizing or lending, with or without compensation therefor, to States and local governments their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any Act; (b) by distributing, through the American National Red Cross, *the Salvation Army,* or otherwise, medicine, food, and other consumable supplies; (c) by donating or lending equipment and supplies determined under then existing law to be surplus to the needs and responsibilities of the Federal Government, to States for use or distribution by them for the purposes of the Act including the restoration of public facilities damaged or destroyed in such major disaster and essential rehabilitation of individuals in need as the result of such major disaster; [(d) by performing on public or private lands protective and other work essential for the preservation of life and property, clearing debris and wreckage, making emergency repairs to and temporary replacements of public facilities of States and local governments damaged or destroyed in such major disaster, providing temporary housing or other emergency shelter for families who, as a result of such major disaster, require temporary housing or other emergency shelter, and making contributions to States and local governments for purposes stated in subsection (d)] (*d*) *by performing on public or private lands protective, emergency, and other work essential for the preservation of life and property; making repairs to and replacements of public facilities (including street, road, and highway facilities) of States and local govern-*

ments damaged or destroyed in such major disaster, except that the Federal contributions therefor shall not exceed the net cost of restoring each such facility on the basis of the design of such facility as it existed immediately prior to the disaster in conformity with current codes, specifications, and standards; providing temporary housing or other emergency shelter, including, but not limited to, mobile homes or other readily fabricated dwellings for those who, as a result of such major disaster, require temporary housing or other emergency shelter, except that for the first twelve months of occupancy no rentals shall be established for any such accommodations, thereafter rentals shall be established,

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based upon fair market value of the accommodations being furnished, adjusted to take into consideration the financial ability of the occupant; and making contributions to States and local governments for the purposes stated in this clause. The authority conferred by this Act, and any funds provided hereunder shall be supplementary to, and not in substitution for, nor in limitation of, any other authority conferred or funds provided under any other law. Any funds received by Federal agencies as reimbursement for services or supplies furnished under the authority of this section shall be deposited to the credit of the appropriation or appropriations currently available for such services or supplies. The Federal Government shall not be liable for any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Government in carrying out the provisions of this section.

* * * * * * *

SEC. 7. In carrying out the purposes of this Act, *and section 9 of the Disaster Relief Act of 1966, the Disaster Relief Act of 1969, and the Disaster Relief Act of 1970,* any Federal agency is authorized to accept and utilize with the consent of any State or local government, the services and facilities of such State or local government, or of any agencies, officers, or employees thereof. Any Federal agency, in performing any activities under section 3 of this Act, *and section 9 of the Disaster Relief Act of 1966, the Disaster Relief Act of 1969, and the Disaster Relief Act of 1970,* is authorized to employ temporarily additional personnel without regard to the civil-service laws and the Classification Act of 1923, as amended, and to incur obligations on behalf of the United States

by contract or otherwise for the acquisition, rental, or hire of equipment, services, materials, and supplies for shipping, drayage, travel and communication, and for the supervision and administration of such activities. Such obligations, including obligations arising out of the temporary employment of additional personnel, may be incurred by any agency in such amount as may be made available to it by the President out of the funds [specified in section 8.] *available to carry out this Act, section 9 of the Disaster Relief Act of 1966, the Disaster Relief Act of 1969, and the Disaster Relief Act of 1970.* The President may, also, out of such funds, reimburse any Federal agency for any of its expenditures under section 3 *of this Act, section 9 of the Disaster Relief Act of 1966, the Disaster Relief Act of 1969, and the Disaster Relief Act of 1970,* in connection with a major disaster, such reimbursement to be in such amounts as the President may deem appropriate.

* * * * * * *

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1.8a(3) COMMITTEE OF CONFERENCE

H.R. REP. No. 91-1752, 91st Cong., 2d Sess. (1970)

DISASTER RELIEF ACT OF 1970

DECEMBER 15, 1970.—Ordered to be printed

Mr. JONES of Alabama, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 3619]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3619) to revise and expand Federal programs for the relief from the effects of major disasters, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:
That this Act may be cited as the "Disaster Relief Act of 1970".

Title I—Findings and Declarations; Definitions

Findings and Declarations

Sec. 101. (a) The Congress hereby finds and declares that—

(1) because loss of life, human suffering, loss of income, and property loss and damage result from major disasters such as hurricanes, tornadoes, storms, floods, high waters, wind-driven waters, tidal waves, earthquakes, droughts, fires, and other catastrophies; and

(2) because such disasters disrupt the normal functioning of government and the community, and adversely affect individual persons and families with great severity;

special measures, designed to assist the efforts of the affected States in expediting the rendering of aid, assistance, and emergency welfare services, and the reconstruction and rehabilitation of devastated areas, are necessary.

(b) It is the intent of the Congress, by this Act, to provide an orderly and continuing means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage which result from such disasters by—

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(1) revising and broadening the scope of existing major disaster relief programs;

(2) encouraging the development of comprehensive disaster relief plans, programs, and organizations by the States; and

(3) achieving greater coordination and responsiveness of Federal major disaster relief programs.

Definitions

Sec. 102. As used in this Act—

(1) "major disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, drought, fire, or other catastrophe in any part of the United States, which, in the determination of the President, is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supple-

ment the efforts and available resources of States, local governments, and relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby, and with respect to which the Governor of any State in which such catastrophe occurs or threatens to occur certifies the need for Federal disaster assistance under this Act and gives assurance of the expenditure of a reasonable amount of the funds of such State, its local governments, or other agencies for alleviating the damage, loss, hardship or suffering resulting from such catastrophe;

(2) "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands;

(3) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands;

(4) "Governor" means the chief executive of any State;

(5) "local government" means any county, city, village, town, district, or other political subdivision of any State, and includes any rural community or unincorporated town or village for which an application for assistance is made by a State or political subdivision thereof;

(6) "Federal agency" means any department, independent establishment, Government corporation, or other agency of the executive branch of the Federal Government, except the American National Red Cross; and

(7) "Director" means the Director of the Office of Emergency Preparedness.

Title II—The Administration of Disaster Assistance

Federal Coordinating Officer

Sec. 201 (a) Immediately upon his designation of a major disaster area, the President shall appoint a Federal coordinating officer to operate under the Office of Emergency Preparedness in such area.

(b) In order to effectuate the purposes of this Act, the coordinating officer, within the designated area, shall

(1) make an initial appraisal of the types of relief most urgently needed;

(2) establish such field offices as he deems necessary and as are authorized by the Director;

(3) coordinate the administration of relief, including activities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations which agree to operate under his advice or direction, except that nothing contained in this Act shall limit or in any way affect the responsibilities of the American National Red Cross under the Act of January 5, 1905, as amended (33 Stat. 599); and

(4) take such other action, consistent with authority delegated to him by the Director, and consistent with the provisions of this Act, as he may deem necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.

Emergency Support Teams

Sec. 202. The Dirtctor is authorized to form emergency support teams of Federal personnel to be deployed in a major disaster area. Such emergency support teams shall assist the Federal coordinating officer in carrying out his responsibilities pursuant to section 201(b) of this Act. Upon request of the Director, the head of any Federal department or agency is authorized to detail to temporary duty with the emergency support teams on either a reimbursable or nonreimbursable basis, as is determined necessary by the discretion of the Director, such personnel within the administrative jurisdiction of the head of the Federal department or agency as the Director may need or believe to be useful for carrying out the functions of the emergency support teams, each such detail to be without loss of seniority, pay, or other employee status.

Cooperation of Federal Agencies in Rendering Emergency Assistance

Sec. 203. (a) In any major disaster, Federal agencies are hereby authorized, on direction of the President, to provide assistance by—

(1) utilizing or lending, with or without compensation therefor, to States and local governments, their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any Act;

(2) distributing or rendering, through the American National Red Cross, the Salvation Army, the Mennonite Disaster

Service, and other relief and disaster assistance organizations, or otherwise, medicine, food, and other consumable supplies, or emergency assistance;

(3) donating or lending equipment and supplies determined in accordance with applicable laws to be surplus to the needs and responsibilities of the Federal Government to State and local governments for use or distribution by them for the purposes of this Act; and

(4) performing on public or private lands or waters any emergency work essential for the protection and preservation of life and property, including—

(A) clearing and removing debris and wreckage in accordance with section 224;

(B) making repairs to, restoring to service, or replacing public facilities (including street, road, and highway facilities) of State and local governments damaged or destroyed by a major disaster, except that the Federal contributions therefor shall not exceed the net cost of

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restoring each such facility on the basis of the design of such facility as it existed immediately prior to the disaster in conformity with current codes, specifications, and standards;

(C) providing emergency shelter for individuals and families who, as a result of a major disaster, require such assistance; and

(D) making contributions to State or local governments for the purpose of carrying out the provisions of paragraph (4).

(b) Emergency work performed under subsection (a)(4) of this section shall not preclude Federal assistance under any other section of this Act.

(c) Federal agencies may be reimbursed for expenditures under this Act from funds appropriated for the purposes of this Act. Any funds received by Federal agencies as reimbursement for services or supplies furnished under the authority of this section shall be deposited to the credit of the appropriation or appropriations currently available for such services or supplies.

(d) The Federal Government shall not be liable for any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a Fed-

eral agency or an employee of the Federal Government in carrying out the provisions of this section.

(e) In carrying out the purposes of this Act, any Federal agency is authorized to accept and utilize the services or facilities of any State or local government, or of any agency, office, or employee thereof, with the consent of such government. Any Federal agency, in performing any activities under this section, is authorized to appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of such title relating to classification and General Schedule pay rates, to employ experts and consultants in accordance with the provisions of section 3109 of such title, and to incur obligations on behalf of the United States by contract or otherwise for the acquisition, rental, or hire of equipment, services, materials, and supplies for shipping, drayage, travel, and communications, and for the supervision and administration of such activities. Such obligations, including obligations arising out of the temporary employment of additional personnel, may be incurred by an agency in such amount as may be made available to it by the President.

(f) In the interest of providing maximum mobilization of Federal assistance under this Act, the President is authorized to coordinate in such manner as he may determine the activities of Federal agencies in providing disaster assistance. The President may direct any Federal agency, with or without reimbursement, to utilize its available personnel, equipment supplies, facilities, and other resources in accordance with the authority, herein contained. The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this Act, and he may exercise any power or authority conferred on him by any section of this Act either directly or through such Federal agency as he may designate.

(g) The President, acting through the Office of Emergency Preparedness, shall conduct periodic reviews (at least annually) of the activities of Federal and State departments or agencies pro-

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viding disaster assistance, in order to assure maximum coordination of such programs, and to evaluate progress being made in the development of Federal, State, and local preparedness to cope with major disasters.

(h) The Director of the Office of Emergency Preparedness is authorized and directed to make in cooperation with the heads of other affected Federal and State agencies, a full and complete investigation and study for the purpose of determining what additional or improved plans, procedures, and facilities are necessary to provide immediate effective action to prevent or minimize losses of publicly or privately owned property and personal injuries or deaths which could result from fires (forest and grass), earthquakes, tornadoes, freezes and frosts, tsunami, storm surges and tides, and floods, which are or threaten to become major disasters. Not later than one year after the date of enactment of this subsection, and from time to time, the Director of the Office of Emergency Preparedness shall report to Congress the findings of this study and investigation together with his recommendations with respect thereto.

Use of Local Firms and Individuals

Sec. 204. In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster assistance activities which may be carried out by contract with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals who reside or do business primarily in the disaster area.

Federal Grant-in-Aid Programs

Sec. 205. Any Federal agency charged with the administration of a Federal grant-in-aid program is authorized, if so requested by the applicant State or local authorities, to modify or waive, for the duration of a major disaster proclamation, such administrative procedural conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the disaster.

State Disaster Plans

Sec. 206. (a) The President is authorized to provide assistance to the States in developing comprehensive plans and practicable programs for preparation against major disasters, and for relief and assistance for individuals, businesses, and local governments following such disasters. Such plans should include long-range

recovery and reconstruction assistance plans for seriously damaged or destroyed public and private facilities.

(b) The President is authorized to make grants of not more than $250,000 to any State, upon application therefor, for not to exceed 50 per centum of the cost of developing such plans and programs.

(c) Any State desiring assistance under this section shall designate or create an agency which is specially qualified to plan and administer such a disaster relief program, and shall, through such agency, submit a State plan to the President, which shall—

(1) set forth a comprehensive and detailed State program for preparation against, and relief following, a major disaster, including provisions for emergency and long-term assistance to individuals, businesses, and local governments; and

(2) include provision for the appointment of a State coordinating officer to act in cooperation with the Federal coordinating officer appointed under section 201 of this Act.

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(d) From time to time the Director shall make a report to the President, for submission to the Congress, containing his recommendations for programs for the Federal role in the implementation and funding of comprehensive disaster relief plans, and such other recommendations relating to the Federal role in disaster relief activities as he deems warranted.

(e) The President is authorized to make grants not to exceed 50 per centum of the cost of improving, maintaining, and updating State disaster assistance plans, except that no such grant shall exceed $25,000 per annum to any State.

Use and Coordination of Relief Organizations

Sec. 207. (a) In providing relief and assistance following a major disaster, the Director may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, in the distribution of medicine, food, supplies, or other items, and in the restoration, rehabilitation, or reconstruction of community services and essential facilities, whenever the Director finds that such utilization is necessary.

(b) The Director is authorized to enter into agreements with the American National Red Cross, the Salvation Army, the Men-

nonite Disaster Service, and other relief or disaster assistance organizations under which the disaster relief activities of such organizations may be coordinated by the Federal coordinating officer whenever such organizations are engaged in providing relief during and after a major disaster. Any such agreement shall include provisions conditioning use of the facilities of the Office of Emergency Preparedness and the services of the coordinating officer upon compliance with regulations promulgated by the Director under sections 208 and 209 of this Act, and such other regulations as the Director may require.

Duplication of Benefits

Sec. 208. (a) The Director, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as the result of a major disaster, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program.

(b) The Director shall assure that no person, business concern, or other entity receives any Federal assistance for any part of a loss suffered as the result of a major disaster if such person, concern, or entity received compensation from insurance or any other source for that part of such a loss. Partial compensation for a loss or a part of a loss resulting from a major disaster shall not preclude additional Federal assistance for any part of such a loss not compensated otherwise.

(c) Whenever the Director determines (1) that a person, business concern, or other entity has received assistance under this Act for a loss and that such person, business concern or other entity received assistance for the same loss from another source, and (2) that the amount received from all sources exceeded the amount of the loss, he shall direct such person, business concern, or other entity to pay to the Treasury an amount, not to exceed the amount of Federal assistance received, sufficient to reimburse the Federal Government for that part of the assistance which he deems excessive.

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Nondiscrimination in Disaster Assistance

Sec. 209. (a) The Director shall issue, and may alter and amend, such regulations as may be necessary for the guidance of

personnel carrying out emergency relief functions at the site of a major disaster. Such regulations shall include provisions for insuring that the distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status prior to a major disaster.

(b) As a condition of participation in the distribution of assistance or supplies under section 207, relief organizations shall be required to comply with regulations relating to nondiscrimination promulgated by the Director, and such other regulations applicable to activities within a major disaster area as he deems necessary for the effective coordination of relief efforts.

Disaster Warnings

Sec. 210. The President is authorized to utilize or to make available to Federal, State, and local agencies the facilities of the civil defense communications system established and maintained pursuant to section 201(c) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. app. 2281(c)), for the purpose of providing needed warning to governmental authorities and the civilian population in areas endangered by imminent major disasters.

Predisaster Assistance

Sec. 221. If the President determines that a major disaster is imminent, he is authorized to use Federal departments, agencies, and instrumentalities, and all other resources of the Federal Government to avert or lessen the effects of such disaster before its actual occurrence.

Emergency Communications

Sec. 222. The Director is authorized during, or in anticipation of, an emergency to establish temporary communications in any major disaster area in order to carry out the functions of his office, and to make such communications available to State and local government officials and other persons as he deems appropriate.

Emergency Public Transportation

Sec. 223. The Director is authorized to provide temporary public transportation service to meet emergency needs in a major dis-

aster area. Such service will provide transportation to governmental offices, supply centers, stores, post offices, schools, major employment centers, and such other places as may be necessary in order to enable the community to resume its normal pattern of life as soon as possible.

Debris Removal

Sec. 224. (a) The President, whenever he determines it to be in the public interest, is authorized—

(1) through the use of Federal departments, agencies, and instrumentalities, to clear debris and wreckage resulting from a major disaster from publicly and privately owned lands and waters.

(2) to make grants to any State or local government for the purpose of removing debris or wreckage resulting from a major disaster from publicly or privately owned lands and waters.

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(b) No authority under this section shall be exercised unless the affected State or local government shall first arrange an unconditional authorization for removal of such debris or wreckage from public and private property, and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the Federal Government against any claim arising from such removal.

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Federal Facilities

Sec. 251. The President may authorize any Federal agency to repair, reconstruct, restore, or replace any facility owned by the United States and under the jurisdiction of such agency which is damaged or destroyed by any major disaster if he determines that such repair, reconstruction, restoration, or replacement is of such importance and urgency that it cannot reasonably be deferred pending the enactment of specific authorizing legislation or the making of an appropriation for such purposes. In order to carry out the provisions of this section, such repair, reconstruction, restoration, or replacement may be begun notwithstanding a lack or an insufficiency of funds appropriated for such purpose, where such lack or insufficiency can be remedied by the transfer, in accordance with law, of funds appropriated to that agency for another purpose.

State and Local Government Facilities

Sec. 252. (a) The President is authorized to make contributions to State or local governments to repair, restore, reconstruct, or replace public facilities belonging to such State or local governments which were damaged or destroyed by a major disaster, except that the Federal contribution therefor shall not exceed 100 per centum of the net cost of repairing, restoring, reconstructing,

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or replacing any such facility on the basis of the design of such facility as it existed immediately prior to such disaster and in conformity with applicable codes, specifications, and standards.

(b) In the case of any such public facilities which were in the process of construction when damaged or destroyed by a major disaster, the Federal contribution shall not exceed 50 per centum of the net costs of restoring such facilities substantially to their prior to such disaster condition and of completing construction not performed prior to the major disaster to the extent the increase of such cost over the original construction cost is attributable to changed conditions resulting from a major disaster.

(c) For the purposes of this section "public facility" includes any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility, any non-Federal-aid street, road, or highway, and any other public building, structure, or system, other than one used exclusively for recreation purposes.

Priority to Certain Applications for Public Facility and Public Housing Assistance

Sec. 253. In the processing of applications for assistance, priority and immediate consideration may be given, during such period, not to exceed six months, as the President shall prescribe by proclamation, to applications from public bodies situated in major disaster areas, under the following Acts:

(1) title II of the Housing Amendments of 1955, or any other Act providing assistance for repair, construction, or extension of public facilities;

(2) the United States Housing Act of 1937 for the provision of low-rent housing;

(3) section 702 of the Housing Act of 1954 for assistance in public works planning;

(4) section 702 of the Housing and Urban Development Act of 1965 providing for grants for public facilities; or

(5) section 306 of the Consolidated Farmers Home Administration Act.

Relocation Assistance

Sec. 254. Notwithstanding any other provision of law, no person otherwise eligible for any kind of relocation assistance payment authorized under section 114 of the Housing Act of 1949 shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to reoccupy property from which he was displaced by such disaster.

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STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3619) to revise and expand Federal programs for relief from the effects of major disasters, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute. The Senate recedes from its disagreement to the amendment of the House, with an amendment which is a substitute for both the Senate bill and the House amendment. The differences between the House amendment and the substitute agreed to in conference are noted below except for minor technical and clarifying changes made necessary by reason of the conference agreement.

The bill as passed by the Senate establishes an entirely new basic Federal disaster relief law and repeals all of the major substantive provisions dealing with this subject which are presently on the statute books. The House amendment, by a series of cut-and-bite amendments, retained all of the existing provisions of law but expanded them and tied them together through uniformity of definition and otherwise. The proposed conference substitute adopts the approach of the Senate bill and provides for a new basic law and the repeal of existing statutes on the subject.

TITLE I

SHORT TITLE

Senate bill

This section provided that the Act may be cited as the "Disaster Assistance Act of 1970".

House amendment

This section provided that the Act may be cited as the "Disaster Relief Act of 1970".

Conference substitute

The same as the House provision.

FINDINGS AND DECLARATIONS

Senate bill

The Congress would find and declare that because major disasters cause loss of life, human suffering, loss of income, property loss and damage and because such disasters disrupt the normal functioning of government and the community special measures are required to expedite assistance and emergency welfare services and reconstruct and rehabilitate devastated areas.

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The Congress would under this Act provide orderly and continuing means of alleviating suffering and damage by (1) revising and broadening existing major disaster relief programs (2) encouraging development of comprehensive State disaster plans and (3) achieving greater coordination and responsiveness of Federal major disaster relief programs.

House amendment

No comparable provision.

Conference substitute

The conference substitute is essentially the same as the Senate provisions with minor clarifying amendments to more clearly express the intention of Congress.

DEFINITIONS

Senate bill

Definitions in this section are the same as P.L. 875, 81st Congress, except for the addition of the words "tornado, highwater,

wind-driven water, and tidal wave" to the definition of "major disaster."

House amendment

Amends the definition of the term "major disaster" in Public Law 81–875 to require that Governors certify a need for "Federal disaster assistance" rather than just assistance under Public Law 81–875. The amendment also deletes a reference to the Board of Commissioners of the District of Columbia since that Board no longer exists.

Amends the definition of the term State to include the District of Columbia.

Deletes the reference to the District of Columbia in the definition of local government.

Conference substitute

Except for minor clarifying amendments, this is the same as the provisions of the Senate bill.

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STATE DISASTER PLANS

Senate bill

This section provides for the formulation by the States of comprehensive plans and programs for preparation against major disasters and their losses. Grants up to $250,000 would be made by the President to any applicant State on a matching basis for no

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more than half the cost of developing such plans and programs and up to $25,000 per annum would be made available to update and improve the developed plans.

To be eligible for a planning grant, a State would have to establish or designate an agency which would be responsible for developing and administering its disaster relief plan and program.

The resultant plan should include a comprehensive and detailed State program for preparation against and relief following a major disaster and include provisions for the appointment of a State coordinating office to assist the Federal coordinating officer appointed under section 201 of this Act.

From time to time, the Director would prepare a report to the President, for submission to the Congress, containing his recommendations for the Federal role in implementing, funding, and coordinating disaster relief activities.

House amendment

Amends section 8(c) of Public Law 91–79 to eliminate the cutoff date for State plans and provides that plans developed under this section shall be applicable to local governments as well as individuals.

Further amends section 8 of Public Law 91–79 by authorizing matching grants to States up to $25,000 per annum for purposes of improving, maintaining, and updating State disaster assistance plans.

Conference substitute

This is the same as the Senate provision except for a clarifying amendment.

USE AND COORDINATION OF RELIEF ORGANIZATIONS

Senate bill

The Director would be authorized to make agreements with relief or disaster assistance organizations, including but not limited to the American National Red Cross, the Salvation Army, the Mennonite Board of Missions and Charities, to help the distribution of food, clothing, medicine and other supplies, and the restoration, rehabilitation or reconstruction of community services and facilities. The Director would be authorized to make agreements with organizations which would allow the Federal coordinating officer to coordinate all relief activities of private agencies in a given disaster area. Such agreements would have to include provisions for compliance with regulations promulgated under sections 208 (duplication of benefits) and 209 (nondiscrimination).

House amendment

No comparable provision.

Conference substitute

This is essentially the same as the provisions of the Senate bill except for amendments to specifically include in both subsections the Salvation Army and the Mennonite Disaster Service.

DUPLICATION OF BENEFITS

Senate bill

The Director would be required to ascertain that no person or business would be receiving aid from more than one source for the same disaster damage. No person or business could receive assist-

ance from the government for any loss compensated by insurance, but partial compensation for a loss would not preclude additional Federal assistance for such part of the loss not compensated for otherwise. The Director would be required to determine whether any person had received duplicate benefits. Whenever the Director determined that a person or business had received assistance from more than one source which exceeded the amount of the loss, he would direct that person or business to reimburse the Federal Government for the part he deemed excessive but not in excess of the amount of Federal assistance received.

House amendment

No comparable provision.

Conference substitute

Same as the Senate provisions.

NONDISCRIMINATION IN DISASTER ASSISTANCE

Senate bill

The Director would be required to issue regulations forbidding discrimination by race, color, age, sex, nationality, religion or economic status in providing disaster relief supplies and services. Any relief organization participating in the distribution of assistance or supplies under section 207 must comply with these regulations relating to non-discrimination.

House amendment

No comparable provision.

Conference substitute

Same as the Senate provision.

ADVISORY PERSONNEL

Senate bill

The Director would be authorized to assign advisory personnel to the chief executive officer of a State or local government upon the request by such executive officer, in order to insure full utilization of relief and assistance resources and programs.

House amendment

No comparable provision.

Conference substitute

Does not contain this provision.

DISASTER WARNINGS

Senate bill

The President would be authorized to provide needed warning to governmental authorities and civilian population in areas endangered by imminent natural disasters.

House amendment

No comparable provision.

Conference substitute

Same as the Senate provision.

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PREDISASTER ASSISTANCE

Senate bill

The President would be authorized to utilize Federal resources to assist States or local governments in preparations for an imminent major disaster to avert or lessen its effects.

House amendment

Permits the President to take effective action to avert or lessen the effects of a catastrophe which threatens to become a major disaster. It is not necessary for the President to declare a major disaster before assistance can be provided under this section.

Conference substitute

Same as the provisions of the House amendment.

EMERGENCY COMMUNICATIONS

Senate bill

The Director would be authorized to establish emergency communications in any major disaster area which would be made available to State and local government officials and other persons as he saw fit.

House amendment

No comparable provision.

Conference substitute

Essentially the same as the Senate provision, restricted, however, to the establishment of temporary communications during or in anticipation of an emergency.

EMERGENCY PUBLIC TRANSPORTATION

Senate bill

Emergency public transportation to governmental offices, supply centers, stores, post offices, schools, and major employment centers would be authorized in a major disaster area where regular public transportation had been disrupted in order that the community's normal pattern of life could be resumed as soon as possible.

House amendment

No comparable provision.

Conference substitute

Same as the Senate provision, restricted, however, to authority to provide temporary public transportation service.

DEBRIS REMOVAL

Senate bill

The President would be authorized to make grants to State and local governments for removal of debris from private lands or waters whenever he determined it to be in the public interest: except that these benefits would not be available unless State or local governments arranged unconditional authorization for the removal of debris and agreed to indemnify the Federal government for any claims resulting from this debris removal. Payments could also be made to remove debris from community areas which included an individual's private property.

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House amendment

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

Conference substitute

Same as the provisions of the House amendment.

FIRE SUPPRESSION GRANTS

Senate bill

The President would be authorized to make grants to any State in order to assist in the suppression of fires on publicly or privately owned forest and grass lands which threatened such destruction as would constitute a major disaster.

House amendment

No comparable provision.

Conference substitute

Same as the Senate provisions.

TEMPORARY HOUSING ASSISTANCE

Senate bill

The Director would be authorized to provide necessary shelter for owners or tenants whose places of residence had been made uninhabitable by a major disaster. Dwelling accommodations necessary for this purpose, including mobile homes, could be purchased or leased, and in turn could be rented or sold outright to the disaster victims to provide them with suitable housing. The housing would be placed by the State or local government or by the owner or occupant on sites complete with utilities without charge to the United States. The Director could decide in the public interest to provide more economical and accessible sites at Federal expense.

After an initial 90 days of occupancy rentals could be established. These rentals could be compromised, adjusted or waived for a period of not to exceed one year from date of occupancy according to the financial ability of the occupants, but in no case could the family's monthly housing expense be required to be more than one-fourth the family's monthly income.

The Director would be further authorized to provide grants as temporary assistance in the form of mortgage or rental payments to individuals who had suffered severe financial hardship caused by a major disaster and who had received written notice of dispossession or eviction from their residence because of foreclosure of a mortgage or lien, cancellation of a contract of sale, or termination of an oral or written lease. This assistance could be furnished for not in excess of one year or until the individual's financial hardship ended, whichever was the lesser. In addition the Director

would provide reemployment assistance services to individuals who were unemployed as a result of a major disaster.

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House amendment

Revises section 3(d) of Public Law 81–875 to provide that no rental shall be charged for the first 12 months for temporary housing and after that rentals to be charged based on fair market value adjusted to take into consideration the financial ability of the occupant to pay.

Provides that, notwithstanding any other provision of law, such temporary housing including, but not limited to mobile homes or other readily fabricated buildings which were purchased under proper disaster authorities for disaster victims requiring accommodations may be sold directly to disaster victims who are occupants at fair and equitable prices.

This section would authorize the President to provide financial assistance in the form of mortgage or rental payments to individuals or families who had suffered financial hardship caused by a major disaster, and who had received written notice of dispossession or eviction from their residence. The assistance could be furnished for not in excess of one year, or for the duration of the financial hardship, whichever is the lesser.

Conference substitute

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

of this provision and in furtherance of the purposes of section 240 of this Act to provide reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster.

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FEDERAL FACILITIES

Senate bill

Upon the President's determination that repair, reconstruction, restoration or replacement of facilities owned by the United States was so important and urgent that it could not reasonably be deferred pending enactment of specific authorizing legislation or the making of an appropriation, he could authorize any Federal agency to repair, reconstruct, restore or replace any facilities damaged or destroyed in a major disaster that were under its jurisdiction. This work could begin notwithstanding a lack or insufficiency of funds where such lack or insufficiency could be remedied by the transfer, in accordance with law, of funds appropriated for another purpose.

House amendment

No comparable provision.

Conference substitute

Same as the provisions of the Senate bill.

STATE AND LOCAL GOVERNMENT FACILITIES

Senate bill

The President would be authorized to make contributions to States or local communities for repairing, restoring, reconstructing or replacing damaged portions of public facilities belonging to State or local governments, including flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, airport, non-Federal-aid street, road or highway, and any other essential facility damaged by a major disaster. Such Federal contribution could not exceed 50% of the net cost of restoring such facility to its predisaster capacity and in conformity with applicable codes and specifications.

The President could also make contributions to States or local governments in amounts not in excess of 50% of the net cost of restoring such public facilities, which were in the process of construction when damaged or destroyed, to substantially their condi-

tion prior to the disaster and of completing construction not performed before the disaster to the extent that the increase in cost over the original construction cost was attributable to changed conditions caused by the disaster.

House amendment

Revises section 3(d) of PL 81–875 to provide that Federal contributions for permanent repair or replacement of public facilities of State and local governments shall not exceed the net cost of restoring such facilities, using the basis of design of the facilities

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as they existed immediately prior to the disaster, but in conformity with current codes and specifications.

Conference substitute

Same as the provision of the Senate bill, except that the Federal share is increased from 50 to 100 percent of the net cost of restoring the facility on the basis of the design of the facility as it existed immediately prior to the disaster and in conformity with applicable codes and specifications, and the definition of the term "public facility" contained in the Senate provision is revised to eliminate the concept of "essential public facility" and to replace it with the more specific language of "public building, structure, or system, other than one used exclusively for recreation purposes".

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TECHNICAL AMENDMENTS

Senate bill

Makes various technical amendments in existing laws required by the adoption of the Disaster Relief Act of 1970.

House amendment

No comparable provision.

Conference substitute

Same as the Senate bill except for technical amendments.

REPEAL OF EXISTING LAW

Senate bill

Repeals three existing disaster laws: the basic 1950 Act (64 Stat. 1109), the Disaster Relief Act of 1966 (80 Stat. 1316) except

for Section 7 (Higher Education Facilities Assistance in Disaster Areas) and the Disaster Relief Act of 1969.

House amendment

No comparable provision.

Conference substitute

Same as the Senate bill.

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EFFECTIVE DATE

Senate bill

The Act would take effect immediately upon enactment, except that sections 226(c), 237, 241, 252(a), and 254 would take effect as of August 1, 1969.

House amendment

Provides that the benefits of this act, and the amendments made by this act, shall apply to those Presidentially declared major disasters, and those disasters and natural disasters as determined by the Secretary of Agriculture and the Administrator of the Small Business Administration which occurred on or after December 1, 1968. In the case of any such disaster which occurs on or after December 1, 1968, and before the date of enactment of this act, the eligible applicant for assistance shall elect to receive such assistance either under this act (including the amendments made by this act) or under the law applicable to such disasters which occurred prior to December 1, 1968.

Conference substitute

Same as the provisions of Senate bill.

ROBERT E. JONES,
JIM WRIGHT,
HAROLD T. JOHNSON,
DON H. CLAUSEN,
FRED SCHWENGEL,
Managers on the Part of the House

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1.8a(4) CONGRESSIONAL RECORD, VOL. 116 (1970)

1.8a(4)(a) Sept. 9: *Debated, amended, and passed* Senate, pp. 31040–31042, 31044; 31048–31051; 31058–31060; 31062–31063

OFFICE OF DISASTER ASSISTANCE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1175, S. 3619.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows: S. 3619, to create, within the Office of the President, an Office of Disaster Assistance, to revise and expand Federal programs for relief from the effects of major disasters, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Public Works with an amendment, to strike out all after the enacting clause and insert:

That this Act may be cited as the "Disaster Assistance Act of 1970".

TITLE I—FINDINGS AND DECLARATIONS; DEFINITIONS

FINDINGS AND DECLARATIONS

SEC. 101. (a) The Congress hereby finds and declares that—

(1) because loss of life, human suffering, loss of income, and property loss and damage result from major disasters such as hurricanes, tornadoes, storms, floods, high waters, wind-driven waters, tidal waves, earthquakes, droughts, fires, and other catastrophes; and

(2) because such disasters disrupt the normal functioning of government and the community and adversely affect individual persons and families with great severity; special measures, designed to expedite the rendering of aid, assistance, and emergency welfare services, and the reconstruction and rehabilitation of devastated areas, are necessary.

(b) It is the intent of the Congress, by this Act, to provide an orderly and continuing means of alleviating the suffering and damage which result from such disasters by—

(1) revising and broadening the scope of existing major disaster relief programs;

(2) encouraging the development of comprehensive disaster relief plans, programs, and organizations by the States; and

(3) achieving greater coordination and responsiveness of Federal major disaster relief programs.

DEFINITIONS

SEC. 102. As used in this Act—

(1) "major disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, drought, fire, or other catastrophe in any part of the United States, which in the determination of the President, is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the efforts and available resources of States, local govern-

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ments, and relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby, and with respect to which the Governor of any State in which such catastrophe occurs or threatens to occur certifies the need for disaster assistance under this Act and gives assurance of the expenditure of a reasonable amount of the funds of such State, its local governments, or other agencies for alleviating the damage, loss, hardship or suffering resulting from such catastrophe;

(2) "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands;

(3) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands;

(4) "Governor" means the chief executive of any State;

(5) "local government" means any county, city, village, town, district, or other political subdivision of any State, and includes any rural community or unincorporated town or village for which an application for assistance is made by a State or political subdivision thereof;

(6) "Federal agency" means any department, independent establishment, Federal cor-

poration, or other agency of the executive branch of the Federal Government, except the American National Red Cross; and

(7) "Director" means the Director of the Office of Emergency Preparedness.

TITLE II—THE ADMINISTRATION OF DISASTER ASSISTANCE

PART A—GENERAL PROVISIONS

FEDERAL COORDINATING OFFICER

SEC. 201. (a) The President shall appoint, immediately upon his designation of a major disaster area, a Federal coordinating officer to operate under the Office of Emergency Preparedness in such area.

(b) In order to effectuate the purposes of this Act, the coordinating officer, within the designated area, shall

(1) make an initial appraisal of the types of relief most urgently needed;

(2) establish such field offices as he deems necessary and as are authorized by the Director;

(3) coordinate the administration of relief, including activities of the American National Red Cross and of other relief organizations which agree to operate under his advice or direction; and

(4) take such other action, consistent with authority delegated to him by the Director, and consistent with the provisions of this Act, as he may deem necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.

EMERGENCY SUPPORT TEAMS

SEC. 202. The Director is authorized to form emergency support teams of personnel to be deployed in a major disaster area. Such emergency support teams shall assist the Federal coordinating officer in carrying out his responsibilities pursuant to section 201(b) of this Act.

COOPERATION OF FEDERAL AGENCIES

SEC. 203 (a) In any major disaster, Federal agencies are hereby authorized, on direction of the President, to provide assistance by—

(1) utilizing or lending, with or without compensation therefor, to States and local governments, their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any Act;

(2) distributing or rendering, through the American National Red Cross, other relief and disaster assistance organizations, or otherwise, medicine, food, and other consumable supplies, or emergency assistance;

(3) donating or lending equipment and supplies determined in accordance with applicable laws to be surplus to the needs and responsibilities of the Federal Government and

(4) performing on public or private lands or waters any emergency work essential for the protection and preservation of life and property, including—

(A) clearing and removing debris and wreckage;

(B) making repairs to, or restoring to service, public facilities, belonging to State or local governments, which were damaged or destroyed by a major disaster except that the Federal contribution therefor shall not exceed the net cost of restoring such facilities to their capacity prior to such disaster;

(C) providing emergency shelter for individuals and families who, as a result of a major disaster, require such assistance; and

(D) making contributions to State or local governments for the purpose of carrying out the provisions of paragraph (4).

(b) Emergency work performed under subsection (a)(4) of this section shall not preclude Federal assistance under any other section of this Act.

(c) Federal agencies may be reimbursed for expenditures under section 203(a) from funds appropriated for the purposes of this Act. Any funds received by Federal agencies as reimbursement for services or supplies furnished under the authority of this section shall be deposited to the credit of the appropriation or appropriations currently available for such services or supplies.

(d) The Federal Government shall not be liable for any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of this section.

(e) Any Federal agency designated by the President to exercise authority under this Act may establish such special groups, interdepartmental or otherwise, as it deems appropriate to assist in carrying out the provisions of law relating to Federal disaster preparedness and assistance, and the funds of any such agency may be utilized for the necessary expenses of any group so established.

(f) In carrying out the purposes of this Act, any Federal agency is authorized to accept and utilize the services or facilities of any State or local government, or of any agency, office, or employee thereof, with the consent of such government. Any Federal agency, in performing any activities under this section, is authorized to appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of such title relating to classification and General Schedule pay rates, to employ experts and consultants in accordance with the pro-

visions of section 3109 of such title, and to incur obligations on behalf of the United States by contract or otherwise for the acquisition, rental, or hire of equipment, services, materials, and supplies for shipping, drayage, travel, and communication, and for the supervision and administration of such activities. Such obligations, including obligations arising out of the temporary employment of additional personnel, may be incurred by an agency in such amount as may be made available to it by the President.

(g) In the interest of providing maximum mobilization of Federal assistance under this Act, the President is authorized to coordinate in such manner as he may determine the activities of Federal agencies in providing disaster assistance. The President may direct any Federal agency to utilize its available personnel, equipment, supplies, facilities, and other resources in accordance with the authority herein contained. The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this Act, and he may exercise any power or authority conferred on him by any section of this Act either directly or through such Federal agency as he may designate.

(h) The President, acting through the Office of Emergency Preparedness, shall conduct periodic reviews (at least annually) of the activities of Federal and State departments or agencies providing disaster assistance, in order to assure maximum coordination of such programs, and to evaluate progress being made in the development of Federal, State, and local preparedness to cope with major disasters.

USE OF LOCAL FIRMS AND INDIVIDUALS

SEC. 204. In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster assistance activities which may be carried out by contract with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals who reside or do business primarily in the disaster area.

FEDERAL GRANT-IN-AID PROGRAMS

SEC. 205. Any Federal agency charged with the administration of a Federal grant-in-aid program is authorized, if so requested by the applicant State or local authorities, to modify or waive, for the duration of a major disaster proclamation, such conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the disaster.

STATE DISASTER PLANS

SEC. 206. (a) The President is authorized to provide assistance to the States in developing comprehensive plans and practicable programs for preparation against major disasters, and for relief and assistance for individuals, businesses, and local governments following such disaster. Such plans should include long-range recovery and reconstruction assistance plans for seriously damaged or destroyed public and private facilities.

(b) The President is authorized to make grants of not more than $250,000 to any State, upon application therefor, for not to exceed 50 per centum of the cost of developing such plans and programs.

(c) Any State desiring assistance under this section shall designate or create an agency which is specially qualified to plan and administer such a disaster relief program, and shall, through such agency, submit a State plan to the President, which shall—

(1) set forth a comprehensive and detailed State program for preparation against, and relief following, a major disaster, including provisions for emergency and long-term assistance to individuals, businesses, and local governments; and

(2) include provision for the appointment of a State coordinating officer to act in cooperation with the Federal coordinating officer appointed under section 201 of this Act.

(d) From time to time the Director shall make a report to the President, for submission to the Congress, containing his recommendations for programs for the Federal role in the implementation and funding of comprehensive disaster relief plans, and such other recommendations relating to the Federal role in disaster relief activities as he deems warranted.

(e) The President is authorized to make grants not to exceed $25,000 per annum to any State in an amount not to exceed 50 per centum of the cost for the purpose of improving, maintaining, and updating that State's disaster assistance plans.

USE AND COORDINATION OF RELIEF ORGANIZATIONS

SEC. 207 (a) In providing relief and assistance following a major disaster, the Director may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Board of Missions and Charities, and other relief or disaster assistance organizations, in the distribution of medicine, food, supplies, or other tems, and in the restoration, rehabilitation, or reconstruction of community services and essential facilities, whenever the Director finds that such utilization is necessary.

(b) The Director is authorized to enter into agreements with the American National Red Cross and other relief or disaster assistance organizations under which the disaster relief activities of such organizations may be coordinated by the Feleral coordinating officer

whenever such organizations are engaged in providing relief during and after a major disaster. Any such agreement shall include provisions conditioning use of the facilities of the Office of Emergency Preparedness and the services of the coordinating officer upon compliance with regulations promulgated by the Director under sections 208 and 209 of this Act, and such other regulations as the Director may require.

DUPLICATION OF BENEFITS

SEC. 208. (a) The Director, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as the result of a major disaster, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program.

(b) The Director shall assure that no person, business concern, or other entity receives any Federal assistance for any part of a loss suffered as the result of a major disaster if such person, concern, or entity received compensation from insurance or any other source for that part of such a loss. Partial compensation for a loss or a part of a loss resulting from a major disaster shall not preclude additional Federal assistance for any part of such a loss not compensated otherwise.

(c) Whenever the Director determines (1) that a person, business concern, or other entity has received assistance under this Act for a loss and that such person, business concern or other entity received assistance for the same loss from another source, and (2) that the amount received from all sources exceeded the amount of the loss, he shall direct such person, business concern, or other entity to pay to the Treasury an amount, not to exceed the amount of Federal assistance received, sufficient to reimburse the Federal Government for that part of the assistance which he deems excessive.

NONDISCRIMINATION IN DISASTER ASSISTANCE

SEC. 209. (a) The Director shall issue, and may alter and amend, such regulations as may be necessary for the guidance of personnel carrying out emergency relief functions at the site of a major disaster. Such regulations shall include provisions for insuring that the distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status prior to a major disaster.

(b) As a condition of participation in the distribution of assistance or supplies under section 207, relief organizations shall be required to comply with regulations relating to nondiscrimination promulgated by the Director, and such other regulations applicable to activities within a major disaster area as he deems necessary for the effective coordination of relief efforts.

ADVISORY PERSONNEL

SEC. 210. The Director is authorized to assign advisory personnel to the chief executive officer of any State or local government within a major disaster area, upon request by such officer, whenever the Director determines that such assignment is desirable in order to insure full utilization of relief and assistance resources and programs.

DISASTER WARNINGS

SEC. 211. The President is authorized to utilize or to make available to Federal, State, and local agencies the facilities of the civil defense communications system established and maintained pursuant to section 201(c) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. app. 2281(c)), for the purpose of providing needed warning to governmental authorities and the civilian population in areas endangered by imminent major disasters.

PART B—EMERGENCY RELIEF

PREDISASTER ASSISTANCE

SEC. 221. To avert or lessen the effects of a major disaster, the President is authorized, without declaring a major disaster, to utilize Federal resources in providing disaster assistance to any State to assist such State or any local government thereof in circumstances which clearly indicate the imminent occurrence of a major disaster.

EMERGENCY COMMUNICATIONS

SEC. 222. The Director is authorized to establish emergency communications in any major disaster area in order to carry out the functions of his office, and to make such communications available to State and local government officials and other persons as he deems appropriate.

EMERGENCY PUBLIC TRANSPORTATION

SEC. 223. The Director is authorized to provide public transportation service to meet emergency needs in a major disaster area. Such service will provide transportation to governmental offices, supply centers, stores, post offices, schools, major employment centers, and such other places as may be necessary in order to enable the community to resume its normal pattern of life as soon as possible.

DEBRIS REMOVAL GRANTS

SEC. 224. The President, whenever he determines it to be in the public interest, is authorized to make grants to any State or local

government for the purpose of removing debris on privately owned lands or waters as a result of a major disaster, and is authorized to make payments through such State or local government for the removal of debris from community areas which may include the private property of an individual. No benefits will be available under this section unless such State or local government arranges unconditional authorization for removal of debris from such property and agrees to indemnify the Federal Government against any claims arising from such debris removal.

FIRE SUPPRESSION GRANTS

SEC. 225. The President is authorized to provide assistance, including grants, to any State for the suppression of any fire on publicly or privately owned forest or grassland which threatens such destruction as would constitute a major disaster.

TEMPORARY HOUSING ASSISTANCE

SEC. 226. (a) The Director is authorized to provide on a temporary basis, as prescribed in this section, dwelling accommodations for individuals and families who, as a result of a major disaster, are in need of assistance by (1) using any unoccupied housing owned by the United States under any program of the Federal Government, (2) arranging with a local public housing agency for using unoccupied public housing units, or (3) acquiring existing dwellings or mobile homes or other readily fabricated dwellings, by purchase or lease. Notwithstanding any other provision of law, any existing dwellings, mobile homes, or readily fabricated dwellings acquired by purchase may be sold directly to individuals and families who are occupants of such temporary accommodations at prices that are fair and equitable. Any mobile home or readily fabricated dwelling shall be placed on a site complete with utilities provided by State or local government, or by the owner or occupant of the site who was displaced by the major disaster, without charge to the United States. However, the Director may elect to provide other more economical and accessible sites at Federal expense when he determines such action to be in the public interest.

(b) After the initial ninety days of occupancy without charge, rental shall be established for such accommodations, under such rules and regulations as the Director may prescribe taking into account the financial resources of the occupant. In case of financial hardship, rentals may be compromised, adjusted, or waived for a period not to exceed twelve months from the date of occupancy, but in no case shall any such individual or family be required to incur a monthly housing expense (including any fixed expense relating to the amortization of debt owing on a house destroyed or damaged in a major disaster) which is excess of 25 per centum of the monthly income of the occupant or occupants.

(c) The Director is further authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by a major disaster, have received written notice of dispossession or eviction from a residence by reason of foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, oral or written. Such assistance shall be provided for a period of not to exceed one year or for the duration of the period of financial hardship, whichever is the lesser. The Director shall, for the purposes of this subsection and in furtherance of the purposes of section 240 of this Act, provide reemployment assistance services to individuals who are unemployed as a result of a major disaster.

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PART D—RESTORATION OF PUBLIC FACILITIES

FEDERAL FACILITIES

SEC. 251. The President may authorize any Federal agency to repair, reconstruct, restore, or replace any facility owned by the United States and under the jurisdiction of such agency which is damaged or destroyed by any major disaster if he determines that such repair, reconstruction, restoration, or replacement is of such importance and urgency that it cannot reasonably be deferred pending the enactment of specific authorizing legislation or the making of an appropriation for such purposes. In order to carry out the provisions of this section, such repair, reconstruction, restoration, or replacement may be begun notwithstanding a lack or an insufficiency of funds appropriated for such purpose, where such lack or insufficiency can be remedied by the transfer, in accordance with law, of funds appropriated for another purpose.

STATE AND LOCAL GOVERNMENT FACILITIES

SEC. 252. (a) The President is authorized to make contributions to State or local governments to repair, restore, reconstruct, or replace public facilities belonging to such State or local governments which were damaged or destroyed by a major disaster, except that the Federal contribution therefor shall not exceed 50 per centum of the net cost of restoring any such facility to its capacity prior to such disaster and in conformity with applicable codes and specifications.

(b) In the case of any such public facilities which were in the process of construction when damaged or destroyed by a major disaster, the Federal contribution shall not exceed 50 per centum of the net costs of restoring

such facilities substantially to their prior to such disaster condition and of completing construction not performed prior to the major disaster to the extent the increase of such cost over the original construction cost is attributable to changed conditions resulting from a major disaster.

(c) For the purposes of this section "public facility" includes any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility, any non-Federal-aid street, road, or highway, and any other essential public facility.

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Mr. COOPER. Mr. President, I wish to join my colleagues on the Committee on Public Works and other Members of the Senate in commending the Senator from Indiana for his work in connection with this bill. In 1967 and 1968 he introduced a disaster relief bill as he had earlier in 1965 which resulted in the act of 1966. There was considerable discussion of that bill, different viewpoints, and thorough consideration which I believe was helpful in the development of the 1969 act and also of the bill which is now before us. Last year we had the California floods and the awful disaster of Hurricane Camille affecting especially Mississippi and Virginia. We were helped very much in the committee discussions on the 1969 act and on this bill by the distinguished Senators from Mississippi (Mr. STENNIS and Mr. EASTLAND), by the earnest and perceptive work of the Senator from Virginia who is a member of the committee (Mr. SPONG) and his colleague (Mr. BYRD). The Committee on Public Works established a Special Subcommittee on Disaster Relief, which held extensive hearings in the field and in Washington.

The President then sent to the Congress early this year a special disaster assistance message, containing the legislative recommendations of the administration, the most comprehensive disaster relief proposals made by any administration. I introduced the administration bill, S. 3745, on April 23, 1970, which was cosponsored also by Senator DOLE and Senators RANDOLPH and BAYH, chairmen of the full committee and the subcommittee. Most of those recommendations have been included in S. 3619.

I want to pay special tribute to the Senator from Kansas (Mr. DOLE) who is the ranking minority member of the subcommittee, and a new Member of the Senate. He entered into this work with all of his energy. He went to Mississippi, and he went to Virginia, when others found the trip too difficult or the weather too bad to go. He worked closely with the administration and diligently within our committee. I think the bill which is the result of these combined efforts is the most comprehensive of its kind ever to come before Congress.

The Disaster Assistance Act of 1970, S. 3619, represents efforts of the Subcommittee on Disaster Relief of the full Public Works Committee to bring orderly assistance to the chaos and suffering wrought by natural disasters. The committee's work on this legislation began on the gulf coast following Hurricane Camille, when hearings were held in Biloxi in January. Further field hearings were held in Roanoke, as well as several days of hearings here in Washington.

The committee's deliberations have focused on legislative proposals S. 3619 and S. 3745. The latter was an administration proposal which came to Congress with a Presidential message on disaster assistance. The committee, its staff, and officials of the administering agencies of the executive branch have worked together closely throughout the development of this legislation and I believe that the strong legislation before the Senate this evening reflects that careful and thorough deliberative process.

The bill recodifies much of existing law in the disaster assistance field and

in doing so should greatly aid the task of State and local officials in determining what kinds of assistance are available to them in rebuilding their shattered communities. The confusion which has existed up to now, due to the different laws dealing with disaster relief, was repeatedly mentioned throughout the hearings.

On April 22, 1970, President Nixon sent a message to the Congress asking for the most comprehensive disaster relief in history. The administration can be proud of the provisions of S. 3475, its bill which I introduced on April 23. They were good provisions and all but two of the major sections were included in the reported version of S. 3619 in whole or in some modified version.

I think the administration is to be further commended for the actions it has taken since Hurricane Camille to streamline and improve administering to people's needs in the period following a major disaster.

It is important, it seems to me, to note that throughout the committee's work on this legislation two threads of thought were constantly apparent. We wanted to design legislation to care for people. And secondly, we wanted to assure that the negative realities of destruction be turned, so far as possible, to constructive and productive rebuilding. S. 3619 seeks to fulfill those aims and its passage and enactment into law will do much to assure that we "build back better" what is destroyed by future natural disasters in the future.

Again I commend the Senator from Indiana, Senator BAYH, our committee chairman, the junior Senator from Kansas, Senator DOLE, who worked hard in the hearings, in the field and on the development of the bill, Senator SPONG of Virginia, and all the members of our Public Works Committee and the staff.

Mr. President, I ask unanimous consent the message from the President to the Congress on April 22, 1970—the most comprehensive proposals on disaster assistance by any President, and which contributed so much to the development of this bill—be included in the RECORD following my remarks.

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

MESSAGE FROM THE PRESIDENT

To the Congress of the United States:

The spirit of neighborliness, the readiness to extend a helping hand in time of trouble, is one of the great traditions of this country. In the early years of our history, good neighbors were essential in coping with the hardships of pioneer life. They are equally essential in meeting the challenges of life today.

The spirit of the good neighbor was particularly evident in 1969 when natural disasters struck this country in unprecedented numbers and with unprecedented force. Twenty-nine major disasters and an untold number of smaller disasters were responsible for over 300 deaths and an estimated $2 billion in property damage in the last calendar year. Events such as the California floods and Hurricane Camille with the Virginia floods were exceptionally destructive.

Private voluntary agencies have traditionally played a crucial role during times of disaster. State and local governments are key factors in any successful disaster relief effort. Thus the Federal role is only one part of the overall response of the nation. But it is a very important part of that response. Under the Federal Disaster Acts of 1950, 1966, and 1969 and their amendments and under provisions in many other statutes, the Federal government works to help individuals through relief and rehabilitation efforts and to assist State and local governments by restoring public facilities essential to community life. In 1969 the Federal government allocated $150 million for assistance from the President's Disaster Relief Fund—the largest sum for any one year in history. Significant additional funds were spent on disaster assistance under other Federal programs. A report of our 1969 experience is being provided to the Congress.

We are confident that the general framework of our present program provides an effective mechanism for channeling Federal disaster assistance to individuals and communities. Rather than depending on a specialized disaster assistance agency, the present system makes maximum use of existing agencies, centrally coordinated by the Office of Emergency Preparedness, to perform tasks in time of emergency which are similar to those

which they perform in normal circumstances. Our present arrangements also encourage constructive and cooperative efforts among, individuals, local communities, the States and the Federal government.

At the same time, however, we have learned that a number of improvements are in order

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within the existing framework. The last presidential special message on the subject of disaster assistance was written 18 years ago. Since that time, this program has grown in a piecemeal and often haphazard manner, involving over 50 separate Congressional enactments and executive actions. This slow development process has created a complex program, one which has a number of gaps and overlaps and needs increased coordination. It is time for new legislation and executive action to make our Federal disaster assistance program more effective and efficient.

LEGISLATIVE PROPOSALS

To extend and to improve the assistance which the Federal Government can provide in time of major disasters, I am asking the Congress to enact the Disaster Assistance Act of 1970. This legislation contains a number of specific proposals, the most important of which are the following:

Revenue maintenance

When a community experiences a major disaster, the physical impact is obvious. What the television camera does not capture, however, is the loss of property tax revenue which occurs when a substantial portion of a community's property tax base is destroyed and its essential services are disrupted.

To ease this difficulty, *I recommend that the Congress enact a property tax revenue maintenance plan.* Under this plan, the Federal government would be authorized to lend money at favorable interest rates to local governments to make up their loss of property tax revenues following a major disaster.

Permanent repair

I am asking the Congress for expanded Federal authority to permanently repair or replace essential public facilities damaged by disasters. This authorization would provide a more effective and practical approach to the replacement of damaged public facilities which are vital to community life. This Administration would give preference to local employees and contractors in repair and rebuilding work.

Economic development assistance

I am also asking the Congress to amend the Public Works and Economic Development Act of 1965, so that the Economic Development Administration would provide staff support, technical advice and financial assistance to those communities affected by major disasters. Such assistance is vital in recovery efforts, particularly when the community is attempting to begin long-range rebuilding or redevelopment efforts:

Disaster loans

I am proposing legislation to improve the disaster loan programs of the Small Business Administration and of the Farmers Home Administration. These loans are among our principal sources of assistance to stricken individuals. The recommended changes would provide for improved refinancing, payment deferral, and forgiveness arrangements and would assure disaster loans to older citizens. My proposed amendment would allow the FHA and SBA to provide faster service and would therefore promote speedier recovery following disasters.

Unemployment compensation

I am also recommending that the Congress extend for two years the expanded unemployment compensation provisions of the Disaster Relief Act of 1969. These provisions make temporary income available as promptly as possible to help individuals who are unemployed as the result of a major disaster. Such assistance to individuals was a new feature of the 1969 Act. Before last year, only those unemployed persons who could qualify for compensation under the normal unemployment insurance programs could receive income protection following a disaster. The two-year extension which I recommend would provide time to fully evaluate the new provisions and to consider appropriate legislation.

Housing

Hurricane Camille provided the greatest test of the Federal government's ability to provide temporary housing to victims of a major disaster. We believe we met that test; at the direction of the Office of Emergency Preparedness, the Department of Housing and Urban Development was able to place more than 5,000 mobile homes in the disaster area. We also believe, however, that the language of the law which authorizes such activities is confusing.

Two separate provisions in two different laws are now directed to temporary emergency housing. In order to simplify the legislative provisions that apply to this problem, *I propose that the provisions for temporary housing in PL 81-875 be amended so that they incorporate many of the broad principles of PL 91-79, without sacrificing flexibility.* A clarified version of this law would allow the government to provide temporary housing or other emergency shelter—including leased mobile homes or other readily fabricated dwellings.

Debris removal

One of the serious problems encountered in Hurricane Camille related to the removal of debris from private property. Current legislation in this area is confusing and difficult to administer. *I am therefore proposing corrective legislation that would simplify and speed debris removal from private property when it is in the public interest.* Again, preference would be given to local employees and contractors.

Disaster prevention

In March and April 1969 this Administration conducted a massive flood prevention program in the upper Midwest and New England. This program—Operation Foresight—was immensely successful; it prevented widespread human suffering and an estimated $200 million in damages, at a cost of $20 million. The success of this disaster prevention effort suggests that we can do a great deal to avoid or limit the effects of expected disasters. *Accordingly, I am proposing legislation which would extend the Federal government's authority to assist State and local governments in disaster prevention and damage reduction activities.*

Planning assistance

The Disaster Relief Act of 1969 authorized one-time matching grants to help States formulate better plans for coping with disasters. Almost half of the States have already indicated that they will join us in this effort and we expect that others will soon follow their lead. *I now recommend that the Congress expand this provision of the 1969 law in order to help States review and update these plans on a continuing basis.*

In addition to the major initiatives outlined above, the legislation prepared by the Administration includes a number of other changes designed to extend the scope and improve the effectiveness of Federal assistance.

Administrative actions

Legislative changes are not the only improvements which are presently required. Our experience indicates that changes in administrative procedures can be equally important in providing a more effective assistance program.

Coordination

To improve coordination of Federal Disaster Assistance efforts, both among Federal agencies and among Federal, State, and local officials, I am establishing a National Council on Federal Disaster Assistance. The Council will be composed of senior officials from Federal agencies concerned with disaster assistance and will be chaired by the Director of the Office of Emergency Preparedness.

To further improve coordination of disaster assistance activities in the field, I have also directed that the Regional Directors of the Office of Emergency Preparedness be included as ad hoc members of the newly formed Federal Regional Councils. This improvement will be supplemented by other actions to improve coordination among all levels of government, including the Office of Emergency Preparedness regional planning conferences with State officials with the first such conference this month on the West Coast.

In addition to improving coordination and developing more comprehensive plans, we need better procedures for continuous communication with State and local governments on such matters as disaster legislation. The Council of State Governments and such organizations as the International City Management Association, the National Association of Counties, the National League of Cities, and the United States Conference of Mayors are assisting us in this effort.

Improvements in disaster assistance also require an improved program of research and evaluation, the results of which are readily available to all who can benefit from them. I have therefore directed the Office of Emergency Preparedness to act as a central clearing house for all Federal research which is related to disasters.

Assistance to individuals

An important objective, particularly in large-scale disasters, is that of informing individuals of the assistance which is available and of the places where it can be obtained. To meet this problem, we are expanding our information efforts and keying those efforts to the needs of the individual citizens of the community, particularly those who are poor.

Whenever a disaster occurs, those who live in the area desperately want to be in touch with their friends and relatives who live elsewhere. Rescue workers also need better communication facilities within such areas, I have therefore asked the Office of Emergency Preparedness to provide better emergency communication services to stricken regions during times of disaster.

Just as we make it easier for individuals to get information, so we should make it easier for them to get assistance. It should not be necessary for individuals to travel from one place to another and then to still another location in order to obtain the help which various agencies of the Federal government are providing. *Accordingly, we are developing plans to provide "one-stop" service to individuals in disaster areas.* Representatives of the principal Federal agencies and of the Red Cross, as well as caseworkers and legal advi-

sors, will all be available at a single assistance center.

Disaster assistance teams

Disaster stricken communities frequently lack trained personnel who can help them make the best possible use of the assistance which is available to them from many sources. To meet this need, I have directed the Office of Emergency Preparedness to form *Federal disaster assistance teams to help local communities coordinate the overall assistance effort.* These teams will be supervised by a Federal Disaster Assistance Coordinator who will act as an on-the-spot representative of the President in any particular disaster area.

Disaster Insurance

Our experience with disasters in 1969 clearly demonstrated the need for expanded insurance coverage for property owners. The national flood insurance sections of the Housing and Urban Development Act of 1968 presently permit Federal insurance assistance in flood-prone areas and we are now implementing that program on an accelerated basis. *I am also directing that a comprehensive study of property insurance coverage for disaster situ-*

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ations be undertaken and that specific recommendations be provided me by the end of this year. This study should take into account the views of the State insurance authorities, the insurance industry, insuring institutions, and the general public.

Civil Defense

The disaster assistance activities of State and local governments often are closely related to their civil defense responsibilities. The relationship between the Federal government's disaster assistance and civil defense activities should now be carefully reviewed. Accordingly, I have asked that such a study be carried out and that its recommendations be given to me by December 31, 1970. It is important that any changes in this sensitive area be made only after a careful review, one which gives special attention to the impact of any suggested change upon national security.

* * * * *

As we move into a new decade, one of the nation's major goals is to restore a ravaged environment. But we must also be ready to respond effectively when nature gets out of control and victimizes our citizens.

With the improvements I have recommended to the Congress and those which I am instituting by Executive action, the disaster assistance program of the Federal government will continue to provide outstanding public service in times of crisis. This program manifests the extraordinary humanitarian spirit of our nation. The changes I have proposed would enable it to reflect that spirit even more effectively.

RICHARD NIXON.

THE WHITE HOUSE, *April 22, 1970.*

Mr. BAYH. Mr. President, I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I concur in the statements made earlier by the Senator from Indiana, the Senator from West Virginia, and the Senator from Kentucky, the Senator from Virginia, and, of course, the Senator from Mississippi.

It was an eye-opening experience for me and every member of our subcommittee to visit the Biloxi area. We visited Pass Christian and found an entire community leveled, the tax base destroyed, and no apparent means of reviving that community.

This field investigation and the hearings that ensued are responsible for some of the improvements proposed in this legislation.

I share the views of the Senator from Indiana who has been the leader in proposing disaster legislation. I had misgivings in the beginning about some provisions, but after witnessing the hardships and tragedies that result from disasters I am convinced the subcommittee has done an excellent job.

The bill represents the efforts of the subcommittee, the efforts of the administration, and the efforts of the minority and majority staff of the subcommittee and full committee who worked tirelessly with staff members of OEP to write a bill that is responsive to the needs of the people in time of disaster.

It is my opinion that we have passed and approved in the subcommittee and in full committee, with the approval of the Committee on Banking and Currency, landmark legislation. There are significant efforts to improve and update our disaster assistance programs.

Mr. President, on April 22, 1970, President Nixon, in the first special message to Congress on the subject of disaster assistance in 18 years, pointed out:

> The spirit of neighborliness, the readiness to extend a helping hand in time of trouble, is one of the great traditions of this country. In the early years of our history, good neighbors were essential in coping with the hardships of pioneer life. They are equally essential in meeting the challenges of life today.

In 1969, the challenges posed by natural disasters surpassed those of any single year since the first comprehensive Federal Disaster Act was passed in 1950. There were 29 major disasters, which included the California floods and Hurricane Camille, described by the U.S. Geological Survey as "the most intensive hurricane on record to enter the U.S. mainland." As a result, the Federal Government allocated a total of $148,970,000 from the President's disaster fund, the largest sum for any year in history. In addition, the disaster loan programs of the Small Business Administration and the Farmers Home Administration were of major assistance during 1969 to homeowners, businessmen, and farmers. Food supplies from the Department of Agriculture, community relations services from the Department of Justice, and legal assistance grants from OEO also helped many disaster victims.

Despite the tremendous response of the Federal agencies to the major disasters of 1969, President Nixon recognized the need to improve our performance. In his special message to the Congress, he proposed far-reaching legislative and administrative changes. The President found that our disaster assistance program has "grown in a piecemeal and often haphazard manner, involving over 50 separate congressional enactments and Executive actions." He noted that—

> This slow development process has created a complex program, one which has a number of gaps and overlaps and needs increased coordination.

The bill we are considering today includes the best concepts and proposals of S. 3619 introduced by Senator BAYH, chairman of the Subcommittee on Disaster Relief, and S. 3745, introduced by Senator COOPER, ranking minority member of the full Committee on Public Works, on behalf of the administration. Specifically, the following provisions from S. 3745 are included in this bill:

First. Provision for removal of the "emergency repair of temporary replacement" criteria of work on essential public facilities, with the proviso that the Federal cost of permanent repair or replacement not exceed the net worth of the facility to its predisaster capacity.

Second. Provisions to allow the President to contract or make agreements with private relief organizations in order that the activities of these organizations can be coordinated by appropriate officials and conditioning of such agreements on compliance with title VI of the Civil Rights Act of 1964.

Third. Provisions to provide for forgiveness of up to $2,500 on losses or damage in excess of $500 on the principle of an SBA or FHA disaster loan.

Fourth. Provision that the State planning program would be an ongoing activity rather than expire on December 31, 1970. Additionally, provisions to limit the amount of assistance available to any one State to $25,000 per annum and in amounts which shall comprise more than 50 percent of the total cost of such planning.

Fifth. Provision that debris-clearance assistance to the States and local governments not be made unless the State or local jurisdiction agrees to unconditionally indemnify the Federal Government from any claims

arising as a consequence of the debris removal.

Sixth. Provision to establish a community disaster loan fund in the Treasury for assistance to local communities suffering substantial loss because of a major disaster.

Seventh. Provision to authorize assistance in advance of an imminent disaster.

Eighth. Provisions dealing with antidiscrimination in the administration of assistance; with the establishment of advisory groups on disaster relief, and on the assignment of advisory personnel, to local communities.

In addition, the President's program improvements to be achieved administratively have been accomplished or are well underway:

A National Council on Federal Disaster Assistance has been established. The Council brings together senior level officials of Federal agencies to improve coordination of Federal assistance efforts.

One-stop centers: The concept has been tried and proven in the recent Lubbock and Corpus Christi, Tex., disasters, making it easier for disaster victims to get information and assistance.

Disaster assistance teams: Teams of knowledgeable Federal officials, supervised by OEP disaster assistance coordinators, are helping communities and individuals in disaster relief and recovery efforts.

Disaster research: Within OEP, a research effort is being initiated, wherein the agency serves as the clearinghouse on all disaster-related research.

During our hearings, both in the field and in Washington, we heard many complaints about insurance coverage for property owners. At that time, the National Flood Insurance Section of the Housing and Urban Development Act of 1969, permitting Federal insurance assistance in flood-prone areas, had not been fully implemented. That program has now been accelerated, and many more communities are participating. Hopefully, the frustrations arising out of the insurance practices of the past will cease to occur. Further, President Nixon has requested a comprehensive study of property insurance coverage for disaster and will be receiving specific recommendations before the end of the year.

The response of State and local governments to a major natural disaster is one of the most important aspects of effective disaster assistance. We found that there was a wide variance in the ability of the States and in turn the local governments to truly aid their citizens. Oftentimes, those who are designated for such

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duties are disaster victims themselves. Where there has been an affirmative response, it is often related to the ability of the State and local civil defense units. The relationship between the Federal Government's disaster assistance and civil defense activities is under review by the President. I am hopeful he will forward recommended changes to the Congress shortly after the first of the year.

As the President said in his disaster message:

> The general framework of our present program provides an effective mechanism for channeling federal disaster assistance to individuals and communities.

But this legislation for the first time consolidates our major disaster assistance programs and provides additional assistance in areas in which we have been deficient in the past. It is the result of bipartisan efforts of members of the committee and the responsible officials in the executive branch. As ranking minority members of the Subcommittee on Disaster Relief, I join my colleagues in supporting the

Disaster Assistance Act of 1970. It will allow us, in the President's words, "to respond effectively when nature gets out of control and victimizes our citizens."

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So the bill (S. 3619) was passed as follows:

S. 3619

An act to revise and expand Federal programs for relief from the effects of major disasters, 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 "Disaster Assistance Act of 1970".

TITLE I—FINDINGS AND DECLARATIONS; DEFINITIONS

FINDINGS AND DECLARATIONS

Sec. 101. (a) The Congress hereby finds and declares that—

(1) because loss of life, human suffering, loss of income, and property loss and damage result from major disasters such as hurricanes, tornadoes, storms, floods, high waters, wind-driven waters, tidal waves, earthquakes, droughts, fires and other catastrophes; and

(2) because such disasters disrupt the normal functioning of government and the community, and adversely affect individual persons and families with great severity; special measures, designed to expedite the rendering of aid, assistance, and emergency welfare services, and the reconstruction and rehabilitation of devastated areas, are necessary.

(b) It is the intent of the Congress, by this Act, to provide an orderly and continuing means of alleviating the suffering and damage which result from such disasters by—

(1) revising and broadening the scope of existing major disaster relief programs;

(2) encouraging the development of comprehensive disaster relief plans, programs, and organizations by the States; and

(3) achieving greater coordination and responsiveness of Federal major disaster relief programs.

DEFINITIONS

SEC. 102. As used in this Act—

(1) "major disaster" means any hurricane tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, drought, fire, or other catastrophe in any part of the United States, which in the determination of the President, is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the efforts and available resources of States, local governments, and relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby, and with respect to which the Governor of any State in which such catastrophe occurs or threatens to occur certifies the need for disaster assistance under this Act and gives assurance of the expenditure of a reasonable amount of the funds of such State, its local governments, or other agencies for alleviating the damage, loss, hardship or suffering resulting from such catastrophe;

(2) "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands;

(3) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands;

(4) "Governor" means the chief executive of any State;

(5) "local government" means any county, city, village, town, district, or other political subdivision of any State, and includes any rural community or unincorporated town or village for which an application for assistance is made by a State or political subdivision thereof;

(6) "Federal agency" means any department, independent establishment, Federal corporation, or other agency of the executive branch of the Federal Government, except the American National Red Cross; and

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(7) "Director" means the Director of the Office of Emergency Preparedness.

TITLE II—THE ADMINISTRATION OF DISASTER ASSISTANCE

PART A—GENERAL PROVISIONS

FEDERAL COORDINATING OFFICER

SEC. 201. (a) The President shall appoint, immediately upon his designation of a major disaster area, a Federal coordinating officer to operate under the Office of Emergency Preparedness in such area.

(b) In order to effectuate the purposes of this Act, the coordinating officer, within the designated area, shall

(1) make an initial appraisal of the types of relief most urgently needed;

(2) establish such field offices as he deems necessary and as are authorized by the Director;

(3) coordinate the administration of relief, including activities of the American National Red Cross and of other relief organizations which agree to operate under his advice or direction; and

(4) take such other action, consistent with authority delegated to him by the Director, and consistent with the provisions of this Act, as he may deem necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.

EMERGENCY SUPPORT TEAMS

SEC. 202. The Director is authorized to form emergency support teams of personnel to be deployed in a major disaster area. Such emergency support teams shall assist the Federal coordinating officer in carrying out his responsibilities pursuant to section 201(b) of this Act.

COOPERATION OF FEDERAL AGENCIES

SEC. 203 (a) In any major disaster, Federal agencies are hereby authorized, on direction of the President, to provide assistance by—

(1) utilizing or lending, with or without compensation therefor, to States and local governments, their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any Act;

(2) distributing or rendering, through the American National Red Cross, other relief and disaster assistance organizations, or otherwise, medicine, food, and other consumable supplies, or emergency assistance;

(3) donating or lending equipment and supplies determined in accordance with applicable laws to be surplus to the needs and responsibilities of the Federal Government; and

(4) performing on public or private lands or waters any emergency work essential for the protection and preservation of life and property, including—

(A) clearing and removing debris and wreckage;

(B) making repairs to, or restoring to service, public facilities, belonging to State or local governments, which were damaged or destroyed by a major disaster except that the Federal contribution therefor shall not exceed the net cost of restoring such facilities to their capacity prior to such disaster.

(C) providing emergency shelter for individuals and families who, as a result of a major disaster, require such assistance; and

(D) making contributions to State or local governments for the purpose of carrying out the provisions of paragraph (4).

(b) Emergency work performed under subsection (a) (4) of this section shall not preclude Federal assistance under any other section of this Act.

(c) Federal agencies may be reimbursed for expenditures under section 203(a) from funds appropriated for the purposes of this Act. Any funds received by Federal agencies as reimbursement for services or supplies furnished under the authority of this section shall be deposited to the credit of the appropriation or appropriations currently available for such services or supplies.

(d) The Federal Government shall not be liable for any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of this section.

(e) Any Federal agency designated by the President to exercise authority under this Act may establish such special groups, interdepartmental or otherwise, as it deems appropriate to assist in carrying out the provisions of law relating to Federal disaster preparedness and assistance, and the funds of any such agency may be utilized for the necessary expenses of any such group so established.

(f) In carrying out the purposes of this Act, any Federal agency is authorized to accept and utilize the services or facilities of any State or local government, or of any agency, office, or employee thereof, with the consent of such government. Any Federal agency, in performing any activities under this section, is authorized to appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of such title relating to classification and General Schedule pay rates, to employ experts and consultants in accordance with the provisions of section 3109 of such title, and to incur obligations on behalf of the United States by contract or otherwise for the acquisition, rental, or hire of equipment, services, materials, and supplies for shipping, drayage, travel, and communication, and for the supervision and administration of such activities. Such obligations, including obligations arising out of the temporary employment of additional personnel, may be incurred by an agency in such amount as may be made available to it by the President.

(g) In the interest of providing maximum mobilization of Federal assistance under this Act, the President is authorized to coordinate in such manner as he may determine the activities of Federal agencies in providing disaster assistance. The President may direct any Federal agency to utilize its available personnel, equipment, supplies, facilities, and other resources in accordance with the authority herein contained. The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this Act, and he may exercise any power or authority conferred on him by any section of this Act either directly or through such Federal agency as he may designate.

(h) The President, acting through the Of-

fice of Emergency Preparedness, shall conduct periodic reviews (at least annually) of the activities of Federal and State departments or agencies providing disaster assistance, in order to assure maximum coordination of such programs, and to evaluate progress being made in the development of Federal, State, and local preparedness to cope with major disasters.

USE OF LOCAL FIRMS AND INDIVIDUALS

SEC. 204. In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster assistance activities which may be carried out by contract with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals who reside or do business primarily in the disaster area.

FEDERAL GRANT-IN-AID PROGRAMS

SEC. 205. Any Federal ageny charged with the administration of a Federal grant-in-aid program is authorized, if so requested by the applicant State or local authorities, to modify or waive, for the duration of a major disaster proclamation, such conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the disaster.

STATE DISASTER PLANS

SEC. 206. (a) The President is authorized to provide assistance to the States in developing comprehensive plans and practicable programs for preparation against major disasters, and for relief and assistance for individuals, businesses, and local governments following such disasters. Such plans should include long-range recovery and reconstruction assistance plans for seriously damaged or destroyed public and private facilities.

(b) The President is authorized to make grants of not more than $250,000 to any State, upon application therefor, for not to exceed 50 per centum of the cost of developing such plans and programs.

(c) Any State desiring assistance under this section shall designate or create an agency which is specially qualified to plan and administer such a disaster relief program, and shall, through such agency, submit a State plan to the President, which shall—

(1) set forth a comprehensive and detailed State program for preparation against, and relief following, a major disaster, including provisions for emergency and long-term assistance to individuals, businesses, and local governments; and

(2) include provision for the appointment of a State coordinating officer to act in cooperation with the Federal coordinating officer appointed under section 201 of this Act.

(d) From time to time the Director shall make a report to the President, for submission to the Congress, containing his recommendations for programs for the Federal role in the implementation and funding of comprehensive disaster relief plans, and such other recommendations relating to the Federal role in disaster relief activities as he deems warranted.

(e) The President is authorized to make grants not to exceed $25,000 per annum to any State in an amount not to exceed 50 per centum of the cost for the purpose of improving, maintaining, and updating that State's disaster assistance plans.

USE AND COORDINATION OF RELIEF ORGANIZATIONS

SEC. 207. (a) In providing relief and assistance following a major disaster, the Director may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Board of Missions and Charities, and other relief or disaster assistance organizations, in the distribution of medicine, food, supplies, or other items, and in the restoration, rehabilitation, or reconstruction of community services and essential facilities whenever the Director finds that such utilization is necessary

(b) The Director is authorized to enter into agreements with the American National Red Cross and other relief or disaster assistance organizations under which the disaster relief activities of such organizations may be coordinated by the Federal coordinating officer whenever such organizations are engaged in providing relief during and after a major disaster. Any such agreement shall include provisions conditioning use of the facilities of the Office of Emergency Preparedness and the services of the coordinating officer upon compliance with regulations promulgated by the Director under sections 208 and 209 of

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this Act, and such other regulations as the Director may require.

DUPLICATION OF BENEFITS

SEC. 208. (a) The Director, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as the result of a major disaster, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program.

(b) The Director shall assure that no person, business concern, or other entity receives any Federal assistance for any part of a loss suffered as the result of a major disaster if

such person, concern, or entity received compensation from insurance or any other source for that part of such a loss. Partial compensation for a loss or a part of a loss resulting from a major disaster will not preclude additional Federal assistance on any part of such a loss not compensated otherwise.

(c) Whenever the Director determines (1) that a person, business concern, or other entity has received assistance under this Act for a loss and that such person, business concern or other entity received assistance for the same loss from another source, and (2) that the amount received from all sources exceeded the amount of the loss, he shall direct such person, business concern, or other entity to pay to the Treasury an amount, not to exceed the amount of Federal assistance received, sufficient to reimburse the Federal Government for that part of the assistance which he deems excessive.

NONDISCRIMINATION IN DISASTER ASSISTANCE

SEC. 209. (a) The Director shall issue, and may alter and amend, such regulations as may be necessary for the guidance of personnel carrying out emergency relief functions at the site of a major disaster. Such regulations shall include provisions for insuring that the distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status prior to a major disaster.

(b) As a condition of participation in the distribution of assistance or supplies under section 207, relief organizations shall be required to comply with regulations relating to nondiscrimination promulgated by the Director, and such other regulations applicable to activities within a major disaster area as he deems necessary for the effective coordination of relief efforts.

ADVISORY PERSONNEL

SEC. 210. The Director is authorized to assign advisory personnel to the chief executive officer of any State or local government within a major disaster area, upon request by such officer, whenever the Director determines that such assignment is desirable in order to insure full utilization or relief and assistance resources and programs.

DISASTER WARNINGS

SEC. 211. The President is authorized to utilize or to make available to Federal, State, and local agencies the facilities of the civil defense communications system established and maintained pursuant to section 201(c) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. app. 2281(c)), for the purpose of providing needed warning to governmental authorities and the civilian population in areas endangered by imminent major disasters.

PART B—EMERGENCY RELIEF

PREDISASTER ASSISTANCE

SEC. 221. To avert or lessen the effects of a major disaster, the President is authorized, without declaring a major disaster, to utilize Federal resources in providing disaster assistance to any State to assist such State or any local government thereof in circumstances which clearly indicate the imminent occurrence of a major disaster.

EMERGENCY COMMUNICATIONS

SEC. 222. The Director is authorized to establish emergency communications in any major disaster area in order to carry out the functions of his office, and to make such communications available to State and local government officials and other persons as he deems appropriate.

EMERGENCY PUBLIC TRANSPORTATION

SEC. 223. The Director is authorized to provide public transportation service to meet emergency needs in a major disaster area. Such service will provide transportation to governmental offices, supply centers, stores, post offices, schools, major employment centers, and such other places as may be necessary in order to enable the community to resume its normal pattern of life as soon as possible.

DEBRIS REMOVAL GRANTS

SEC. 224. The President, whenever he determines it to be in the public interest, is authorized to make grants to any State or local government for the purpose of removing debris on privately owned lands or waters as a result of a major disaster, and is authorized to make payments through such State or local government for the removal of debris from community areas which may include the private property of an individual. No benefits will be available under this section unless such State or local government arranges unconditional authorization for removal of debris from such property and agrees to indemnify the Federal Government against any claims arising from such debris removal.

FIRE SUPPRESSION GRANTS

SEC. 225. The President is authorized to provide assistance, including grants, to any State for the suppression of any fire on publicly or privately owned forest or grassland which threatens such destruction as would constitute a major disaster.

TEMPORARY HOUSING ASSISTANCE

SEC. 226. (a) The Director is authorized to provide on a temporary basis, as prescribed

in this section, dwelling accommodations for individuals and families who, as a result of a major disaster, are in need of assistance by (1) using any unoccupied housing owned by the United States under any program of the Federal Government, (2) arranging with a local public housing agency for using unoccupied public housing units, or (3) acquiring existing dwellings or mobile homes or other readily fabricated dwellings, by purchase or lease. Notwithstanding any other provision of law, any existing dwellings, mobile homes, or readily fabricated dwellings acquired by purchase may be sold directly to individuals and families who are occupants of such temporary accommodations at prices that are fair and equitable. Any mobile home or readily fabricated dwelling shall be placed on a site complete with utilities provided by State or local government, or by the owner or occupant of the site who was displaced by the major disaster, without charge to the United States. However, the Director may elect to provide other more economical and accessible sites at Federal expense when he determines such action to be in the public interest.

(b) After the initial ninety days of occupancy without charge, rentals shall be established for such accommodations, under such rules and regulations as the Director may prescribe, taking into account the financial resources of the occupant. In case of financial hardship, rentals may be compromised, adjusted, or waived for a period not to exceed twelve months from the date of occupancy, but in no case shall any such individual or family be required to incur a monthly housing expense (including any fixed expense relating to the amortization of debt owing on a house destroyed or damaged in a major disaster) which is in excess of 25 per centum of the monthly income of the occupant or occupants.

(c) The Director is further authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by a major disaster, have received written notice of dispossession or eviction from a residence by reason of foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, oral or written. Such assistance shall be provided for a period of not to exceed one year or for the duration of the period of financial hardship, whichever is the lesser. The Director shall, for the purposes of this subsection and in furtherance of the purpose of section 240 of this Act, provide reemployment assistance services to individuals who are unemployed as a result of a major disaster.

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PART D—RESTORATION OF PUBLIC FACILITIES

FEDERAL FACILITIES

SEC. 251. The President may authorize any Federal agency to repair, reconstruct, restore, or replace any facility owned by the United States and under the jurisdiction of such agency which is damaged or destroyed by any major disaster if he determines that such repair, reconstruction, restoration, or replacement is of such importance and urgency that it cannot reasonably be deferred pending the enactment of specific authorizing legislation or the making of an appropriation for such purposes. In order to carry out the provisions of this section, such repair, reconstruction, restoration, or replacement may be begun notwithstanding a lack of insufficiency of funds appropriated for such purpose, where such lack or insufficiency can be remedied by the transfer, in accordance with law, of funds appropriated for another purpose.

STATE AND LOCAL GOVERNMENT FACILITIES

SEC. 252. (a) The President is authorized to make contributions to State or local governments to repair, restore, reconstruct, or replace public facilities belonging to such State or local governments which were damaged or destroyed by a major disaster, except that the Federal contribution therefor shall not exceed 50 per centum of the net cost of restoring any such facility to its capacity prior to such disaster and in conformity with applicable codes and specifications.

(b) In the case of any such public facilities which were in the process of construction when damaged or destroyed by a major disaster, the Federal contribution shall not exceed 50 per centum of the net costs of restoring such facilities substantially to their prior to such disaster condition and of completing construction not performed prior to the major disaster to the extent the increase of such cost over the original construction cost is attributable to changed conditions resulting from a major disaster.

(c) For the purposes of this section "public facility" includes any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility, any non-Federal-aid street, road, or highway, and any other essential public facility.

PRIORITY TO CERTAIN APPLICATIONS FOR PUBLIC FACILITY AND PUBLIC HOUSING ASSISTANCE

SEC. 253. In the processing of applications for assistance, priority and immediate consideration may be given, during such period, not to exceed six months, as the President shall prescribe by proclamation, to applications from public bodies situated in major disaster areas, under the following Acts:

(1) title II of the Housing Amendments of 1955, or any other Act providing assistance for repair, construction, or extension of public facilities;

(2) the United States Housing Act of 1937 for the provision of low-rent housing;

(3) section 702 of the Housing Act of 1954 for assistance in public works planning;

(4) section 702 of the Housing and Urban Development Act of 1965 providing for grants for public facilities; or

(5) section 306 of the Consolidated Farmers Home Administration Act.

RELOCATION ASSISTANCE

SEC. 254. Notwithstanding any other provision of law or regulation promulgated thereunder, no person otherwise eligible for relocation assistance payments authorized under section 114 of the Housing Act of 1949 shall be denied such eligibility as a result of a major disaster as determined by the President.

TITLE III—MISCELLANEOUS

TECHNICAL AMENDMENTS

SEC. 301. (a) Section 701(a)(3)(B)(ii) of the Housing Act of 1954 (40 U.S.C. 461(a)(3)(B)(ii) is amended to read as follows: "(ii) have suffered substantial damage as a result of a major disaster as determined by the President pursuant to the Disaster Assistance Act of 1970".

(b) Section 8(b)(2) of the National Housing Act (12 U.S.C. 1706c(b)(2)) is amended by striking out of the last proviso "section 2(a) of the Act entitled 'An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes' (Public Law 875, Eighty-first Congress approved September 30, 1950)" and inserting

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in lieu thereof "section 102(1) of the Disaster Assistance Act of 1970".

(c) Section 203(h) of the National Housing Act (12 U.S.C. 1709(h)) is amended by striking out "section 2(a) of the Act entitled 'An Act to authorize Federal assistance to States and local governments in major disasters and for other purposes' (Public Law 875, Eighty-first Congress, approved September 30, 1950), as amended" and inserting in lieu thereof "section 102(1) of the Disaster Assistance Act of 1970".

(d) Section 221(f) of the National Housing Act (12 U.S.C. 17151 (f)) is amended by striking out of the last paragraph "the Act entitled 'An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes', approved September 30, 1950, as amended (42 U.S.C. 1855–1855g)" and inserting in lieu thereof "the Disaster Assistance Act of 1970".

(e) Section 7(a)(1)(A) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress, as amended; 20 U.S.C. 241–1(a)(1)(A)), is amended by striking out "pursuant to section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855(a))" and inserting in lieu thereof "pursuant to section 102 (1) of the Disaster Assistance Act of 1970".

(f) Section 16(a) of the Act of September 23, 1950 (79 Stat. 1158; 20 U.S.C. 646(a)) is amended by striking out "section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a))" and inserting in lieu thereof "section 102(1) of the Disaster Assistance Act of 1970".

(g) Section 408(a) of the Higher Education Facilities Act of 1963 (20 U.S.C. 758(a)) is amended by striking out "section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a))" and inserting in lieu thereof "section 102(1) of the Disaster Assistance Act of 1970".

(h) Section 165(h)(2) of the Internal Revenue Code of 1954, relating to disaster losses (26 U.S.C. 165(h)(2)) is amended to read as follows:

"(2) occurring in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Disaster Assistance Act of 1970,".

(i) Section 506(a) of the Internal Revenue Code of 1954 (26 U.S.C. 506(a)), relating to losses caused by disaster, is amended by striking out "the Act of September 30, 1950 (42 U.S.C. 1855)" and inserting in lieu thereof "the Disaster Assistance Act of 1970".

(j) Section 5708(a) of the Internal Revenue Code of 1954 (26 U.S.C. 5708(a)), relating to losses caused by disaster, is amended by striking out "the Act of September 30, 1950 (42 U.S.C. 1855)" and inserting in lieu thereof "the Disaster Assistance Act of 1970".

(k) Section 3 of the Act of June 30, 1954 (68 Stat. 330; 48 U.S.C. 1681), is amended by striking out of the last sentence "section 2 of the Act of September 30, 1950 (64 Stat. 1109), as amended (42 U.S.C. 1855a)" and inserting in lieu thereof "section 102(1) of the Disaster Assistance Act of 1970".

(l) Whenever reference is made in any provision of law (other than this Act), regulation, rule, record, or document of the United States to the Act of September 30, 1950 (64 Stat. 1109), or any provision of such Act, such reference shall be deemed to be a reference to the Disaster Assistance Act of 1970 or to the appropriate provision of the Disaster Assistance Act of 1970 unless no such provision is included therein.

REPEAL OF EXISTING LAW

SEC. 302. The following Acts are hereby repealed:

(1) the Act of September 30, 1950 (64 Stat. 1109);

(2) the Disaster Relief Act of 1966, except section 7 (80 Stat. 1316); and

(3) the Disaster Relief Act of 1969 (83 Stat. 125).

AUTHORIZATION OF APPROPRIATIONS

SEC. 303. Except as provided otherwise in this Act, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 304. This Act shall take effect immediately upon its enactment, except that sections 226(c), 237, 241, 252(a), and 254 shall take effect as of August 1, 1969, and sections 231, 232, and 233 shall take effect as of April 1, 1970.

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1.8a(4)(b) Oct. 5: Debated, amended, and passed House, pp. 34795–34798

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

Since I have been a Member of Congress, we have had several major disasters—the Alaskan earthquake, the Christmas 1964 storms and floods in California and the Pacific Northwest, the Palm Sunday 1965 tornadoes which caused so much havoc in Illinois, Michigan, and Indiana, Hurricane Betsy, the California storms of January and February 1969, and the great grandmother of all hurricanes, Camille, which caused so much devastation throughout the Southern States and whose aftermath hit as far north as Virginia. And, as we meet here today, firefighters in California are cleaning up after one of the worst forest and brush fire disasters my State has ever experienced. In the past few days substantially more than 300,000 acres of land have been blackened, 500 homes have been burned to the ground, eight people have been killed, and more than 200 injured. Damage totals reach the hundreds of millions. Although accurate estimates of the loss cannot be made as yet, it is certain to exceed the 1969 storm totals which amounted to something more than $110 million.

The examples I have cited are the major storms and disasters which we have experienced, but there have been hundreds of other lesser disasters in which the resources of the Federal Government were required to help the people recover from brutal treatment on the part of nature. I should say these were lesser storms and disasters only in terms of scope and geography. For those people hurt or killed and for those whose homes and property were destroyed, there was no greater disaster than some of these. During the 20 years since Public Law 81–875, which is our basic disaster legislation, was enacted in 1950, the President has declared disaster emergencies and ordered mobilization of Federal relief agencies 280 times, an average of 14 times a year. During the last 5 years, there have been 100 of these disasters, an average of 20 a year. In 1969 we witnessed one of

the worst years in history with 20 disasters including, of course, the storms of California which claimed some 100 lives and Hurricane Camille which cost us 262 lives and $1.5 billion in damage.

I would like to interject here, Mr. Speaker, a comment concerning the nature of disasters which I believe points up the need for streamlining [p. 34795]

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

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

As you will recall, the Alaskan earthquake, the Pacific Northwest disaster of 1965, Hurricane Betsy, all required special legislation to meet the problems in those devastated areas. None was permanent legislation, but through the legislative history and the administration of these bills, we built a tremendous store of knowledge concerning the needs for disaster relief.

In the 1969 act, the scope of the legislation was made general, broadened and refined. We had a good bill. Operations in the California storms and Hurricane Camille and other disaster situations which we have experienced throughout 1969 and this year prove this. And the legislation, I am pleased to report, will be of tremendous value to the people of California in the wake of the fire disaster.

However, most provisions of the 1969 act will expire at the end of this calendar year. It is time that we make permanent those provisions which have proven valuable and at the same time strengthen and refine them. It is with this in mind that I introduce H.R. 18608, the Federal Disaster Assistance Act of 1970, which I believe reflects not only the best of the recommendations proposed by the administration, but also the experience the Congress has had in disaster relief. I am pleased that most of the provisions of my proposal are incorporated in S. 3619 which we have before us today. I must also say the Public Works Committee, drawing upon its great experience and knowledge of disaster situations, has refined and expanded my original proposal.

The result is, I am convinced, a fine bill which is worthy of approval today by the House of Representatives. A brief summary of the proposal follows:

Section 2 titles the proposal the Federal Disaster Assistance Act of 1970.

Section 2 strengthens and broadens Public Law 81–875, the basic disaster

assistance program first enacted in 1950, to make it more responsive to the needs of the decade of the 1970's. Basically this is accomplished through a more realistic definition of "public facilities" which can be rehabilitated and repaired under the provisions of this act, making is possible for the Federal Government to assist in the restoration of all public facilities.

Second, this section provides for permanent restoration of facilities under the provisions of Public Law 81–875. You will recall that initially the 1950 Disaster Act permitted only temporary replacements, which proved inadequate. The 1969 Disaster Act broke new ground in this area by providing that permanent restoration could be achieved on streets, roads, and highways. This has worked very well and proved most beneficial. Therefore, this legislation as drafted would extend this to all programs covered under Public Law 81–875. Protections are incorporated to prevent local government from obtaining a windfall by which the Federal Government would be financing expansion of facilities.

Section 2 also provides for temporary emergency housing and shelter, including the leasing of mobile homes, the need for which has been demonstrated in past disasters. It goes one step further than the 1969 act did in that it provides for no rentals to be charged for these emergency accommodations during the first 12 months. This may sound extremely generous, but the experience has been that with the head of the family out of work because of the disaster, his income has stopped and he is trying to keep his family alive on food stamps. Second, the administrative cost of collecting rents far exceeds the rents collected and, therefore, the net return is negligible. We do include a provision which requires the institution of rental charges after the first year just so that the disaster-stricken individual will learn to get back on his own feet and not make a habit of living in rent-free accommodations. This is rehabilitation legislation—not welfare legislation.

Section 3 of H. R. 18608 refines, strengthens and makes permanent many of the provisions of the Disaster Relief Act of 1969.

Touching first of all on the disaster relief program of the Small Business Administration and the Farmers Home Administration, it has been discovered over the years that the 3-percent disaster loan authorized for the Small Business Administration has not been available to the extent that it should be. We tried to make this mandatory by legislation, but actually it was an executive decision. The language we have before us today is more realistic. It provides that loans will be made without regard to whether private sources are available for such loans and the interest rate shall be 1 percent less than the average which the Treasury is paying for its outstanding marketable obligations with periods of maturity to 10 to 12 years. In no event shall any loan be made in excess of 6 percent. At the present time this would mean that the emergency disaster loans in these two programs—SBA and FHA—would be made at something less than 6 percent, which I believe is a realistic figure. Along with the increased interest rate, we have also increased the forgiveness, which follows a pattern first established for Hurricane Betsy. We propose to increase the maximum forgiveness to $2,500. We also specify that a loan under this section shall not be denied on the basis of the age of the applicant.

Section 3 also deals with the problem of clearance of debris and wreckage from publicly and privately owned lands and waters. The 1969 act authorized the State and local governments to assist in removing this type of debris. S. 3619 provides that the

Federal departments and agencies also may do this. We found that last year on many occasions it would be most expeditious for the Federal agencies on the scene to take care of this rather than waiting for the State or local government equipment and/or personnel, which often were overextended. In each instance, however, we have specified that the State or local governments affected must arrange for permission to remove the debris or wreckage from the public or private property involved and also shall indemnify the Federal Government against any claims arising from such removal.

Section 3 of this bill also would make permanent several provisions of the 1969 act which otherwise would expire on December 31, 1970. This includes: First, the Small Business and Farmers Home Administration programs which I mentioned above; second, authority to expedite timber sales in areas of heavy loss to salvage downed timber and also to rebuild the lumber-based economies; third, assistance in reconstruction of timber sale roads; fourth, special unemployment compensation to those individuals jobless as a result of the major disaster; fifth, extension of emergency food stamp provisions to those disaster victims. In other words, we are making permanent all the better provisions of the 1969 act, which I feel was an outstanding piece of legislation.

Section 4 provides that no person eligible for relocation assistance under urban renewal programs of the Department of Housing and Urban Development shall be denied this as a result of a disaster.

Section 5 is a new approach but is one that is needed desperately. This provides assistance to local governments where property tax revenues have decreased dramatically due to a disaster. When a man's house is wiped out, you obviously cannot tax it. Hurricane Camille experience was such that many local governmental agencies bordered on bankruptcy because of the substantial loss of tax base. It is proposed that Federal grants be made to help finance local government during the 2 years immediately after a disaster. The amount of the grant would be based on the average

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of the property tax revenues received by the local government during the 3-tax-year periods preceding the disaster. The provisions state quite clearly that local government cannot reduce its rates in order to take advantage of this.

Section 6 provides the President with authority to mobilize Federal departments and agencies before a disaster strikes. This means that when a major disaster appears imminent, and we certainly are getting more and more advance warning due to our better weather forecasting provisions, the President may put to work the full resources of the Federal Government before the disaster strikes to avert or lessen the effects of such a disaster. This is the old philosophy that an ounce of prevention is worth far more than a pound of cure.

Section 7 directs the Office of Emergency Preparedness to conduct a 1-year study to determine additional ways to prevent or lessen property losses and personal injuries and deaths from forest fires, earthquakes, tornadoes, freezes and frosts, tsunami, storms, tides and floods which are or threaten to become major disasters.

Section 8 incorporates in the new legislation some of the definitions and provisions of the 20-year-old-Public Law 81–875, including such things as authorization for Federal agencies to accept and utilize local services and facilities of State and local governments, extension of liberalized Federal employment and contracting practices, and reimbursement from

disaster funds of expenditures by Federal agencies.

Section 9 extends the earlier authority of the President to utilize resources of all Federal departments and agencies in a disaster.

Section 10 authorizes the sale to disaster victims at fair and equitable prices the mobile homes or other emergency housing they may be occupying.

Section 11 provides a program of mortgage assistance to families being evicted because of disaster caused financial hardships.

Section 12 makes the provisions of the act available to victims of any disaster which has occurred since December 1, 1968.

Mr. Speaker, this is an outline of the provisions of the legislation which I put before you. In conclusion, I do want to say it reflects the best of what Congress has done through past leadership in meeting the needs of our people in our local communities, including their State and local governments, in disaster situations. I think that it is a realistic bill and one which is truly in the American tradition of extending a helping hand to a neighbor in a time of trouble. May I again congratulate the Public Works Committee and its chairman for the work which they have done over the last 10 to 12 years in providing this type of assistance. Many a community would still be in ruins today if it had not been for the hard work, diligence, and wisdom of this committee and the Congress in providing the means whereby a stricken community could mop up, rebuild, and get back on its economic feet.

I urge my colleagues in the House of Representatives to continue this effort through enacment of S. 3619 today.

Mr. FALLON. Mr. Speaker, I rise in support of S. 3619, the Disaster Relief Act of 1970. At the outset may I commend the chairman of the Subcommittee on Flood Control, my good friend, the gentleman from Alabama (Mr. JONES), the ranking minority member of that subcommittee, the gentleman from California (Mr. DON CLAUSEN) and all the members of the subcommittee for the fine work they have done on this needed legislation.

The Committee on Public Works has moved expeditiously and rapidly through the years responding to disasters of all types which have stricken all sections of the country. On numerous occasions we have sent subcommittees to these areas to obtain first hand information on the disaster and to meet with our fellow citizens who have been afflicted by these disasters. In addition, we have enacted legislation over the years to help in these areas which can be seen from the acts of 1966 and 1969.

We have come to the conclusion in the committee that there is need for permanent legislation to embody into law those many sections of legislation we have passed in the past to help stricken areas which have proved so helpful in relieving the stricken area. The legislation before us makes permanent many of these needed sections so that immediately upon the declaration for Federal assistance under this legislation there will be available under the bill needed assistance provided at once. I think this bill is needed and I support it.

Mr. PICKLE. Mr. Speaker, since the beginning of this year, I have witnessed four major disasters in my own State, one of them—the floods at San Marcos—directly in my congressional district. Needless to say, we still have a long way to go to recover from these catastrophes, and many other States face similar situations.

As it is now proposed, S. 3619 not only improves our ability to recover from future natural disasters, but will greatly aid us in our continued efforts to recover from those disasters in our recent past. This legislation widens

the aid offered to State and local governments to assist in their own recovery and to replace destroyed public facilities. It helps those who stand to lose their homes because their jobs were destroyed in the disaster.

And in a key provision, this bill takes into account our rising construction costs and property values by raising the amount of a disaster loan which may be canceled and by making this provision retroactive. This latter provision applies to loans administered in disasters declared by the President, by the Farmers Home Administration, or by the Small Business Administration. It will be a crucial factor in helping many homeowners and businessmen to recover. It is particularly the case where our low-income and middle-income homeowners and businessmen are concerned.

The previous law allowed loan cancellations of up to $1,800 on loans over $500 at 3 percent. This new legislation proposes upping the amount eligible for cancellation to $2,500 at no more than 6 percent and makes this provision retroactive to December 1, 1968. The borrower is allowed to choose between the old and new rates, depending on which will be best for his individual needs. Although the interest rate is raised, the overall benefit will still weigh heavily with the borrower. And although this provision will create some additional work for the agencies lending the money, I do not think the additional trouble will be nearly enough to offset the good of this provision.

My colleague from Texas, Senator YARBOROUGH, led the battle for initiating the retroactive character of this provision on the Senate side. The Senate version of the disaster bill makes the loan cancellation provision retroactive to April 1, 1970. I am pleased to see that the House has picked up the ball and increased the number of disaster areas that would be included in this retroactive provision.

In summary, I would say that this is not only an important bill, it is a sound and balanced bill. I urge your support of this excellent piece of legislation.

Mr. BELL of California. Mr. Speaker, I join my colleagues today in support of S. 3619, legislation which will revise and expand Federal programs to deal with disasters such as the recent tragic forest and brush fires in the State of California.

These most disastrous fires in the history of the State of California cost 14 lives and over $200 million in damage.

About 800 homes were destroyed. Over 1,200 other structures, including four houses of worship, were decimated. Fourteen people were killed, and over 350 were injured. Thousands were forced to leave their homes to escape the blazes.

The California Disaster Office estimated private property loss at over $154 million and public damage of at least $11 million.

The fires were fanned by violent winds, and they cut a path nearly 40 miles long from Newhall in the San Fernando Valley through Malibu and Topanga Canyons down to the sea.

The magnitude of human suffering as a result of these disasters is unmeasurable.

Our firemen—over 2,000 of them—demonstrated magnificent courage. Working hour after hour with no sleep, firefighters battled the intense heat to save untold numbers of lives, homes, and valuable acreage.

The magnitude of these disasters calls for swift, efficient, and comprehensive action by the Federal Government to assist local and State efforts to remedy the effects of this holocaust. The legislation which I am supporting today would extend coverage offered by the Federal Government so that homes, businesses,

highways, and other property damage and losses can be compensated.

This legislation provides for the temporary housing of disaster victims and authorizes the President to provide financial assistance in the form of mortgage or rental payments to individuals or families who have

[p. 34797]

suffered financial disaster caused by a major disaster.

It provides for relocation assistance payments and for the removal of debris from lands and waters with the aid of Federal agencies. Grants would be made to local governments to compensate for substantial loss of property tax revenues.

Finally, the act provides for studies by the Office of Emergency Preparedness to determine what plans, procedures, and facilities are needed to help prevent a recurrence of such a disaster.

Hopefully, the relief provided by this legislation will alleviate a portion of the enormity of suffering occasioned by the most disastrous fires in the history of the State of California.

Mr. ANDERSON of California. Mr. Speaker, I rise in support of S. 3619, a bill to revise and expand Federal programs for relief from the effects on major disasters.

My home State of California has been particularly hard hit by natural disasters over the last 2 years. In January 1969, heavy rain storms brought flooding and mudslides in their wake. Roads, bridges, dikes, and levees were destroyed. Residents were forced to move from their homes. On January 26, 1969, 37 of California's 58 counties were declared disaster areas. More recently, fires have wreaked havoc on major portions of California.

I am particularly pleased to be a member of the Public Works Committee which has primary responsibility for initiating legislation to aid those who have suffered from natural disasters, and to attempt to reduce the impact of disasters in the future.

Last year, our committee initiated the National Disaster Relief Act of 1969 primarily to relieve those communities which were hit in California by floods and to aid the victims of Hurricane Camille.

Due to this legislation and other action, California was the recipient of over $111 million in the form of Federal disaster assistance.

Mr. Speaker, while one disaster death is one too many, I feel that our efforts over the years to protect lives have been successful and the legislation should be extended and broadened. For example, at the turn of the century, the Galveston flood caused about $30 million worth of damage; however, 6,000 lives were lost. Compare this with Hurricane Camille in which $1.5 billion in damage was caused, but the death toll stood at 258. In addition, experts have estimated that $3 in losses have been prevented for $1 invested in flood control structures.

Mr. Chairman, the act before us (S. 3619) is a progressive step. Section 2 extends the scope of Federal aid to permit making permanent repairs and replacements of public facilities. The Federal contribution would be limited to the cost of restoring the facility using the basis of design of that facility as it existed immediately prior to the disaster.

Section 5 is designed to aid those communities which have lost property tax revenue when a substantial portion of a community's property tax base is destroyed by a natural disaster. Under this section, the President is authorized to make grants to any local government which, as a result of a major disaster, has suffered a substantial loss of both real and personal property tax revenue.

Last year, I introduced H.R. 14781 which would provide earthquake and

earthslide insurance under the Housing and Urban Development flood insurance program. In order to implement this program, the Department of Housing and Urban Development feels that more knowledge and experience is needed in order to establish an actuarial insurance rate for earthslides and earthquakes.

Under section 7 of the Disaster Relief Act of 1970, the Director of the Office of Emergency Preparedness is directed to study ways to provide effective action to prevent or lessen losses of property and personal injury or deaths which could result from earthquakes, tsunami, storm surges and tides, and floods. This report should aid the Federal Insurance Administrator in making determinations for extending the present flood insurance program to other areas.

Again, Mr. Speaker, I commend you for your action in this field, and heartily endorse S. 3619, the Disaster Relief Act of 1970.

The SPEAKER. The question is on the motion offered by the gentleman from Alabama (Mr. JONES) that the House suspend the rules and pass the bill S. 3619, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

[p. 34798]

1.8a(4)(c) Dec. 15, 17: House debated and agrees to conference report, pp. 42212–42214

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

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

The Clerk read the title of the bill.

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

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

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

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

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

There was no objection.

The Clerk read the statement.

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

(Mr. JONES of Alabama asked and was given permission to revise and extend his remarks.)

Mr. JONES of Alabama. Mr. Speaker, S. 3619, which we now bring back from conference for approval of this House is one of the finest examples of complete cooperation between this body and the Senate. The Senate approach in dealing with the need for disaster relief assistance was to repeal all existing major substantive provisions dealing with this subject and replace them with one basic

law. The House of Representatives approach was simply to amend the basic laws and to add several new badly needed provisions. During the conference with the Senate it became obvious that we were to a great extent attempting to reach the same end result by differing means.

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

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

The House version of S. 3619 authorized the use of Federal agencies to clear debris from publicly and privately owned lands and waters, when determined to be in the public interest. Authorization was also provided for grants to any State for similar

[p. 42212]

debris clearance. A requirement was imposed that State and local governments must arrange to provide unconditional authorizations for the removal of such debris and that the Federal Government be indemnified against claims arising from such removal. The conference report includes this provision.

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

The conference report provides that in the administration of the disaster loan program under section 7(b) (1), (2), and (4) of the Small Business

Act in the case of property loss or damage or injury resulting from a major disaster as determined by the President or a disaster determined by the Small Business Administrator, such Administrator:

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

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

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

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

The conferees agreed essentially with the other House provisions relating to the disaster loan programs to the effect that a loan made under those provisions is not to exceed the current cost of repairing and replacing the disaster injury, loss, or damage in conformity with current codes and specifications. Any such loan is to bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of 10 to 12 years reduced by not to exceed 2 percent per annum but in no event is any such loan to bear interest at a rate in excess of 6 percent per annum.

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

One other provision I would particularly note involves assistance to communities for tax losses. Here again the House position prevailed. This section would authorize the President to make grants to any local government, which, as a result of a major disaster has suffered a substantial loss of property tax revenue—both real and personal. The limitations placed upon these grants are: First, they may only be made for the tax year in which disaster occurred and for each of the following 2 tax years; second, the grant shall not exceed the difference between the annual average of all property tax revenues received during the 3-tax-year period immediately preceding the tax year in which the major disaster occurred and the actual property tax revenue received for the tax year in which the disaster occurred and for each of the 2 succeeding tax years; and, third, there must be no reduction in tax rates and tax assessment evaluation factors of the local government. If, however, there has been such a reduction, a grant may still be made

for the year or years when such reduction is in effect, but, the President shall use the tax rates and tax assessment factors in effect at the time of the disaster without reduction in order to determine revenues which would have been received. These revenues will then be used in calculating the difference as the basis of determining the grant instead of the actual revenues.

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

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

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

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

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

Mr. GROSS. I thank the gentleman.

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

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

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

Mr. JONES of Alabama. Yes.

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

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

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

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

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

Mr. SPEAKER. The conference report before the House today on S. 3619, the Disaster Relief Act of 1970, reflects certain changes in approach that the conference committee adopted in the interest of simplifying the law. Simply put, the proposed legislation substitutes an entire new act for disaster relief legislation. Members of the House will recall that the bill, as it passed the House, was essentially an amendment or rather a series of amendments of existing disaster relief

[p. 42213]

acts. The other body chose to relate the acts that were in existence by the new act in which virtually the entire act of disaster relief law would be included.

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

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

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

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

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

(Mr. DON H. CLAUSEN asked and was given permission to revise and extend his remarks.)

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

The previous question was ordered.

The conference report was agreed to.

[p. 42214]

1.8a(4)(d) Dec. 18: Senate agrees to conference report, p. 42369

[No Relevant Discussion on Pertinent Section]

1.8a(5) STATEMENT BY THE PRESIDENT UPON SIGNING THE BILL INTO LAW

December 31, 1970, Weekly Compilation of Presidential Documents, Vol. 7, No. 1, January 4, 1971

DISASTER RELIEF ACT OF 1970

Statement by the President Upon Signing the Bill Into Law, December 31, 1970

I have today signed S. 3619, the "Disaster Relief Act of 1970."

This bill establishes a permanent, comprehensive program to extend emergency relief and necessary assistance to individuals, organizations, businesses, and States and local communities suffering from major disasters. It also strengthens the administration and coordination of Federal disaster assistance efforts.

On April 22, 1970, I sent a message to the Congress outlining this administration's proposals for improving the assistance which the Federal Government can provide in time of major disasters. My recommendations included:

—a property tax revenue maintenance plan for local communities whose tax bases have been partially destroyed;

—authority to permanently repair or fully replace damaged public facilities;

—improvement in the programs that provide disaster loans to stricken individuals; and

—authority to assist States and localities in averting or lessening the effects of potentially major disasters.

The Congress, while altering the particulars of many of these proposals, has incorporated all of the essential features of a sound disaster assistance program. I am pleased with this bill which responds to a vital need of the American people. The bill demonstrates that the Federal Government in cooperation with State and local authorities is capable of providing compassionate assistance to the innocent victims of natural disasters.

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1.9 INTEREST ON CERTAIN GOVERNMENT OBLIGATIONS

26 U.S.C. §103(c)(4) as amended (1971)

§ 103. INTEREST ON CERTAIN GOVERNMENTAL OBLIGATIONS

(a) GENERAL RULE.—Gross-income does not include interest on—

(1) the obligations of a State, a Territory, or a possession of the United States, or any political subdivision of any of the foregoing, or of the District of Columbia;

(2) the obligations of the United States; or

(3) the obligations of a corporation organized under Act of Congress, if such corporation is an instrumentality of the United States and if under the respective Acts authorizing the issue of the obligations the interest is wholly exempt from the taxes imposed by this subtitle.

(b) EXCEPTION.—Subsection (a) (2) shall not apply to interest on obligations of the United States issued after September 1, 1917 (other than postal savings certificates of deposit, to the extent they represent deposits made before March 1, 1941), unless under the respective Acts authorizing the issuance thereof such interest is wholly exempt from the taxes imposed by this subtitle.

(c) INDUSTRIAL DEVELOPMENT BONDS.—

(1) SUBSECTION (a) (1) NOT TO APPLY.—Except as otherwise provided in this subsection, any industrial development bond shall be treated as an obligation not described in subsection (a) (1).

(2) INDUSTRIAL DEVELOPMENT BOND.—For purposes of this subsection, the term "industrial development bond" means any obligation—

(A) which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly in any trade or business carried on by any person who is not an exempt person (within the meaning of paragraph (3)), and

(B) the payment of the principal or interest on which (under the terms of such obligation or any underlying arrangement) is, in whole or in major part—

(i) secured by any interest in property used or to be used in a trade or business or in payments in respect of such property, or

(ii) to be derived from payments in respect of property, or borrowed money, used or to be used in a trade or business.

(3) EXEMPT PERSON.—For purposes of paragraph (2)(A), the term "exempt person" means—

(A) a governmental unit, or

(B) an organization described in section 501(c)(3) and exempt from tax under section 501(a) (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business, determined by applying section 513(a) to such organization).

(4) CERTAIN EXEMPT ACTIVITIES.—Paragraph (1) shall not apply to any obligation which is issued as part of an issue substantially all of the proceeds of which are to be used to provide—

(A) residential real property for family units,

(B) sports facilities,

(C) convention or trade show facilities,

(D) airports, docks, wharves, mass commuting facilities, parking facilities, or storage for training facilities directly related to any of the foregoing,

(E) sewage or solid waste disposal facilities or facilities for the local furnishing of electric energy or gas,

(F) air or water pollution control facilities, or,

(G) facilities for furnishing of water, if available on reasonable demand to members of the general public.

* * * * * * *

Aug. 16, 1954, c. 736, 68A Stat. 29; Dec. 10, 1971, Pub. L. 92–178, Title III, § 315(a), 85 Stat. 529.

1.9a AMENDMENTS TO INTEREST ON CERTAIN GOVERNMENT OBLIGATIONS

June 28, 1968, P.L. 90-364, Title I, § 107(a), 82 Stat. 266

SEC. 107. INDUSTRIAL DEVELOPMENT BONDS.

(a) AMENDMENT OF SECTION 103.—Section 103 (relating to interest on certain governmental obligations) is amended by relettering subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) INDUSTRIAL DEVELOPMENT BONDS.—

"(1) SUBSECTION (a) (1) NOT TO APPLY.—Except as otherwise provided in this subsection, any industrial development bond shall be treated as an obligation not described in subsection (a) (1).

"(2) INDUSTRIAL DEVELOPMENT BOND.—For purposes of this subsection, the term 'industrial development bond' means any obligation—

"(A) which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly in any trade or business carried on by any person

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who is not an exempt person (within the meaning of paragraph (3)), and

"(B) the payment of the principal or interest on which (under the terms of such obligation or any underlying arrangement) is, in whole or in major part—

"(i) secured by any interest in property used or to be used in a trade or business or in payments in respect of such property, or

"(ii) to be derived from payments in respect of property, or borrowed money, used or to be used in a trade or business.

"(3) EXEMPT PERSON.—For purposes of paragraph (2) (A), the term 'exempt person' means—

"(A) a governmental unit, or

"(B) an organization described in section 501(c) (3) and exempt from tax under section 501(a) (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business, determined by applying section 513(a) to such organization).

"(4) CERTAIN EXEMPT ACTIVITIES.—Paragraph (1) shall not apply to any obligation which is issued as part of an issue substantially all of the proceeds of which are to be used to provide—

"(A) residential real property for family units,

"(B) sports facilities,

"(C) convention or trade show facilities,

"(D) airports, docks, wharves, mass commuting facilities, parking facilities, or storage or training facilities directly related to any of the foregoing,

"(E) sewage or solid waste disposal facilities or facilities for the local furnishing of electric energy, gas, or water, or

"(F) air or water pollution control facilities.

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1.9a(1) HOUSE COMMITTEE ON WAYS AND MEANS

H.R. REP. No. 1104, 90th Cong., 2d Sess. (1968)

TAX ADJUSTMENT ACT OF 1968

FEBRUARY 23, 1968.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. MILLS, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H.R. 15414]

The Committee on Ways and Means, to whom was referred the bill (H.R. 15414) to continue the existing excise tax rates on communication services and on automobiles, and to apply more generally the provisions relating to payments of estimated tax by corporations, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

[p. 1]

[No Relevant Discussion on Pertinent Section]

1.9a(2) SENATE COMMITTEE ON FINANCE
S. REP. No. 1014, 90th Cong., 2d Sess. (1968)

TAX ADJUSTMENT ACT OF 1968

MARCH 15, 1968.—Ordered to be printed

Mr. LONG of Louisiana, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 15414]

The Committee on Finance, to which was referred the bill (H.R. 15414) to continue the existing excise tax rates on communication services and on automobiles, and to apply more generally the provisions relating to payments of estimated tax by corporations, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

[p. 1]

[No Relevant Discussion on Pertinent Section]

1.9a(3) COMMITTEE OF CONFERENCE
H.R. REP. No. 1533, 90th Cong., 2d Sess. (1968)

[No Relevant Discussion on Pertinent Section]

1.9a(4) CONGRESSIONAL RECORD, Vol. 114 (1968)

1.9a(4)(a) Feb. 29: Debated and passed House, p. 4704;

[No Relevant Discussion on Pertinent Section]

1.9a(4)(b) March 26, 28, April 2: Debated in Senate, pp. 8147, 8159–8162;

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

The ACTING PRESIDENT pro tempore. Without objection, it's so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the amendment insert th following:

"SEC. 14. INDUSTRIAL DEVELOPMENT BONDS

"(a) Section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by relettering subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"'(c) INDUSTRIAL DEVELOPMENT BONDS.—

"'(1) SUBSECTION (a)(1) NOT TO APPLY.—Any industrial development bond (as defined in paragraph (2)) issued after August 1, 1968, shall not be considered an obligation described in subsection (a)(1).

"'(2) INDUSTRIAL DEVELOPMENT BONDS DEFINED.—

"'(A) IN GENERAL.—For purposes of this subsection, the term "industrial development bond" means an obligation the payment of the principal or interest on which is—

"'(i) secured in whole or in part by a lien, mortgage, pledge, or other security interest in property of a character subject to the allowance for depreciation, or

"'(ii) secured in whole or in part by an interest in (or to be derived primarily from) payments to be made in respect of money or property of a character subject to the allowance for depreciation

which is or will be used, under a lease, sale or loan arrangement, for industrial or commercial purposes.

"'(B) EXCEPTIONS.—For purposes of subparagraph (A), property shall not be treated as used for industrial or commercial purposes if it is used—

"'(i) to provide entertainment (including coming events) or recreational facilities for the general public;

"'(ii) to provide facilities for the holding of a convention, trade show, or similar event;

"'(iii) as an airport, flight training facilities, dock, wharf, grain storage facility, parking facility, or similar transportation facility;

"'(iv) in the furnishing or sale of electric energy, gas, water, sewage or solid waste disposal services or air or water pollution abatement facilities; or

"'(v) in an active trade or business owned and operated by any organization described in subsection (a)(1).'

"(b) The amendment made by subsection (a) shall apply with respect to taxable years ending after August 1, 1968."

* * * * *

[p. 8147]

Mr. PERCY. Mr. President, I am very grateful that the distinguished Senator from Connecticut [Mr. RIBICOFF] has proposed this amendment, and I am happy to join him as a cosponsor. I believe the amendment represents a very sound approach to a problem that has faced the Senate in two previous votes this year. It represents a balanced disposition of the question of the tax status of the income from municipal industrial bonds, and I hope it will be agreed to.

Mr. President, on behalf of my colleague, the most distinguished senior Senator from Illinois [Mr. DIRKSEN], I thank the Senator from Connecticut for accepting a change in his amendment which is a departure from the form of his original proposal. The exception relating to bonds for the construction of air and water pollution control is, we feel, responsive to a genuine need throughout the Nation. It will retain an avenue for immediate action against a very real and growing problem with which, it seems, everyone is much concerned, but upon which we are slow in mounting a meaningful attack at the grassroots level.

Mr. President, the citizens of the State of Illinois will vote on a $1 billion general obligation bond issue this year. A substantial part of the proceeds of this issue will provide the means for financing water pollution control facilities so desperately needed in our State, particularly in the Chicago area. Many small communities have plans for similar issues, in order to match the State moneys.

An interesting possible application of this exception is described in a paper prepared by Mr. James H. McCall, of the corporate finance department of Goodbody & Co., in Chicago.

[p. 8159]

But more important, the paper, delivered at a recent meeting of representatives of concerned organizations, outlines graphically the tremendous needs in this critical area of pollution control, not only in Chicago and Illinois, but in the Nation, as well. I ask

unanimous consent that it be printed in the RECORD, together with the names of those who participated in the discussion of ways to meet this important need.

I urge Senators to vote for the Ribicoff amendment. I hope it will be agreed to.

There being no objection, the paper and list of participants were ordered to be printed in the RECORD, as follows:

A PLAN FOR ENVIRONMENTAL CONTROL FINANCING

(By James H. McCall, Goodbody & Co., March 12, 1968)

INTRODUCTION

The questions and problems of pollution control are being studied on all levels of government and business. The actual definition of many forms of pollution has yet to be agreed upon—the tolerable degree of effluent in one or another stream or airshed is governed by what is the best economic and social usage of each of those courses. Nevertheless, we know pollution has no benefits in itself, and it must be minimized to help control our environment and our ability to maintain our well-being.

The technological approach to these problems is properly being taken on an individual basis, and definitions of need, approach and attack proposed for each individual case are well delineated as to the micro-economics of that portion of the total system it is to satisfy.

But the economics of the whole of the communities' problems must be taken in more broadly in order to be realistic, and a macro-economic approach must be established in order to make full use of the most efficient application of any proposed solution.

THE FEDERAL GOVERNMENT'S ENVIRONMENTAL APPROACH

The federal government has quietly moved in this direction with the introduction of the two bills in the Senate for the organization of an Environmental Council, and with the President's latest message covering all aspects of environment and not one or another area—water, air or solid waste. Under these proposals, the respective Secretaries of Interior and Health, Education and Welfare would work in harness with the Council, and their respective efforts would complement one another. The highly interrelated problems of air pollution, water pollution and disposal of our solid wastes, which are complex in their creation, would likewise be approached and solved on an interrelated basis, in which the economics would play an important role. This broad approach must be made by the State and local governments as well as the Federal, if any progress will be made.

ACTION NEEDED NOW

Unless this broad base is created at the outset of the attack on local problems, some formidable and perhaps insurmountable obstacles will arise that will not permit the new pollution technology to be implemented. If industry and governmental officials do not take an initiative today to provide the proper economic vehicles for effective environmental control, the road to clean air and useful waters is going to be detoured through a sticky political swamp.

A PLAN FOR ACTION

What we are here today to propose to you and to ask your help on, is the creation of a new environment—if you will pardon the pun—that of industry-government cooperation to give the existing regulatory agencies a real chance to do their job, and have some sound, business-like support to get it done; financial support that is not dependent upon relative needs dictated by political pressures, foreign aid, available taxes, or referendums; and operating support that is efficient, effective and comprehensive.

We have a plan which we think can provide Chicago and Illinois an opportunity to lead the nation by providing such a vehicle to aid in resolving problems of environmental control.

BACKGROUND

For over two years, we have intensively put our minds to questions of ways and means of meeting pollution problems. In connection with this, I have, on behalf of Goodbody, visited cities from coast to coast and have discussed first-hand with city officials and civic and industrial leaders the problems and difficulties which they have. We have explored approaches and concepts that might most quickly and most efficiently be employed to diagnose the particular pollution problems, what causes them, and on what economic basis they can be resolved. We are very much aware that new technologies are being developed to meet these problems. Implementing the new technologies requires the development of new methods of financing. Mr. Reilly of our firm is a nationally recognized authority on developing and applying new municipal financing techniques.

NEEDS

First, what are our needs in Chicago and Illinois? It is conservatively estimated that during the next five years the capital requirements for pollution and environmental con-

trol merely to cover present rates of new construction in the Northeastern Illinois area will be at least 1.3 billion dollars. This figure is based on moderate population projections, the standard current per capita expense on water and sanitary facilities and the current share of industrial capital expenditures allocated to pollution control. This estimate does not take into account the development of new technologies or any acceleration in the rate of spending. On a statewide basis, far greater sums will be needed over the next few years.

On a national basis, the need for municipal and industrial water pollution control facilities over the next five years will require between 20 and 23 billion dollars. From that, we can also estimate that the share of water pollution control facilities in Northeastern Illinois alone could easily require one billion dollars or more.

INDUSTRY INCENTIVES

Since the huge investment required does not produce income for those private industries who must bear much of the cost, it is important that incentives be provided to induce maximum cooperation. Control of our environment is a public, as well as a private, responsibility; therefore, it is appropriate that public agencies cooperate with private industry in financing the cost. Only by sharing the load can there be an effective effort to obtain full use of our air, lakes, streams, and rivers. A good example of a joint effort is the low income dwelling rehabilitation now being undertaken by several major corporations and federal and local governments.

OTHER PROPOSALS

We have reviewed legislation and proposals under consideration in other states, such as Ohio, Nebraska and New York, and systems in other countries such as the Ruhr Valley in Germany. We have also studied the background on the proposition for referendum coming up this year in Illinois. We see some good ideas in all these plans but nothing comprehensive enough to provide a strong economic basis for the type of action that is going to have to be taken. The provisions for real and practical incentives for industry to provide its own corrective systems are actually few, and industry needs these incentives, as well as regulations, to stimulate action on many of our most pressing problems.

THE PROPOSAL

Out of this research we think we have found a basis for financing of many of the needed environmental control projects, and we feel that we have developed a unique proposal which is simple, economical, efficient, and which will result in a minimal cost to the taxpayer. What we now propose is the application of the principles of municipal revenue bond financing to the problem of raising capital for pollution control not only for public agencies but also for private industry. This program is designed to meet the requirements of the Federal government for matching funds, and as outlined in the President's environmental message of March 8.

We asked our legal counsel, Mr. Richard G. Ferguson of Isham, Lincoln & Beale to prepare a draft of legislation to provide a vehicle for our plan. The legislation is now in draft form and can be readied to be introduced without delay at the forthcoming reconvening of the State Legislature.

Specifically, the legislation as drafted calls for the following:

1. The creation of local Environmental Control Districts. These districts would be created by counties acting either separately or jointly with other countries. In countries where a municipality has over one-third of the over-all population, the District would be established by joint action of the municipality and the county. These local districts would acquire air and water pollution control equipment and facilities for lease, contracts, or to provide services to private or public interests with pollution control problems. The local districts will also be authorized to provide disposal services for solid wastes arising from all pollution control efforts on a contract basis for other political subdivisions or for private industry.

2. The creation of a state level Environmental Control Commission. The purpose of this Commission would be to supervise and coordinate all pollution control policies and planning undertaken by local and regional agencies as well as by other state agencies. It would be composed of state agency officials, citizens, and representatives of the local districts. The Commission would issue and market state revenue bonds payable out of the pooled revenues produced by the lease or sale of the environmental control facilities and equipment or for services provided by any of these facilities, by the local districts. The proceeds from the sale of these bonds would be distributed to local districts in direct proportion to their actual capital needs to deal with their localized problems. By having the state agency market and issue the bonds backed by the revenue to be received by the local districts, the bonds could be issued in large enough amounts so as to provide the lowest net interest cost for the financing. The revenues would be further backed by guarantees of the leases to smaller firms under a lease guarantee plan developed and administered by the private insurance industry and the SBA. This would save substantial amounts for the community and for industry

and the bonds would be readily marketable instruments. The Commission would also render technical and engineering advice to private industry and to government agencies to assist in determining the feasibility, capacity and necessity for various pollution control projects. This Commission would in no way replace or curtail the status or powers of any existing State or local agency, but would exist solely to provide an efficient, expedient and business-like method of implementing their actions.

Our proposal is analogous to the financing

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techniques used by the Public Building Commission for public agencies, and to the industrial aid bond technique in its application to private industry.

ADVANTAGES

Of course, the important advantage to private industry from this plan is the reduction in the cost of financing pollution control facilities through the use of the relatively low interest rate, tax free municipal bonds and the incentives of exemption from all property taxes on these facilities arising from public ownership. The advantage to the public from this proposal is clear; there would be an immediate opportunity to accelerate a major part of our pollution control efforts, no additional taxes need be imposed, and in fact, Illinois citizens could be relieved of many of the additional taxes contemplated by the bond referendum to solve a number of the pollution problems caused by the private sector of the economy.

It may be possible for the agency to develop income by reason of services it could also render to the municipalities and industry. This income could provide an effective offset to the costs of financing and the service charges to the municipalities and to industry, by providing them with credits on their payments.

COORDINATION WITH BOND ISSUE

This program would coordinate well with the one billion dollar statewide general obligation bond issue to be presented to the voters in Illinois in 1968. Since revenue bonds could provide a means to finance the bulk of pollution facilities required by private industry and the various local governments, that part of the proceeds of the statewide issue now intended to be used for such purposes would be substantially decreased. The state would then be able either to reduce the amount of bonds actually issued (thereby minimizing the taxpayer's burden) or apply more of the bond proceeds toward water resources and flood control projects. It would be helpful if some small portion of the proposed billion-dollar bond issue could be applied toward start-up operating costs of the various local environmental control districts which might be created. Thus, the funds to be available from the revenue bonds would be available *without* the statewide referendum and without the imposition of a statewide property tax.

EXAMPLE

As an example of the operation of the proposed legislation, suppose, that in Cook County a number of industries need facilities and equipment to meet the pollution control standards promulgated by various federal, state and local agencies. The tight money market with high interest costs makes it difficult and expensive for these private businesses to acquire the needed facilities themselves.

APPLICATION TO INDUSTRY

Under the proposed legislation the industries could lease the necessary equipment from the local Environmental Control District formed jointly by the County Board and the Chicago City Council. The facilities could thus be made available for the public benefit to the industries without impinging upon the capital resources needed by companies for regular business purposes. These facilities would become available to industry at an over-all lower cost due to the tax advantages of public bond financing and the economic advantages accruing from the local district providing pollution control facilities on a greater scale. The program would also be particularly consonant with modern business management attitudes toward the acquisition of nonproductive equipment, which is to have the use of such equipment by lease and not to tie up the working capital of the busines for such reasons.

APPLICATION TO MUNICIPALITIES

By the same method, the District could purchase and lease facilities to a municipality or sanitary district that had reached its taxing limits, or for some other reason did not choose to issue additional bonds. These leases or term purchase arrangements are perfectly legal under current legislation, and can be paid for with user charges in many instances where taxes cannot be levied. The cost, because of the revenue pooling arrangements, and loan guarantee programs, may approximate what the municipality would pay on its own.

STATE ISSUES BONDS

The state Environmental Control Commission would then issue its revenue bonds based on the capital needs of the local district and the proceeds of the bonds would go in our example to the Cook County Environmental Control District to acquire or construct the necessary facilities to meet the local needs.

The facilities could thus be made available to industry without any direct cost to the public and without additional taxation. By coordinating with the local district, the state agency could insure that local efforts would employ sound technology and responsible financing.

ECONOMIES

Moreover, by the coordinating of various individual pollution efforts, the local districts and the state agency could make additional economies available to the users by the sharing of some facilities among them wherever possible. The technical advice which could be offered by the state experts could result in more efficient implementation of technology as applied to the particular industries involved. For instance, new techniques are providing ways to recover many pollutants as useful raw materials which can be resold or recycled to offset the costs involved in pollution control. We have found in a Houston project we financed that material recycling now significantly off-sets operating costs with the re-use of 30% to 35% of the input volume. There are many instances where wastes and by-products of one industry become raw materials for another, only because the volumes were able to be coordinated and timed. It seems inevitable that additional discoveries of this type will be soon forthcoming. Thus, the industries receiving the control district facilities could be aided in making their own operations more efficient.

SOLID WASTE DISPOSAL

Another interrelated problem which plagues both industrial and municipal agencies is the problem of solid waste disposal which is not a part of the pending $1 billion bond referendum. The combination of increased population and increased waste per capita presents an exploding and ominous problem that involves not only the treatment of residential and industrial wastes, but also that of getting rid of the final wastes after treatment. It is important that any solid waste program be coordinated with the air and water pollution control programs because generally the final product of these projects is an unwelcome sludge which is hard to dispose of in any volume. This problem of solid waste disposal is an area in which economies of scale are most evident. The greater the volume of solid wastes or sludge treated by a facility or to be disposed of, the lower the per-ton cost can be brought.

There are great opportunities for additional revenues and income to be generated here. Solely out of elimination of duplicate facilities, coordination of collection and transfer stations, and the economies of large volume material handling, the district could provide a cheaper service, yet generate income to reduce the overall costs of environmental control, compared to what would be the cost of that handled with today's fragmented approach.

In addition, a major hazard could be averted in the regional systematizing of the refuse disposal problem which will become critical within a few years.

The City of Chicago now generates almost 3 million tons of solid wastes (excluding sewage sludges) each year. About 50% of this volume is exported for disposal in other areas. Of the 22 regions in Northeastern Illinois surveyed in 1963, 16 had less than 10 years life in disposal areas, and 10 are now exporting all refuse. In addition, only 28 of the 82 disposal facilities in the area were publicly owned, and no regulations exist on the rates charged by the private sites. In the last year, at least one of the major operators of these sites doubled his rates.

By closely coordinating with both public and private refuse operations, the District could provide regional disposal operations that would most efficiently take advantage of logistics, and provide the lowest cost, yet most up-to-date technological facilities for disposal of all solids generated with the Northeastern Illinois area. By operating as a profit-making operation, it could be self supporting, and maintain the lowest costs for the communities and industries it serves.

ASSISTANCE ON THE PROGRAM

The program we have developed reflects the thinking of many people, all of whom are willing to offer their time and talents to refine and perfect the programs and mechanics and to serve in any way to help implement it. We have the experience and background to bring to bear on the economics and legal aspects of the bond issues and can advise all state and local agencies involved. In addition, we at Goodbody & Co. are prepared to secure the assistance of the financial community to underwrite and distribute the bonds which will be issued by the Commission. All of us have developed this program together in order to bring the critical problem of environmental control into a solvable perspective and to provide a sound economic basis for our community to meet these challenges. We have discussed this concept in general with officials of several large corporations, engineers and civic leaders, with a uniformly positive response. We are confident that the support for this coordinated plan will be widespread and enthusiastic.

OPPORTUNITIES FOR CHICAGO

For Chicago in particular, we believe that this program will provide:

1. An acceleration of the implementation

of needed pollution control and abatement methods.

2. The provision of a modern method of *adequate* financing in keeping with the ever-advancing state of the art of pollution control, by offering immediate, direct and attractive financial incentives to industry and the community.

3. Continued national leadership for the City of Chicago in meeting the growing challenge of urban and social problems. This program will demonstrate that this effort need not be based on property taxation and that it can be supported by industry. The program would be a model for others to follow.

PARTICIPANTS, ENVIRONMENTAL CONTROL FINANCING LUNCHEON, MARCH 12, 1968

Todd Cayer, Deputy Regional Construction Grants Program Director, Federal Water Pollution Control Administration, Chicago, Illinois.

Frank E. Dalton, Chief Engineer, Metropolitan Sanitary District of Greater Chicago.

Stephen Denning, General Partner, Goodbody & Co., Chicago, Illinois.

Robert G. Ducharme, Assistant Director, *Northeastern Illinois Planning Commission*, Chicago, Illinois.

Richard G. Ferguson, Partner, Isham, Lincoln & Beale, Chicago, Illinois.

James V. Fitzpatrick, Commissioner, Dept. of Streets & Sanitation, Chicago, Illinois.

James Flannery, Chief Economist, Federal Water Pollution Control Administration, Washington, D.C.

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Robert Gentz, Vice President, Inland Steel Co., Chicago, Illinois.

G. *Findley Griffiths, President, Interlake* Steel Corp., Chicago, Illinois.

H. Harper, Vice President, Northern Illinois Gas Company, Chicago, Illinois.

E. F. Heizer, Jr., Assistant Treasurer, Allstate Insurance Company, Northbrook, Illinois.

Allen S. Lavin, Chief Counsellor, Metropolitan Sanitary District of Greater Chicago.

Richard C. Lonergan, Vice President, Allstate Insurance Company, Northbrook, Illinois.

James H. McCall, Corporate Finance Dept., Goodbody & Co., Chicago, Illinois.

Ronald D. Michaelson, Administrative Assistant, Board of Commissioners of Cook County, Illinois.

Morgan Murphy, Jr., Partner, Coughlan, McGloon, Joyce & Murphy, Chicago, Illinois.

William F. Palmer, Engineering Consultant, Goodbody & Co., New York, New York.

Preston E. Peden, Director of Governmental Affairs Division, Chicago Association of Commerce and Industry, Chicago, Illinois.

James F. Reilly, General Partner, Goodbody & Co., New York, New York.

John R. Sheaffer, Research Associate, Center for Urban Studies, University of Chicago.

Charles F. Willson, Director of Area Development, Continental Illinois National Bank and Trust Company, Chicago, Illinois.

Richard A. Young, Manager, Institutional Department, Goodbody & Co., Chicago, Illinois.

Mr. MONRONEY. I yield back the remaining time.

Mr. RIBICOFF. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

* * * * *

The result was announced—yeas 50, nays 32, as follows: * * *

* * * * *

So Mr. RIBICOFF's amendment was agreed to.

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[p. 8162]

1.9a(4)(c) June 20: House considers and passes conference report, p. 18006;

[No Relevant Discussion on Pertinent Subsection]

1.9a(4)(d) June 21: Senate agrees to conference report, p. 18179.

The PRESIDING OFFICER (Mr. MUSKIE in the chair). Pursuant to the previous order, the vote will now take place on the adoption of the conference report. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

* * * * *

The result was announced—yeas 64, nays 16, as follows:

* * * * *

[p. 18179]

1.9b REVENUE ACT OF 1971

December 10, 1971, P.L. 92-178, Title III, §315(a), 85 Stat. 529

An Act

To provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Revenue Act of 1971."

[p. 1]

* * * * * * *

SEC. 315. INDUSTRIAL DEVELOPMENT BONDS.

(a) ISSUES FOR WATER FACILITIES.—Section 103(c)(4) (relating to certain exempt activities) is amended—

(1) by striking out in subparagraph (E) "energy, gas, or water, or" and by inserting in lieu thereof "energy or gas,";

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof ", or"; and

(3) by adding at the end thereof the following:

"(G) facilities for the furnishing of water, if available on reasonable demand to members of the general public."

[p. 33]

1.9b(1) HOUSE COMMITTEE ON WAYS AND MEANS

H.R. REP. No. 92–533, 92d Cong., 1st Sess. (1971)

[No relevant discussion on pertinent section]

1.9b(2) SENATE COMMITTEE ON FINANCE

S. REP. No. 92–437, 92d Cong., 1st Sess. (1971)

[No relevant discussion on pertinent section]

1.9b(3) COMMITTEE OF CONFERENCE

H.R. REP. No. 92–708, 92d Cong., 1st Sess. (1971)

REVENUE ACT OF 1971

DECEMBER 4, 1971.—Ordered to be printed

Mr. MILLS of Arkansas, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 10947]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 4, 21, 29, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 60, 65, 68, 70, 71, 72, 73, 74, 75, 77, 78, 80, 83, 84, 86, 93, 103, 106, 114, 115, 116, 117, 120, 121, 123, 125, and 126.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 5, 6, 8, 12, 13, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 31, 32, 33, 45, 46, 48, 51, 52, 53, 54, 55, 56, 57, 58, 59, 62, 63, 79, 82, 87, 88, 89, 90, 91, 92, 94, 95, 96, 97, 98, 99, 100, 102, 104, 105, 107, 108, 109, 110, and 112, and agree to the same.

[p. 1]

INDUSTRIAL DEVELOPMENT BONDS

Amendment No. 67: Under present law, certain small issues of industrial development bonds are exempted from the rule which provides that industrial development bonds are not obligations the interest on which is excluded from tax. Generally, these are issues

of $1,000,000 or less, but under certain conditions, can be as much as $5,000,000. Senate amendment no. 67 increased the $1,000,000 limit to $5,000,000, and eliminated the special provisions for issues of $5,000,000 or less.

Also present law exempts obligations issues for certain specified purposes from the industrial development bond rule. One of the specified purposes is facilities for the local furnishing of water. Senate amendment no. 67 eliminates the requirement that water facilities must be local and provides an exemption for facilities for the furnishing of water if the facilities are available on reasonable demand to members of the general public.

[p. 47]

The House recedes with amendments. The conference agreement retains the provisions of the Senate amendment relating to facilities for the furnishing of water. The conference agreement retains the provisions of existing law with respect to the dollar limits (both the $1,000,000 and $5,000,000 limits) on small issues which are exempt from the industrial development bond rule, but increases from $250,000 to $1,000,000 the amount of expenditures which may be disregarded in applying the conditions relating to issues of $5,000,000 or less where the expenditures are required by circumstances which could not be reasonably foreseen or arise out of mistake of law or fact. Included in these expenditures are expenditures necessitated by erroneous cost estimates, by increases in costs due to inflation, strikes, delays, or architectural modifications but not increases due to expansions.

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1.9b(4) CONGRESSIONAL RECORD, VOL. 117 (1971)

1.9b(4)(a) Oct. 5, 6: Considered and passed House, pp. H9155–H9178, H9229

[No relevant discussion on pertinent section.]

1.9b(4)(b) Nov. 15: Considered and passed Senate, amended, pp. S18564–S18579

AMENDMENT NO. 655

The PRESIDING OFFICER (Mr. BYRD of Virginia). Pursuant to the previous order, the Chair now lays before the Senate amendment No. 655 which the clerk will report.

The legislative clerk read as follows:

Add at the end of title III thereof a new section as follows:

SEC. 316. (a) Section 103(c)(4) of the Internal Revenue Code of 1954 (relating to certain exempt activities) is amended—

(1) by striking out in subparagraph (E) "energy, gas, or water, or" and by inserting in lieu thereof "energy or gas,";

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof ", or"; and

(3) by adding at the end thereof the following:

"(G) facilities for the furnishing of water, if available on reasonable demand to members of the general public."

(b) Section 103(c)(6) of such Code (relating to exemption from industrial development bond treatment for certain small issues) is amended—

(1) by striking out "$1,000,000" in subparagraph (A) and by inserting in lieu thereof "$5,000,000"; and

(2) by striking out subparagraphs (D), (E), (F), (G), and (H).

(c) The amendments made by this section shall apply with respect to obligations issued after January 1, 1969.

ORDER OF BUSINESS

Mr. RIBICOFF. Mr. President, could I ask unanimous consent to have this amendment postponed, as I have an amendment to the amendment which is in the process of being drawn up and which is not out of the typewriter yet.

Mr. McCLELLAN. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, I ask unanimous consent that we may have a short discussion, without the time being charged to either side.

Mr. BYRD of West Virginia. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Is there objection?

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that that discussion be limited to 2 minutes.

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

Mr. SPARKMAN. Mr. President, I want to ask the Senator from West Virginia, what would be the next amendment and how long would it take?

Mr. BYRD of West Virginia. Mr. President, in response to the inquiry of the able Senator from Alabama, the next amendment which has been clocked into the program, by unanimous consent, following the Sparkman amendment, will be an amendment by the distinguished Senator from South Carolina (Mr. HOLLINGS) on which there is a time limitation of 2 hours. That would be followed by another amendment by the Senator from South Carolina (Mr. HOLLINGS) on which there is a limitation of 1 hour. That would be followed by an amendment by the distinguished Senator from Indiana (Mr. BAYH) on which there is a limitation of 1 hour. That makes a total of 4 hours, not counting the time for roll call votes or any time on amendments in the second degree, motions, or appeals.

Mr. SPARKMAN. I had assured the Senator from Arkansas, after getting clearance with the leadership, that this amendment would be called up in the early afternoon because the Senator has to leave and he was very much interested in the amendment.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that 1 additional minute be allowed for this colloquy.

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

Mr. McCLELLAN. Mr. President, I have the same understanding of the leadership. I do not want to oppose anything the Senator from Connecticut has in mind, but I want to be here to support the amendment and to be able to vote for it.

Mr. RIBICOFF. My feeling is, in view of the fact that the Senator has half an hour, by the time his time expires my amendment will be out of the typewriter.

[p. S18564]

Mr. SPARKMAN. Very well. We will go ahead.

PRIVILEGE OF THE FLOOR

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent on behalf of the Senator from Connecticut (Mr. RIBICOFF) that Mr. John Koskinen and Mr. Theodore Leary of his staff be allowed the privilege of the floor during consideration of the Sparkman amendment and any amendments thereto.

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

Who yields time?

Mr. SPARKMAN. Mr. President, I ask unanimous consent that Mr. Robert Locklin of my staff also be permitted the privilege of the floor during consideration of this amendment and any amendments thereto.

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

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from Maine (Mr. MUSKIE), I ask unanimous consent that Richard Fay be allowed on the floor of the Senate, except during roll call votes, while the Senate is debating H.R. 10947.

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

Mr. SPARKMAN. Mr. President, do I correctly understand that we have 30 minutes to a side on this amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. SPARKMAN. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 5 minutes.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the names of the Senator from Arkansas (Mr. FULBRIGHT) and the Senator from West Virginia (Mr. RANDOLPH) be added as co-sponsors of this amendment.

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

Mr. SPARKMAN. Mr. President. this amendment has to do with industrial development bonds. Senators will recall that several years ago, the Congress authorized tax-exempt status for industrial development bond issues not exceeding $5 million. During the time that Congress was considering this legislation, as a part of a compromise worked out with the Treasury Department, the section providing exemption for these small issues made the further provision that the exemption be available only if the total capital expenditures made on the development project during the 6-year period beginning 3 years before the date of the bond issue and ending 3 years after that date did not exceed $5 million.

Mr. President, this provision in the law has created a number of problems. Obviously, when one of these exempt bond issues is used, the industry for which it is used is limited in the amount of further capital expenditures that it, or anyone else, may make on the industrial development project. This is because of the fact that, under the law as presently written, should the capital expenditures on the project amount to $1 more than $5 million during the 6-year period, the tax-exempt status of the bonds is lost. This not only affects the marketability of the bonds; it brings about numerous requests for tax rulings on the question of what constitutes a capital expenditure, and, more important, it has the effect of discouraging industrial expansion.

Mr. President, this provision in the law has simply created so many problems that it has seriously hindered the utilization of this very fine program which contributes so much to industrial development. My amendment will clear up this provision in the law by doing away with the 6-year limitation on capital expenditures. If my amendment is adopted, the tax exemption will continue to be limited to

issues of no more than $5 million. The amendment simply removes the restriction against further capital expenditures. Of course, if further capital expenditures are made and if they are financed by bonds, those bonds would be taxable.

Mr. President, there is the provision in the law that the limitation on these bond issues will not apply to issues which are used to provide various kinds of public facilities, one of which is water systems. However, this provision has been interpreted by regulations insofar as water systems are concerned to cover only water systems which serve a single municipality or two counties, whichever is the greater. In many areas of the country, there is a need for water systems which serve more than two counties.

Accordingly, my amendment would also remove this restriction.

Mr. President, the exemption in our tax laws for small issues of industrial development bonds has made a tremendous contribution to industrial development throughout the country. It has been especially helpful in providing jobs in rural areas of the country. All Senators are aware, I am sure, of the great need to provide jobs in rural areas in order to halt the increasing urbanization of our population. I do not mean to say that this program has not been helpful in urban areas. It has. But it has truly made a significant contribution in rural America.

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

Mr. President, I yield 5 minutes to the Senator from Arkansas (Mr. MCCLELLAN).

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 5 minutes.

Mr. McCLELLAN. Mr. President, I wish to commend the distinguished Senator from Alabama (Mr. SPARKMAN) for offering this amendment, and I am very happy that I am permitted to cosponsor it.

Mr. President, national attention has been focused on the pressing plight of our cities for so long and with such intensity that we have often overlooked the equally pressing problems of our rural areas.

Today, however, that situation is changing and concern over the deteriorating economic conditions of many of our rural sections is being voiced daily. The President has spoken on the issue many times. And in the last Congress more than 40 bills were introduced dealing with rural problems.

During the latter part of the 91st Congress, I urged the President in Senate Resolution 463, to adopt and implement a national policy which would encourage industry to decentralize and expand in rural areas. Thirty-eight Senators cosponsored that resolution. This year I introduced S. 10, a more comprehensive version of that resolution. To date 43 Senators have joined me in cosponsoring this bill. I am hopeful of getting this bill passed during this Congress. Some hearings have been held and more are to be scheduled.

Mr. President, S. 10 has a dual objective—to revitalize withering, rural economies while at the same time giving urban areas—especially our decaying and compacted inner cities—an opportunity to concentrate on their own programs of revitalization and restoration.

S. 10 is not a complicated bill. It would simply establish a national growth policy by encouraging rural development and thereby reverse present migration trends which only serve to further drain the ebbing resources of our major cities.

The pending amendment to the tax bill to remove restrictions on the $5 million limitation on tax-exempt industrial development bonds is, I believe, another effective way to help

develop rural America. Certainly, it is in keeping with the expressed concern over trying to help some of our job-starved rural areas. As members know, present law prohibits public financing support of large projects by limiting the capital spending of the recipient firm to a total of $5 million in any one location over a period of 3 years before and 3 years after the issue. In my judgment this limitation should be removed, thereby providing much more flexibility to municipalities which are trying to build an industrial base and generate jobs.

My own view is that the Senate should seriously consider raising the limitation from $5 million to $10 million. Certainly at today's inflated prices an increase to $10 million is modest.

The industrial development bond is a simple, straight-forward method of helping the rural areas to help themselves. It does not involve a big new Government agency or a complex Federal administrative apparatus. It simply gives the people an opportunity to use this developmental tool as a means to grow and to create new jobs.

Prior to 1968 municipalities had the authority to issue tax-exempt industrial bonds. In 1968 the issues were limited first to $1 million and then to $5 million with certain restrictive provisions. I was pleased to join with the Senator from Nebraska (Mr. CURTIS) in sponsoring legislation to increase the limitation to $5 million (S. 3782, 90th). That increase was subsequently incorporated into law by way of an amendment to a revenue act. The House accepted the increase to $5 million; however, it did impose restrictions which were written into the final law. The limitation and restrictions

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were deemed necessary since there were apparently some abuses in the authority.

Mr. President, I concur in the need to place a reasonable limitation on the authority—a limitation that gives due regard for Federal revenues—and I have no reservations about imposing appropriate restrictions to curb any possibilities of abuses.

In my judgment, however, we are unnecessarily restricting and hampering rural growth by unrealistic limitations on these issues.

Mr. President, our rural areas need help.

If we want to be constructive and successful in our efforts to put rural America back into the economic mainstream;

If we want to effectively implement our concern about the lack of jobs in those areas;

If we are ever to reverse the migratory trends that are depleting the countryside and adding to the big-city woes, then we should adopt this modest amendment.

Mr. President, this is what has happened in my State with respect to this amendment.

According to information furnished by the Arkansas Industrial Development Commission, Arkansas has had 306 issues of industrial bonds since June 16, 1959, in the amount of $667,594,350. The industries involved employ 50,553.

Since the limitation on these bonds was put into effect in October 1968, there have been 61 issues in the amount of $114,188,000 to plants employing 7,909.

Thus, in the 9 years before the limitation, average annual issues totaled $61,489,593 with a resulting average total jobs amounting to 3,738. In the 3 years since the limitation was placed on industrial bonds, the average annual issues totaled $38,062,783 with jobs averaging 2,636.

Average annual issue	*Jobs*
$61,489,593—Prelimitation	3,738
$38,062,783—Postlimitation	2,636
$23,426,810	1,102

In other words, Mr. President, the annual growth rate was 1,100 jobs

greater before the limitation was imposed than at the present time.

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

Mr. LONG. Mr. President, I yield the Senator from Arkansas 1 additional minute.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 1 additional minute.

Mr. McCLELLAN. Mr. President, these jobs that are being kept in my State are responsible for relieving the pressure on the big cities and congested centers of this country where people go to find jobs. If they cannot find jobs, they wind up on the relief rolls.

For this reason, it is much cheaper to grant this tax exemption. It is much more economical when the Government provides these jobs where the people are born and raised than to pay the welfare costs arising from their relocation.

States are not able to finance the bonds without this tax exemption. Without it the people will go into the metropolitan centers where they cannot find jobs and then go on welfare where they become a burden to that community and a burden to the Government.

The amendment should be agreed to.

Mr. LONG. Mr. President, I favor the amendment. I yield to the Senator from Arizona.

Mr. FANNIN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 5 minutes.

Mr. FANNIN. Mr. President, I certainly agree that we want to help provide jobs for our people. At the same time, we do have problems as to how it is done.

Mr. President, this amendment to section 103 of the Internal Revenue Code would again open the door to abuse in the area of sale—and lease back of property by municipalities to corporations for the purpose of unfairly enticing corporations to relocate at the expense of the Federal Government.

Section 103 of the code, provides that interest on obligations of State and local governments generally is exempt from Federal income tax. The term "obligations" means some kind of a written instrument executed by the State or political subdivision thereof, in the exercise of its borrowing power.

The Revenue and Expenditure Control Act of 1968 withdrew tax exempt status from industrial revenue bonds which State and local governments were using to finance and attract private industrial development within their jurisdictions. This legislation applies generally to industrial development bonds issued after April 30, 1968, and was intended to prevent State and local governments from abusing the tax-exempt status of their obligations by using it as a basis for interstate competition to attract industry. The legislation, however, provides a special exemption for industrial development bonds which are part of an issue of $1 million or less and where substantially all of the proceeds from the issue are used first to acquire, construct, reconstruct, or improve land or depreciable property, or second to redeem all or part of a prior bond issue which was issued to acquire the property described above.

Mr. President, if we increase the limitations from $1,000,000 to $5,000,000 we will again be in an area where this method of financing is subject to abuse.

Mr. President, this is my great concern. A similar amendment was considered in the committee and voted down. It was a little more expensive in amount, but not as to coverage. The cost to the government would be less expensive, though the issue was up to $10 million rather than $5 million. However, as I say, it did not pro-

vide the coverage that is provided under the pending amendment.

Mr. President, this is, from everyone's standpoint, a very undesirable change in the tax law. It is proposed under the guise of benefiting local governmental authorities, but in fact it will operate to the serious detriment of the overwhelming majority of State and local governments.

Industrial development bonds are simply a device to enable private business to borrow funds by using the tax exemption privilege of State and local governments. The device arose as a means of attracting industry to a locality by the significantly lower financing costs available through tax exempt borrowing.

This device was stopped by Congress in 1968 because nearly every State had begun to issue industrial development bonds. Before Congress acted, the ability of any one State or locality had been, for the most part, neutralized; on the contrary, the State and local governments had found it necessary to offer the tax exempt financing benefits to industry as a defensive matter—they had to offer this advantage to keep from losing industry. The problem we have is that the States outbid each other. I know that most of the States in this country now have provision in the State to permit issue of these bonds.

The principal undesirable result that flowed from all of this was the increased competition for the very limited funds available for purchase of tax exempt bonds. This, of course, forced the interest rate on all tax exempt issues to rise, in turn raising significantly the financing costs of States and localities attempting to meet the pressing demands for capital needed to provide critical governmental services such as police and fire protection, schools, and sewage disposal.

Thus the 1968 legislation served its purpose well. Appropriate exceptions were made for semigovernmental functions carried on by private industry which had traditionally been financed through tax exempt bonds—such as airports, mass transit facilities, pollution control facilities, and others. Also an exception was made for issues of $1 million and less.

The present amendment would increase the $1 million exemption to $5 million; to that extent it would allow the competition among States and localities to be renewed—to the detriment of financing for traditional governmental functions.

In short, a vote for this amendment is a vote against the cities and other local governmental authorities most in need of help. The least we can do is help these hard-pressed local governments by protecting the integrity of their tax exempt financing privilege.

The cost is estimated at $350 million.

Mr. President, to go into this matter in a little more depth I want my colleagues to know that the Treasury is strongly opposed to this amendment.

Under present tax law, a State or local government may issue up to $5 million of tax-exempt industrial revenue bonds, but only if the total capital expenditures with respect to the facility being financed by the bonds do not exceed $5 million during the 3 years before, and the 3 years after, the date of issue. The proposed amendment would increase this $5 million exemption to $10 million.

Industrial development bonds are a mechanism to provide tax-exempt financing for private industry. Typically, a State or local government will issue its tax-exempt bonds and use the proceeds to construct a facility for the use of a

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private business. The facility is leased to the private user at a rental sufficient to meet the debt service on the bonds. Since the interest paid on

the bonds is exempt from Federal taxes, the cost of borrowing is lower for the municipality, and this savings is passed on to the industrial user in the form of a lower rent.

At current interest rates, the availability of tax-exempt financing represents a significant savings in the annual interest paid with respect to borrowings to finance such facilities. For example, if the taxable interest cost on a $10 million facility is 7.5 percent and the tax-exempt cost is 5 percent, the proposed amendment would result in an annual savings to the user of approximately $250,000. Over the life of a 20-year bond, the use of tax-exempt financing could result in a subsidy of some $5 million for each facility.

This tax bill already includes two significant steps to reduce the cost of capital equipment for industry. The 7 percent job development credit is designed to reduce the cost of new machinery and equipment and thus facilitate the construction of new factories. The new class life depreciation system represents a liberalization of tax depreciation policies on capital investment and also will act as such an incentive. These incentives encourage new capital investment in a healthy way which will increase the productivity of our workers without any serious and disruptive side effects on the economy.

Additional tax incentives for industrial investment in the form of tax-exempt financing through industrial development bonds will, however, have very serious disruptive effects on State and local government financing, and this additional kind of incentive simply is not necessary or advisable at this time.

The provisions in this bill are also opposed by the Securities and Exchange Commission because other problems are involved.

I have a memorandum from the Securities and Exchange Commission which states in part:

Although it does not appear on the face of the bill, the proposed amendment would also affect the amount of such bonds which would be exempt from certain provisions of the Securities Act of 1933, the Securities Exchange Act of 1934 and the Trust Indenture Act of 1939, in view of the provisions of Title IV of the Employment Security Amendments of 1970 (Public Law 91-373) which were enacted August 10, 1970, as explained below.

Mr. President, I ask unanimous consent that the memorandum prepared by the Securities and Exchange Commission be printed in the RECORD at this point.

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

MEMORANDUM PREPARED BY THE SECURITIES AND EXCHANGE COMMISSION FOR THE SENATE COMMITTEE ON FINANCE WITH RESPECT TO S. 1644, 92D CONGRESS

S. 1644 which was introduced on April 23, 1971 by Senator Dole, would amend Section 103(c)(6) of the Internal Revenue Code of 1954 so as to increase the small issue exemption thereunder for certain classes of industrial development bonds from $5,000,000 to $10,000,000 under Clause (D), and from $250,000 to $500,000 under Clause (F).

Although it does not appear on the face of the bill, the proposed amendment would also affect the amount of such bonds which would be exempt from certain provisions of the Securities Act of 1933, the Securities Exchange Act of 1934 and the Trust Indenture Act of 1939, in view of the provisions of Title IV of the Employment Security Amendments of 1970 (Public Law 91-373) which were enacted August 10, 1970, as explained below.

Insofar as S. 1644 would increase the amount of industrial development bonds which would be exempt under the Securities Act of 1933, the Securities Exchange Act of 1934 and the Trust Indenture Act of 1939, all of which are administered by this Commission, the Securities and Exchange Commission would be opposed to enactment of the bill in its present form. However, the Commission takes no position with respect to the effect of the bill on the exemptions for such bonds under the Internal Revenue Code as such, and this memorandum will discuss only those aspects of the bill which would have an impact on the federal securities laws mentioned above.

I. BACKGROUND OF PERTINENT FEDERAL SECURITIES LEGISLATION

The Securities Act of 1933 was enacted to afford to investors generally full and fair disclosure of the nature and character of the

securities which are offered for sale in interstate commerce or through the mails so as to enable them to exercise an informed judgment regarding their suitability for their investment objectives.

The Securities Exchange Act of 1934 was enacted the following year to provide generally for continuous information to be available to securityholders regarding the issuer of securities listed on national securities exchanges which they may have acquired, to give them a voice with respect to their interests in the issuer and to prevent unfair use by corporate insiders of information regarding the issuer which is not available to all securityholders. This Act was amended in 1964 to extend such benefits and protections to holders of unlisted securities of issuers having over $1,000,000 in assets and 500 or more shareholders.

The Trust Indenture Act of 1939 was enacted to afford to holders of debt securities the benefits of disinterested and impartial trustees, under trust indentures meeting specified statutory requirements, to look out for their interests and to act in their best interests in the event of a default by the obligor on the securities, as well as to eliminate conflicts of interests between such trustees and the issuer and underwriters of such securities.

Certain exemptions are provided by each of these Acts for securities of certain classes, for securities involved in certain types of transactions, or for securities issued by certain classes of issuers. Among the latter are the exemptions provided in Section 3(a)(2) of the Securities Act of 1933 [15 U.S.C. 77c(a)(2)] and Section 3(a)(12) of the Securities Exchange Act of 1934 [15 U.S.C. 78c(a)(12)] for securities issued or guaranteed by the Federal, State or local municipal governments or their political subdivisions or instrumentalities.

Prior to enactment of Public Law 91-373, Section 3(a)(2) of the Securities Act of 1933 exempted from all except the anti-fraud provisions of that Act:

"Any securities issued or guaranteed by the United States or any Territory thereof, or by the District of Columbia, or by any State of the United States, or by any political subdivision of a State or Territory, or by any public instrumentality of one or more States or Territories, or by any person controlled or supervised by and acting as an instrumentality of the Government of the United States pursuant to authority granted by the Congress of the United States, . . ."

During such period, Section 3(a)(12) of the Securities Exchange Act of 1934 provided that for the purposes of that Act:

". . . The term 'exempted security' or 'exempted securities' shall include securities which are direct obligations of or obligations guaranteed as to principal and interest by the United States; such securities issued or guaranteed by corporations in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury as necessary or appropriate in the public interest and for the protection of investors; securities which are direct obligations of or obligations guaranteed as to principal and interest by a State or any political subdivision thereof or any agency or instrumentality of a State or any political subdivision thereof or any municipal corporate instrumentality of one or more States; . . ."

Section 304(a)(4) of the Trust Indenture Act of 1939 [15 U.S.C. 777d(a)(4)] incorporates by reference for the purposes of this Act the exemption set forth in Section 3(a)(2) of the Securities Act of 1933 and in Section 3(a)(12) of the Securities Exchange Act of 1934.

II. HISTORY OF EXEMPTION FOR INDUSTRIAL REVENUE BONDS

A. Under The Federal Securities Laws

Industrial revenue bonds as in use today were unknown at the time of the passage of the Securities Act of 1933 and the Securities Exchange Act of 1934. Their genesis springs from the municipal revenue bonds which came into existence during the mid-30s at a time when municipalities had reached the maximum permissible limits of their legal debt obligations or taxing power. At that time a new type of security was devised to raise funds with which to acquire and provide for the benefit of the citizens of a community certain services which prior to then might normally have been obtained with funds raised through taxation. Such services included new toll roads, bridges, tunnels, as well as airports, municipal water works, municipal power plants, sewer and sewage disposal systems, etc. Revenues obtained from such service were designated to be used for the payment of principal and interest on such revenue bonds, and the holders of such bonds could look to such sources for payment, except that in some cases the full faith and credit of the municipality or State issuing such bonds were also pledged in an effort to obtain more favorable interest rates.

The present-day industrial revenue bond came into existence after World War II as a variation on the municipal revenue bond, but for an entirely different purpose. It was used as an inducement to entice manufacturers and other industries and employers to move into their communities so as to provide jobs as a solution to the post-war unemployment problems, and also to help boost sagging local economies. Funds obtained from their sale were employed in the purchase of land

and construction of plants thereon which were then leased to such potential employers and businesses on a long-term basis generally geared to the normal life expectancy of the plant which had been constructed. Such bonds usually provide that the revenues obtained from such lease arrangements are pledged to the payment of interest and principal on the bonds in question, and the purchaser can look only to such revenues for repayment since the full faith and credit of the issuing municipality or authority are not pledged thereunder and they cannot be paid from tax revenues. Such arrangement is designed to obviate any constitutional challenge on the right of a municipality or an agency thereof to issue such securities for such private purposes and on the issuance of general obligation bonds without a vote of the electorate. As a fringe benefit, the municipalities may

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also exempt the lessee from local taxation on such property for certain periods primarily because title to the lands is in the name of the municipality or its agency. Lease payments in such cases are normally scaled so as to pay off the entire obligation on the bonds in question during the life of the lease.

As industrial revenue bonds grew in popularity as a means of encouraging local economic expansion, the amounts required to accomplish such purposes increased, and problems in financing were created since the local investors could not always absorb all of the issues proposed. In such cases, such bonds began to be offered in neighboring States and to be underwritten by underwriters and offered in interstate commerce. When brought to the attention of the Commission, the securities in question were found not to meet the test for exemption under the Securities Act of 1933 when they were offered and sold outside of the State, and thus were not eligible for either the exemption in Section 3(a)(11) of the Act for purely local financing, or the exemption in Section 3(a)(2) of the Act since investors could not look to the government or governmental agency named thereon for payment, but could only look to the revenues produced on the property constructed for private lessees not engaged in any essential governmental function or service for the community within the meaning of that section. For the same reason they failed to meet the requisite test for exemption under Section 3(a)(12) of the Securities Exchange Act of 1934 and were likewise not exempt under the Trust Indenture Act of 1939.

After asserting this conclusion on a case by case basis for several years the Commission decided in February 1968 to clarify this position by publishing a proposed rule under both Acts for public comment [Release Nos. 33-4896, 34-8248, published at 33 Federal Register 3142]. On August 28, 1968, the Commission announced adoption of Rule 131 under the Securities Act of 1933 [17 CFR 230.131] and Rule 3b-5 under the Securities Exchange Act of 1934 [17 CFR 240.3b-5], in Release Nos. 33-4921, 34-8388 [published at 33 Federal Register 12647]. Copies of these rules as proposed and adopted are attached thereto, and the releases contain an explanation of the rationale behind their adoption.

Following adoption of such rules, some municipalities raised questions concerning the impact of these rules on the issuance of bonds by municipal and other governmental units of the type described earlier as municipal revenue bonds, and the Commission thereupon amended Rule 131 and 3b-5 to make it clear that those bonds issued by a State or municipality to finance revenue producing projects of a governmental service nature such as toll roads, municipal water systems, transportation facilities, municipal recreational facilities and the like were still regarded as exempt under Section 3(a)(2) of the Securities Act of 1933 and Section 3(a)(12) of the Securities Exchange Act of 1934 as were also the industrial revenue type bonds under which the full faith and credit of the State or municipality were pledged for payment of principal and interest. The amendment to these rules was to make it clear that only those industrial revenue bonds for the payment of which the investor-purchaser could look only to the revenues produced under the leasing arrangement and not the full faith and credit or taxing power of the State or municipality would be subject to these Acts [attached Release Nos. 33-5055, 34-8850; 35 Federal Register 6000].

B. ENACTMENT OF TITLE IV OF PUBLIC LAW 91-373

When the Employment Security Amendments of 1970 bill was introduced as H.R. 14705 and passed by the House of Representatives on November 13, 1969 it contained no provision relating to exemptions under the federal securities laws for industrial revenue bonds, nor was such a provision in the bill when it was reported out to the Senate by its Committee on Finance. However, Title IV was added to the bill during debate on the floor of the Senate on April 7, 1970 when it was presented as an amendment to H.R. 14705 and was adopted by voice vote [Congressional Record, Vol. 116, Part 8, pp. 10578-10579]. The Conference Committee retained Title IV in the bill and it was accepted by both Houses of Congress when the Conference Report was adopted by them [Congressional Record, Vol. 116, Part 19, pp. 25608 to 25617, and Daily

Issue, August 4, 1970, pp. S-12756 to S-12773], and the bill was enacted into law on August 10, 1970 as Public Law 91-373.

Title IV of Public Law 91-373 amended both Section 3(a)(2) of the Securities Act of 1933 and Section 3(a)(12) of the Securities Exchange Act of 1934 to add to each of them the following language: "or any security which is an industrial development bond (as defined in section 103(c)(2) of the Internal Revenue Code of 1954) the interest on which is excluded from gross income under section 103(a)(1) of such Code if, by reason of the application of paragraph (4) or (6) of section 103(c) of such Code (determined as if paragraphs (4)(A), (5), and (7) were not included in such section 103(c)), paragraph (1) of such section 103(c) does not apply to such security;".

As a result of such amendment, securities which heretofore were not exempt were to be treated the same as those issued by a State or municipal government or governmental authority where the full faith and credit as well as the taxing power of such State or municipality were pledged or where they were issued in connection with the furnishing of an essential governmental function or activity. The exemption was limited to a maximum of $1,000,000 except that it could be increased in certain instances to $5,000,000 by action of the government concerned upon certain specified findings spelled out in the Internal Revenue Code.

III. COMMISSION'S VIEWS ON EXEMPTIONS ADDED BY TITLE IV OF P.L. 91-373

The Commission was not afforded an advance opportunity to comment on the proposed amendment in Title IV of Public Law 91-373 either through an oversight or through a misunderstanding regarding what may have been believed to have been a change of position. The first notice of such amendment was received after Title IV had been added and the bill had been sent to Conference, when the Commission received informal word of such action from the Office of Management and Budget. It was the concensus then that the only way any Commission objection to Title IV could be given recognition was by way of delaying further consideration of the Employment Security Amendments of 1970 which could have been fatal to the bill since it was so close to the time for adjournment of Congress. It was also decided that it would not be proper at that time for the Commission to recommend a veto to the President merely on the basis of the inclusion of this rider since the bill itself was otherwise a very important piece of legislation which had been sought by the Administration and by most members of the Congress.

Nevertheless, the Commission felt then, and it feels now, that such an amendment was ill-advised and runs contrary to the purpose and intent of the federal securities laws that investors are entitled to exercise informed judgment in purchasing securities based on full and fair disclosure of the nature and character of the securities which they are asked to purchase.

The Commission feels that an investor could easily be misled to believe that he is purchasing a "government guaranteed" security where the name of the State or municipality or that of one of its agencies appears on the security and only after reading the fine print does he find out that he cannot look to that issuer for payment but can only hope that the enterprise leasing the particular property involved is successful long enough to be able to pay off the interest and principal on the bonds as they become due. He is not afforded the protections of the federal securities laws in obtaining the minimum essential information prior to making up his mind and in giving him the remedies to which he would be entitled for any breach of the requirements of such laws. He should be entitled to know before making such purchase, for example, that his investment would depend upon the success of the lessee's venture and that it could be unfavorably affected if the enterprise leasing the property is not successful, if the lessee's business should terminate, become insolvent or be rendered obsolete and no other lessee could be found for the property on at least the same terms, and that in any case he could not rely upon the issuer of the bonds to make good on the payment of interest and principal if the revenue generated from the property in question is insufficient.

The Commission believes that the Title IV exemptions added to the federal securities laws are unfair to the investors concerned and that there appears to be no substantial reason for expanding them any further; in fact the Commission would prefer that such exemptions be repealed rather than enlarged.

Accordingly, the Commission does not favor enactment of S. 1644 insofar as it would affect those provisions of the Internal Revenue Code incorporated by reference by Title IV of Public Law 91-373, and which would have the affect of expanding further the federal securities laws exemptions for industrial development bonds.

NOTICE OF PROPOSED RULE 131 UNDER THE SECURITIES ACT OF 1933 AND PROPOSED RULE 3b-5 UNDER THE SECURITIES EXCHANGE ACT OF 1934

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposal to adopt two new rules relating to "industrial revenue bonds"; Rule

131 under the Securities Act of 1933 and Rule 3b–5 under the Securities Exchange Act of 1934. "Industrial revenue bonds" generally are instruments issued in the name of a government or its instrumentality to finance the acquisition of a revenue producing facility which is leased to a private commercial or industrial company, to whose specifications the facility is usually created. The principal and interest on the bonds are payable from the proceeds of the lease, and the bonds are not backed by the taxing power and general credit of the govermental instrumentality in whose name they are issued. Such a bond is an instrument that represents: (1) an obligation on the part of the government or its instrumentality to perform certain acts, usually to collect the rental under the lease and to use it to discharge interest, sinking fund and other monetary obligations contained in the instrument; and (2) an interest in the obligation of the private company to make payments under the lease in order to provide funds for payment by the governmental instrumentality in whose name the bond is issued of principal and interest on the bond. Since the purchaser of an industrial revenue bond looks principally, if not entirely, to the lease payments for the payment of principal and interest on the bond, he is in reality purchasing an interest in the lease obligation of the private company. The new rules are proposed for the purpose of identifying the interest in the obligation of the private company as a separate "security" issued by the private company. These rules do not relate to, and have no effect on, the obligation of the government or its instrumentality nor do they require registration by the govern-

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ment or instrumentality. The purpose of the rules is to provide prospective investors with adequate information concerning the nature of the obligation of the private lessee and sufficient information about the lessee and its business as well as the terms, nature and identity of the persons involved in the distribution to enable investors to make informed investment judgments.

Since the typical industrial revenue bond financing plan represents a financing by a private company, investors should be given information concerning the business, prior experience, fiscal responsibilities and earnings of the company that has leased the facility, as well as the terms and conditions of the lease arrangement, in order to assess the worth of such investment. The municipality or other governmental unit usually has no significant obligation under the bond, except to the extent of applying lease payments received from the private company to the payment of principal and interest. The investor cannot look to the municipality for interest payments or repayment of the principal; he can look only to the possibility of success or failure of the private company. The municipality serves as a conduit through which the amounts payable under the lease arrangement flow from the private company to the bondholder. In these circumstances, the investor is offered an interest in an obligation of the private company which is a "security" within the meaning of the securities acts and should have the benefit of the disclosures required by the Securities Act of 1933 and the Securities Exchange Act of 1934 when applicable.

The proposed rules do not question the availability of the exemption, provided in Section 3(a)(2) of the Securities Act, to the obligations of municipalities or of the states or their political subdivisions or instrumentalities. Such exemption is not available, however, to the separate security issued by the private company. Absent an exemption under the Act, the securities of the private company will be subject to the registration and prospectus delivery requirements of Section 5 of the Securities Act. Registration will not be required by the municipality or other political subdivision or instrumentality.

On the basis of available information, it appears that substantial amounts of these bonds have been sold to the public. Accordingly, the Commission believes that the proposed rules are appropriate to inform persons who may be issuers of securities identified by the rules, as well as person offering, selling, distributing or dealing in such securities, as to their obligations under the securities acts. Consideration should also be given to the applicability of the Trust Indenture Act of 1939 to the securities identified in the rules. It should be emphasized that the application of the registration requirements of the Securities Act to the securities of private companies which are identified in the proposed rules is intended to provide investors with material financial and other information concerning the private company and the nature and limitations of its obligations. The rules are not intended to affect the determination whether to utilize financing plans involving the issuance of industrial revenue bonds.

PROPOSED RULE 131

Under paragraph (a) of the proposed rule, any part of an obligation evidenced by any bond, note, debenture, or other evidence of indebtedness issued by any state or territory of the United States, any political subdivision of a state or territory, or any agency or instrumentality of one or more states, territories or political subdivision thereof, which is payable from rentals received in respect

to property which will be used under a lease by or for industrial or commercial enterprises, shall be deemed to be a separate security issued by the lessee under the lease. In addition, as essentially the same kind of financing plan could be carried out by a governmental body or instrumentality loaning the proceeds of the bonds to private enterprise or selling the revenue producing facilities to private enterprise on a deferred payment basis, paragraph (a) provides that any part of the obligation evidenced by any bond, etc. which is payable from payments received under a loan or sale arrangement, shall be deemed to be a separate security issued by the obligor under such loan or sale arrangement.

The proposed rule is directed to financing plans in which any part of the principal and/or interest on a bond, note, debenture or evidence of indebtedness issued in the name of a government or its instrumentality is payable from payments which are to be made under a lease, sale or loan arrangement by private enterprise for property or money to be used by industrial or commercial enterprises. The rule does not apply to revenue bonds issued by a state, a political subdivision, a municipality or a public instrumentality to finance a revenue producing public project operated by such issuer, such as toll roads, municipal water systems, transportation systems or municipal recreational facilities. The rule also is not intended to apply to financing plans involving the issuances of revenue bonds which are to be funded by payments under a lease, sale or loan arrangement if the user of the facility or property is a state or a political subdivision or public instrumentality of a state or a municipality which is the lessee or obligor.

The Commission is aware that for many years issuers of the securities identified in this rule have not considered their obligation to be separate securities and that they have acted in reliance on the view, which they believed to be the view of the Commission, that registration under the Securities Act was not required. Under the circumstances the Commission does not believe that such issuers are subject to any penalty or other damages resulting from entering into such arrangements in the past. Paragraph (b) provides that the rule shall apply to transactions of the character described in paragraph (a) only with respect to bonds or other evidences of indebtedness issued after the adoption of the rule.

The text of the proposed rule is as follows:

Rule 131. Definition of Security Issued Under Governmental Obligations.

(a) Any part of an obligation evidenced by any bond, note, debenture, or other evidence of indebtedness issued by any State or Territory of the United States, any political subdivision of a State or Territory, or any agency or instrumentality of one or more States, Territories or political subdivisions thereof, which is payable from payments to be made in respect of property or money which is or will be used, under a lease, sale, or loan arrangement, by or for industrial or commercial enterprises, shall be deemed to be a separate "security" within the meaning of Section 2(1) of the Act, issued by the lessee or obligor under the lease, sale or loan arrangement.

(b) This rule shall apply to transactions of the character described in paragraph (a) only with respect to bonds, notes, debentures or other evidences of indebtedness issued after _____, 1968.

Proposed Rule 3b–5

The Commission believes that it is appropriate to adopt proposed Rule 3b–5 to make it clear that securities identified under Rule 131 are also "securities" within the meaning of Section 3(a)(10) of the Securities Exchange Act of 1934. The provisions of the proposed rule correspond to those of Rule 131. The proposed rule is intended to inform brokers and dealers who deal in industrial revenue bonds, that consideration should be given to the existence of separate securities issued in connection with the issuance of industrial revenue bonds, in determining their obligations under the Securities Exchange Act, where any part of the obligation evidenced by any bond, note, debenture or other evidence of indebtedness is payable from payment made in respect of property or money which is or will be used under a lease, sale or loan arrangement by or for industrial or commercial enterprises. Such separate securities ordinarily would not be exempted securities within the meaning of Section 3(a)(12) of the Act.

The text of the proposed rule is as follows:

Rule 3b–5. Non-Exempt Securities Issued Under Governmental Obligations.

(a) Any part of an obligation evidenced by any bond, note, debenture, or other evidence of indebtedness issued by any State or Territory of the United States, any political subdivision of a State or Territory, or any agency or instrumentality of one or more States, Territories or political subdivisions thereof, which is payable from payments to be made in respect of property or money which is or will be used, under a lease, sale or loan arrangement, by or for industrial or commercial enterprises, shall be deemed to be a "separate" security within the meaning of Section 3(a)(10) of the Act, issued by the lessee or obligor under the lease, sale or loan arrangement.

(b) This rule shall apply to transactions of the character described in paragraph (a) only with respect to bonds, notes, debentures or other evidences of indebtedness issued after _____, 1968.

All interested persons are invited to submit their views and comments on the proposed rules, in writing, to the Securities and Exchange Commission, Washington, D.C. 20549, on or before March 29, 1968. Except where it is requested that such communications not be disclosed, they will be considered available for public inspection.

By the Commission.

ORVAL L. DUBOIS,
Secretary.

ADOPTION OF RULE 131 UNDER THE SECURITIES ACT OF 1933 AND RULE 3b–5 UNDER THE SECURITIES EXCHANGE ACT OF 1934

The Securities and Exchange Commission announced today that it has adopted the Rule 131 under the Securities Act of 1933 and Rule 3b–5 under the Securities Exchange Act of 1934. The new rules relate to "industrial revenue bonds."

Proposed rules were published for comment on February 1, 1968 in Securities Act Release No. 4896 (Securities Exchange Act Release No. 8248). The Commission received many helpful comments that pointed out problems that would be created by the rules in the form in which they were proposed, and that suggested means of overcoming these problems. In light of these comments, the Commission determined to revise the proposed rules to meet the objections raised in these comments and incorporate some of the suggestions for revision.

As was pointed out in the Release announcing the proposed rules, the typical industrial revenue bond financing plan represents a financing by a private company. Accordingly, investors should be given information concerning the business, prior experience, fiscal responsibilities and earnings of the company that has leased the facility, as well as the terms and conditions of the lease arrangement, in order to assess the worth of such investment. The municipality or other governmental unit usually has no significant obligation under the bond, except to the extent of applying lease payments received from the private company to the payment of principal and interest. The investor cannot look to the municipality for interest payments or repayment of the principal; he can look only

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to the possibility of success or failure of the private company. The municipality serves as a conduit through which the amounts payable under the lease arrangement flow from the private company to the bondholder. In these circumstances, the investor is offered an interest in an obligation of the private company which is a "security" within the meaning of the securities acts and should have the benefit of the disclosures required by the Securities Act of 1933 and the Securities Exchange Act of 1934 when applicable.

There appeared to be a failure on the part of many persons who submitted comments to understand that the proposed rules were interpretive rules that identify securities of private companies which are offered and sold in industrial revenue bond financing plans, and that the proposed rules were not intended to affect the exemptions for municipal or governmental bonds contained in the securities acts. In addition, in some of the comments it was noted that although the Release announcing the proposed rules pointed out that the rules would not affect the exemption for municipal or governmental bonds, they were broad enough in scope to have a contrary implication. As a consequence, the rules have been revised to remove such implication.

RULE 131

Paragraph (a) of the rule has been modified to relate specifically to Section 3(a)(2) of the Act. This was accomplished by deleting the words "State or Territory of the United States, any political subdivision of a State or Territory, or any agency or instrumentality of one or more States, Territories or political subdivisions thereof," and substituting therefor the words "governmental unit specified in Section 3(a)(2) of the Act."

Many of the comments that were received pointed out that a definition of the term "industrial or commercial enterprises" should be included in the rules, and gave suggestions as to how that term should be defined. In the light of those comments, the Commission has added a new paragraph (b), which states that "An obligation shall not be deemed payable from industrial or commercial enterprises if such obligation relates to a public project or facility owned and operated by or on behalf of and under the control of a governmental unit specified in Section 3(a)(2) of the Act." This paragraph would make it clear that registration is not required where the lessee is a governmental unit specified in Section 3(a)(2) of the Securities Act.

Paragraph (b) of the proposed rule has been relettered (c) and the word "issued" in the last line of the paragraph has been changed to the word "sold" and the rule will become effective January 1, 1969. These changes were made in response to comments that pointed out certain technical and tim-

ing problems that were raised by the proposed rule.

The rule is directed to financing plans in which any part of the principal and/or interest on a bond, note, debenture or evidence of indebtedness issued in the name of a government or its instrumentality is payable from payments which are to be made under a lease, sale or loan arrangement by private enterprise for property or money to be used by industrial or commercial enterprises. The rule does not have the effect of requiring registration of revenue bonds issued by a state, a political subdivision, a municipality or a public instrumentality to finance a revenue producing public project operated by such issuer, such as toll roads, municipal water systems, transportation facilities and systems or municipal recreational facilities, or revenue bonds which are to be funded by payments under a lease, sale or loan arrangement if the user of the facility or property is a state or a political subdivision or public instrumentality of a state or a municipality which is the lessee or obligor. New paragraph (b) of the rule is designed to remove all doubt as to the effect of the rule. In this connection, concern was expressed in many comments that the rule would have the effect of requiring registration of bonds issued to finance construction of airports, wharves, recreational and sporting facilities and convention facilities. Paragraph (b) would clearly make the rule inapplicable to the financings of such facilities that are owned by a municipality and operated by it or a public instrumentality.

It should be noted, however, that if the municipality were not to control the facility but were to lease it or sell it to a private enterprise to operate for a profit, the bonds would be payable from an industrial or commercial enterprise and registration would be required, absent an available exemption. On the other hand, the Section 3(a)(2) exemption would be applicable where a governmental unit having taxing authority or other resources guarantees payment of the bond obligation in the event of default under the lease, or where such governmental unit is responsible for all the bond payment obligation even though a portion or all of the facility is leased to a private enterprise. Further, whether or not Section 3(a)(2) of the Act is applicable, if the securities are offered and sold exclusively to residents of the state in which the lessee company is organized and doing business and in which the facility is located, the exemption in Section 3(a)(11) of the Act would be available; or if the securities are not publicly offered, the exemption in Section 4(2) of the Act would be available.

It should be noted that the rule relates only to that part of an obligation evidenced by industrial revenue bonds which is payable from an industrial or commercial enterprise. Thus, if the lease obligation is in an amount less than the principal amount of the bonds, registration would be required of only that portion representing the lease obligation. Similarly, if a facility were leased to two separate lessee companies, each of which was obligated to make lease payments representing a portion of the principal amount of the bonds, each would be required to register the respective portion of the lease obligation.

The Commission has determined, based on a number of lease obligations that have recently been registered, that existing rules, procedures and policies under the Trust Indenture Act of 1939 are adequate in connection with the applicability of that Act to the securities identified in the rules. For example, the indenture, which contains the provisions required by the Trust Indenture Act of 1939, may be executed between the trustee and the lessee and the lessee will be required to file the necessary reports and perform the other obligations of a obligor thereunder. However, it has been the practice for the municipality to execute the indenture and to assign its rights under the lease to the indenture trustee, in which case the lessee assumes the statutory functions of an obligor in the lease.

The text of Rule 131 follows:

Rule 131. Definition of Security Issued Under Governmental Obligations.

(a) Any part of an obligation evidenced by any bond, note, debenture, or other evidence of indebtedness issued by any governmental unit specified in Section 3(a)(2) of the Act which is payable from payments to be made in respect of property or money which is or will be used, under a lease, sale, or loan arrangement, by or for industrial or commercial enterprise, shall be deemed to be a separate "security" within the meaning of Section 2(1) of the Act, issued by the lessee or obligor under the lease, sale or loan arrangement.

(b) An obligation shall not be deemed payable from industrial or commercial enterprises if such obligation relates to a public project or facility owned and operated by or on behalf of and under the control of a governmental unit specified in Section 3(a)(2) of the Act.

(c) This rule shall apply to transactions of the character described in paragraph (a) only with respect to bonds, notes, debentures or other evidences of indebtedness sold after December 31, 1968.

Rule 3b–5

Rule 3b–5 has been modified in the same manner as Rule 131.

Rule 3b–5 makes it clear that securities identified under Rule 131 are also "securities" within the meaning of Section 3(a)(10) of the

Securities Exchange Act of 1934. The provisions of the rule correspond to those of Rule 131. The rule informs brokers and dealers who deal in industrial revenue bonds, that consideration should be given to the existence of separate securities issued in connection with the issuance of industrial revenue bonds, in determining their obligations under the Securities Exchange Act, where any part of the obligation evidenced by any bond, note, debenture or other evidence of indebtedness is payable from industrial or commercial enterprises. Such separate securities ordinarily would not be exempted securities within the meaning of Section 3(a)(12) of the Act. In such instances all the provisions of the Exchange Act and the Commission's rule thereunder will apply to any part of the obligation evidenced by the bond which is not issued by a lessee or obligor described in Section 3(a)(12) of that Act.

The text of Rule 3b–5 follows:

Rule 3b–5. Non-Exempt Securities Issued Under Governmental Obligations.

(a) Any part of an obligation evidenced by any bond, note, debenture, or other evidence of indebtedness issued by any governmental unit specified in Section 3(a)(12) of the Act which is payable from payments to be made in respect of property or money which is or will be used, under a lease, sale, or loan arrangement, by or for industrial or commercial enterprise, shall be deemed to be a separate "security" within the meaning of Section 3(a)(10) of the Act, issued by the lessee or obligor under the lease, sale or loan arrangement.

(b) An obligation shall not be deemed payable from industrial or commercial enterprises if such obligation relates to a public project or facility owned and operated by or on behalf of and under control of a governmental unit specified in Section 3(a)(12) of the Act.

(c) This rule shall apply to transactions of the character described in paragraph (a) only with respect to bonds, notes, debentures or other evidences of indebtedness sold after December 31, 1968.

By the Commission.

ORVAL L. DUBOIS, *Secretary.*

AMENDMENT OF RULE 131 UNDER THE SECURITIES ACT OF 1933 AND RULE 3b–5 UNDER THE SECURITIES EXCHANGE ACT OF 1934

The Securities and Exchange Commission has amended Rule 131 under the Securities Act of 1933 and Rule 3b–5 under the Securities Exchange Act of 1934. Each rule relates to "industrial revenue bonds" and was designed to define those circumstances where bonds issued by a municipality or other governmental unit specified in Section 3(a)(2) of the Securities Act and in Section 3(a)(12) of the Securities Exchange Act of 1934 would be deemed to involve the issuance of a separate security by an industrial or commercial enterprise under a lease, sale or loan arrangement. The purpose of the amendment is to clarify certain situations where no

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such separate security will be deemed to be involved.

Questions have been raised concerning the impact of the registration requirements of the Securities Act and Rule 131 thereunder to the issuance of bonds by municipal and other governmental units to finance airport improvements for leasing to airlines serving their areas. A similar question has been raised under Rule 3b–5 as to the existence of a separate security for the purposes of the Securities Exchange Act. These questions have been raised notwithstanding the following statement which was included in the Commission's Release No. 4921 under the Securities Act, announcing the adoption of Rule 131:

". . . The rule does not have the effect of requiring registration of revenue bonds issued by a state, a political subdivision, a municipality or a public instrumentality to finance a revenue producing public project operated by such issuer, such as toll roads, municipal water systems, transportation facilities and systems or municipal recreational facilities, or revenue bonds which are to be funded by payments under a lease, sale or loan arrangement if the user of the facility or property is a state or a political subdivision or public instrumentality of a state or a municipality which is the lessee or obligor. New paragraph (b) of the rule is designed to remove all doubt as to the effect of the rule. In this connection, concern was expressed in many comments that the rule would have the effect of requiring registration of bonds issued to finance construction of airports, wharves, recreational and sporting facilities and convention facilities. Paragraph (b) would clearly make the rule inapplicable to the financing of such facilities that are owned by a municipality and operated by it or a public instrumentality."

In view of the concern which has been expressed that paragraph (b) of Rule 131 as presently written might be construed as being applicable only if, for example, a particular airport facility, such as a hangar or a commissary, were to be operated and controlled by or on behalf of a governmental unit, the Commission has concluded that paragraph (b) should be clarified in such respect. The amendment of paragraph (b) of Rule 131 would make it clear in subdivision (3) thereof that it is not the purpose of the paragraph to require as a condition to its applicability that each separate facility constituting a part of a public project be operated and controlled by a governmental unit if the public project as a whole is owned by and under general control of a governmental unit or an instrumentality thereof.

The amendment also makes explicit in subdivision (1) what had previously been implicit in Securities Act Release No. 4921 that the rules would not apply to any obligation which is payable not only out of the payments from the arrangements referred to in paragraph (a) but also from other substantial sources of revenue of the governmental unit.

The text of amended Rule 131(b) under the Securities Act of 1933 is as follows:

(b) An obligation shall not be deemed a separate "security" as defined in paragraph (a) hereof if, (1) the obligation is payable from the general revenues of a governmental unit, specified in Section 3(a)(2) of the Act, having other resources which may be used for the payment of the obligation, or (2) the obligation relates to a public project or facility owned and operated by or on behalf of and under the control of a governmental unit specified in such section, or (3) the obligation relates to a facility which is leased to and under the control of an industrial or commercial enterprise but is a part of a public project which, as a whole, is owned by and under the general control of a governmental unit specified in such section, or an instrumentality thereof.

The text of amended Rule 3b-5(b) under the Securities Exchange Act of 1934 is as follows:

(b) An obligation shall not be deemed a separate "security" as defined in paragraph (a) hereof if, (1) the obligation is payable from the general revenues of a governmental unit, specified in Section 3(a)(12) of the Act, having other resources which may be used for payment of the obligation, or (2) the obligation relates to a public project or facility owned and operated by or on behalf of and under the control of a governmental unit specified in such section, or (3) the obligation relates to a facility which is leased to and under the control of an industrial or commercial enterprise but is a part of a public project which, as a whole, is owned by and under the general control of a governmental unit specified in such section, or an instrumentality thereof.

The foregoing action was taken pursuant to Section 19(a) of the Securities Act of 1933 and Section 23(a) of the Securities Exchange Act of 1934. Since the action relates to interpretative rules and is simply a clarification of the Commission's prior interpretation of the scope of the statutory exemptions for securities of governmental instrumentalities, the Commission finds that notice is unnecessary and that the amendments to the rules may be made effective immediately. Accordingly, the amended rules shall be effective as of March 31, 1970.

By the Commission.

ORVAL L. DUBOIS, *Secretary.*

Mr. PROXMIRE. Mr. President, this is, from everyone's standpoint, a very undesirable change in the tax law. It is proposed under the guise of benefiting local governmental authorities, but in fact it will operate to the serious detriment of the overwhelming majority of State and local governments.

Industrial development bonds are simply a device to enable private businesses to borrow funds by using the tax exemption privilege of State and local governments. The device arose as a means of attracting industry to a locality by the significantly lower financing costs available through tax exempt borrowing.

This device was stopped by Congress in 1968 because nearly every State had begun to issue industrial development bonds. Before Congress acted, the ability of any one State or locality had been, for the most part, neutralized; on the contrary, the State and local governments had found it necessary to offer the tax exempt financing benefits to industry as a defensive matter—they had to offer this advantage to keep from losing industry.

The principal undesirable result that flowed from all of this was the increased competition for the very limited funds available for purchase of tax exempt bonds. This, of course, forced the interest rate on all tax exempt issues to rise, in turn raising significantly the financing costs of States and localities attempting to meet the pressing demands for capital needed to provide critical governmental services such as police and fire protection, schools, and sewage disposal.

Thus the 1968 legislation served its purpose well. Appropriate exceptions were made for semigovernmental functions carried on by private industry which had traditionally been financed through tax exempt bonds—such as airports, mass transit facilities, pollution control facilities and others. Also an exception was made for issues of $1 million and less.

The present amendment would in-

crease the $1 million exemption to $5 million; to that extent it would allow the competition among States and localities to be renewed—to the detriment of financing for traditional governmental functions.

In short, a vote for this amendment is a vote against the cities and other local governmental authorities most in need of help. The least we can do is help these hard-pressed local governments by protecting the integrity of their tax exempt financing privilege.

Mr. RIBICOFF. Mr. President, I have an amendment to the Sparkman amendment which I send to the desk.

The PRESIDING OFFICER. Is the Senator simply sending an amendment to the desk?

Mr. RIBICOFF. Yes. I will call it up at the proper time.

The PRESIDING OFFICER. The amendment is received, and will lie on the desk.

Who yields time?

Mr. RIBICOFF. Mr. President, will the Senator from Arizona yield to me 10 minutes in opposition to the amendment?

Mr. FANNIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Arizona has 23 minutes remaining.

Mr. FANNIN. I yield 10 minutes to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, the problem of the tax treatment of industrial bonds is not a new one. We dealt with it first in the Revenue and Expenditure Control Act of 1968. When we considered the Renegotiation Act later the same year the treatment of industrial revenue bonds was liberalized.

The problem which faced us at that time was that industrial revenue bonds were being used extensively and often abused. Originally, industrial revenue bonds may have had a worthwhile purpose; namely, to attract industry to areas in need of economic development. This original purpose, however, has been long gone. According to my last count there were 44 States using industrial revenue bonds. As a result, industrial revenue bonds generally do not make investment in one State more attractive than investment in another State. Instead, these bonds merely represent an unjustified subsidy reducing the interest cost to industrial corporations and representing a tax loophole for wealthy investors.

The worst part of it is—and this is the point which is usually overlooked—the tremendous growth in the use of industrial revenue bonds in recent years has actually hurt rather than helped State and local governments. The demand for increasing and new varieties of governmental services have caused States and local governments to rely more and more on the municipal bond market to obtain necessary funds. The increased need for these funds has placed severe demands on the municipal bond market and driven up the cost of these bonds. The tremendous growth of industrial revenue bonds has further aggravated this situation since these bonds have used up the relatively limited quantity of funds available for State and local bonds. Gen-

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erally, the effect has been to substantially increase the cost of State and local government bond financing. Under today's conditions this is the very last thing we should seek to do.

Mr. President, it was reasons of this type which led the Senate to limit the income-tax exemption for interest on industrial revenue bonds to a maximum of $1,000,000. Later some of my colleagues argued that we ought to permit plants to be built up to a limit of $5,000,000 on the grounds that these were small industries. I approved that proposal. However, the Congress agreed finally to permit industrial revenue bonds to be used up

to a total of $5,000,000 but only where the total expenditure may with respect to a plant in the period beginning 3 years before and ending 3 years after the bond issue, aggregated no more than $5,000,000. Now, the distinguished Senator from Alabama (Mr. SPARKMAN) proposed to take this restriction off. He would permit any industrial bond issue to be exempt up to a total of $5,000,000.

This will have the effect of exempting a very large portion of all industrial revenue bonds and will almost put us back into the same position we were in when the tax-free issues of industrial bonds were first limited. The average size of an industrial plant issue today amounts to about $9,000,000, so you can see from this that if we exempt the first $5,000,000 of any issue we will in fact be exempting more than one-half of all industrial issues if they seek State or local industrial bond financing. I can think of no more crippling amendment that we could provide insofar as State and local governments, generally, are concerned. Nothing that I can think of would be so likely to drive up the cost of the financing and to make it difficult to finance new issues for school construction, for highways, for sewage treatment plants, and the many other pressing needs of our local governments.

The Treasury Department for much the same reasons that I have given you, strongly opposes this amendment. The Treasury Department opposes this amendment not only because it increases the use of tax exempt bonds in a manner which will have serious disruptive effects on the State and local bond market, but also because it narrows the tax base by substituting more tax exempt income for taxable income and in this manner extenuates the problem of tax preferences.

The SEC opposes this amendment because these issues are excluded from the reporting requirements of the Securities Act and, as a result, even though these, in fact, are corporation issues rather than true Government issues, investors are not afforded proper protection.

It is ironic that this amendment should be added at this time when we are restoring the 7-percent investment credit. The 7-percent credit will be a substantial aid to industrial development throughout the country and certainly we need not add further to this by increasing the exemption with respect to interest on industrial bonds.

I strongly oppose this amendment. Historically we have heard that these bonds help develop jobs, but the AFL-CIO has always opposed the program. Local government supposedly favors these bonds but the National Association of Counties has always objected to their use. And the Advisory Council on Intergovernmental Relations—representing a broad cross-section of State, local, and Federal officials—has sought to have industrial development bonds totally removed from the tax exempt market.

We successfully curbed a large part of the abuses in this program in 1968. I would hope that we would not subject the cities and States of our country to those abuses again.

Mr. President, I therefore urge my colleagues to oppose the amendment of the Senator from Alabama.

Mr. FANNIN. Mr. President, if I believed that this amendment would provide an advantage to State and local governments in attracting industry, I would be very much in favor of it. But it does not provide an advantage to State and local governments in attracting industry since virtually all States authorize industrial revenue bonds. It does not have the great appeal that has been expressed. Congress dealt with this problem in 1968, and allowed industrial development bonds up to $5 million only where the total cost of the facility was under $5 million. Even with

that restriction, the use of these bonds is growing at a faster rate today than in the early 1960's.

Mr. President, I have a chart which shows the industrial revenue bond issues for 1960 to 1970. They reached a peak in 1967 and 1968 and then fell off in 1969, following the legislative action of Congress. These bond issues, however, started picking up again in 1970.

Mr. President, I ask unanimous consent that the chart be printed in the RECORD at this point.

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

INDUSTRIAL REVENUE BONDS, 1960–70

[Dollar amounts in millions]

Year	Number of issues	Amount	Average amount per issue
1960	55	$ 41	$0.7
1961	46	72	1.6
1962	66	84	1.3
1963	69	133	1 9
1964	90	192	2.1
1965	91	210	2.3
1966	124	499	4.0
1967	180	1,372	7.6
1968	165	1,606	9.7
1969	68	51	.8
1970	82	110	1.3

Source: Investment Bankers Association

Mr. FANNIN. Mr. President, in 1968, Congress enacted tax changes to halt the proliferation of industrial development bonds. During the 1960's, a large number of State and local governments authorized the issuance of industrial development bonds. The practice was initially developed as a means to attract new industry to underdeveloped areas by offering business the use of the issuer's tax exemption. As more States authorized these bonds, the competitive advantage in luring industry to a particular area was neutralized. Large numbers of industrial development bond issues were competing with school bonds, sanitary bonds, and so forth. Thus, while the industrial users were saving money through the use of tax-exempt issues, there was a corresponding increase in the interest paid on traditional municipal financings.

Prior to the 1968 legislation limiting the use of industrial development bonds, there had been a steady increase in the use of this device. In 1960, 55 such issues were sold, representing a total face amount of $41 million; an average of $700,000 per issue. In 1968, the last year before the new provision was in effect, there were 165 such issues representing an annual face amount of $1.6 billion; an average of $9.7 million per issue. From 1960 through 1968, the aggregate face amount of industrial revenue bonds was over $4 billion.

The 1968 legislation continued to allow tax-exempt financing of projects whose total cost does not exceed $5 million.

In other words, that legislation continued to allow the use of industrial revenue bonds for small industrial plants.

The amendment before us, however, would extend this privilege of issuing $5 million of tax-exempt bonds for an industrial plant to all plants, regardless of their size—regardless of whether a $5 million or $100 million plant was involved. Under the proposed amendment, the first $5 million of costs of any industrial plant—regardless of its size—could be financed by tax-exempt municipal bonds.

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

Mr. FANNIN. I yield.

Mr. SPARKMAN. The Senator pointed out that this big increase swelled up to 1968.

Mr. FANNIN. Yes.

Mr. SPARKMAN. We all recognize the fact that there was an abuse of the old law.

The PRESIDING OFFICER. The Senator's 2 minutes have now expired.

Mr. SPARKMAN. I yield myself 1 minute.

We all recognize the fact that it had been abused.

We agreed to a limitation back in 1968. As I recall it, we wrote it into the bill on the Senate floor, but when we got to the House they wrote in these 6 drag years, under which no company could spend a dollar on capital expenditures. We are not changing the limitation. We are trying to remove those 6 years.

This operates primarily under the section 502 program of the Small Business Administration. All through this land we can find places where these section 502 projects have gone in and utilized this program and provided jobs in areas where they badly needed jobs. We gave liberally to big business. This is a plea for small business. The amount is no more in my amendment than it is under the present law. It takes away the 6 drag years.

Mr. FANNIN. I do agree that States orginally had some benefits. Many indi-

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vidual States have had benefits, my own State included. But by 1968, so many States were issuing these bonds that the competitive advantage had disappeared. The procedure we followed in 1965 in allowing small issues of these bonds was to prevent a $100 million plant from being constructed with it. There were limitations, and they were called for.

I am concerned about the long-term effect of the expansion in tax exempt industrial development financing which this amendment would permit and, in fact, encourage. This effect will be an increase in the cost of financing for traditional government projects, such as schools, bridges, police, and fire protection. States will have to pay more to finance these services because of the subsidies this amendment will provide to private industry. In other words, financing for these activities would be forced to compete with large industrial development bond issues. Local taxpayers will have to pay higher taxes to finance their schools, so that some States can attempt to lure industry away from other States in an effort that in the end is bound either to disrupt the economy as a whole or to fail because all States offer the same subsidy.

The Senator knows this is a competitive situation. One State will offer an incentive. Then another State in competition with it for these industries will offer the same or more lucrative opportunities for the industry. So it goes back and forth, without really making a great change, other than increasing the cost to the taxpayers, and here we are talking about $350 million, which is a sizable sum.

The Securities and Exchange Commission also is opposed to any expansion of the small issue exemption. Under a 1970 amendment to the securities laws, industrial development bonds which are exempt as "small issues" under the tax law are also exempt from the application of the Federal securities laws. This means that prospective investors in such bonds are not afforded the protection of the disclosure requirements in those laws. An investor could easily be misled to believe that he is purchasing a Government guaranteed security where the name of the issuing municipality appears on the security. Since the proposed amendment would bring a number of issues into the category of exempt small issues, it would have the undesirable effect of expanding the scope of this exclusion from SEC disclosure requirements.

Mr. SPARKMAN. Mr. President, will the Senator yield for a question?

Mr. FANNIN. On the Senator's time.

Mr. SPARKMAN. Mr. President, I yield myself 2 minutes.

I have the highest regard for the Senator from Arizona, but the state-

ment that has been prepared for him simply does not jibe with the facts and does not make sense. It does not cost the Government anything more, because the limit is still the same, $5 million. It just takes away the 6 years in which that company or that plant or that man could not spend one extra dollar for capital improvements. If he does, he loses his whole tax benefit. Why put these chains on him? This is a small business proposal.

I did not hear this argument made in connection with rapid depreciation, which I support. I did not hear any of this argument in connection with the 7-percent investment credit, which I support. I think they are both good for the economy of the country. But now when we have this small business provision, which I also think is good for the economy of the country, I do not see how one could stand up here and blandly vote for rapid depreciation and investment tax credit—I did, and I believe in them—but when we come to the small businessman, say it is going to cost the Government more money. It cannot exceed the sum already provided. The limit is the same. All we are doing is keeping the law, except we are saying to small business, "When you get this $5 million tax exempt loan, you are handcuffed for 6 years. You cannot spend another dollar."

There is another provision which lets money made available under the program which the distinguished Senator from Vermont wrote into the law a few years ago go into water and sewer systems throughout the country. This has benefited very greatly small towns and rural areas. There is a limitation there, under the interpretation of the Internal Revenue Service, that they cannot go outside a metropolitan area or an area that is bigger than two counties.

I know that in my State there are places where three or four or five counties are trying to work together to get the benefits written into the law, and which was promised to people in the rural areas, which would provide them with the decent living provided by water and sewer systems. That is what we are trying to do. All this is a part of the amendment. I say it is a good amendment, which should be written into law.

Mr. FANNIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Arizona has 12 minutes remaining.

Mr. FANNIN. Mr. President, with reference to what the distinguished Senator from Alabama has said, I would not expect him to be for this amendment unless he thought it would increase the issuance of industrial development bonds. Now, if it does increase industrial development bond issues, it is going to cost more money. If I thought we were going to have additional benefits from the amendment, I would be in favor of what is proposed, but no one area of the country would receive any competitive advantage from the increased usage of industrial development bonds, because practically all States now have that privilege. So I do not think the amendment would have the effect the Senator from Alabama refers to. Moreover, as I indicated, it is not a small business amendment since it would allow tax-exempt bond financing regardless of whether a $10 million or a $100 million plant were involved.

I certainly want to help create jobs, but I do not agree at all that the way to do that is to encourage the issuance of industrial development bonds. Today, the only one who benefits from industrial development bond financing is the private industry which obtains lower cost financing for a plant it was going to build in any event. The State issuing the bonds obtains no benefit and the taxpayers obtain no benefits.

There are many reasons why this proposal should not be adopted. I think the principal reason, however, is that it would create tremendous additional pressures on the municipal bond market and thus would drive up interest costs on all municipal bonds, especially those affecting our schools and our other pressing local governmental needs.

I reserve the remainder of my time.

Mr. SPARKMAN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 15 minutes remaining.

Mr. SPARKMAN. I yield 3 minutes to the Senator from Tennessee (Mr. BAKER).

Mr. BAKER. Mr. President, I thank my colleague from Alabama for yielding so I may make these remarks in support of the amendment.

I was happy to cosponsor the amendment which effectuated the compromise on this issue when it was offered by the distinguished Senator from Alabama some time ago. In that debate I think all of us agreed—and the distinguished Senator from Connecticut was in the forefront of that debate—that there were substantial abuses in the industrial development bond concept.

So a compromise was worked out that provided for a $5 million limitation on the amount of bonds that might be sold and still maintain a tax free status. As I say, I participated in those negotiations and that compromise, and I think it was a good compromise. I think $5 million is a realistic and reasonable limitation to put on them.

But, Mr. President, we now run up against one of those situations which not infrequently occur, that some of our friends in the executive department of the Government do not exactly interpret the statute the same way we thought we understood it, so that the unfortunate effect has been to provide that we put an unrealistic ceiling on the further operation, development, or expansion of facilities built with the proceeds of industrial development bonds.

The example used by the Senator from Alabama, as I understood him, was that if $5 million in industrial development bonds were sold, and the interest income from those bonds qualified as tax-free income, and then later the lessee company that operated that plant chose to use its own money, say $1 million of its own private funds to expand, upgrade, renovate, or modernize that plant, then the interest income from the whole $5 million would lose its qualification as tax-free income.

That situation, Mr. President, was not one of the intended effects of the compromise we reached. The amendment by the distinguished Senator from Alabama, in my judgment, does nothing more than clarify an unintended conflict which has developed between the interpretation of the statute as we passed it and what we as legislators intended at the time.

So I think the amendment is necessary and desirable, and I commend the Senator from Alabama for offering it.

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The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, is there any Senator who would like to make a further statement in opposition?

If not, I am prepared to yield back the remainder of my time.

Mr. SPARKMAN. No, no, Mr. President, I cannot do that.

Mr. FANNIN. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator from Arizona has 8 minutes. The Senator from Alabama has 12 minutes.

Mr. FANNIN. I reserve the remainder of my time.

Mr. SPARKMAN. Mr. President, I

yield 3 minutes to the Senator from Georgia (Mr. GAMBRELL).

Mr. GAMBRELL. Mr. President, I should like first to address a question to the distinguished Senator from Alabama with reference to this amendment, to clarify it for me.

If this amendment is adopted, as I understand, if there is additional investment within the 3-year period, that is not exempted; in other words, it is only the principal investment that is made that is under tax-exempt financing, but any additional investment would not be, within that period?

Mr. SPARKMAN. Five million dollars is the maximum of the tax exemption. But it is worse than the Senator says. If the $5 million loan is made, then for 3 years after that, the borrower cannot spend one single dollar of capital payments. Suppose something breaks down, and he has to buy new machinery. He loses his exemption. All in the world I am trying to do is take out those 3 years, before and after.

Mr. GAMBRELL. After the amendment is adopted, if that situation should arise and an additional investment should be made, based on borrowed money, would that be subject to tax exemption?

Mr. SPARKMAN. It would not.

Mr. GAMBRELL. It would not?

Mr. SPARKMAN. It would not. Only the $5 million would be tax exempt.

Mr. GAMBRELL. So the effect of the amendment does not extend the $5-million limit?

Mr. SPARKMAN. No; not by $1.

Mr. GAMBRELL. This is, I think, a very important point, because, as the Senator has said several times, this is not an effort to increase the amount of the exemption, and in that respect does not deny the Federal Treasury one single tax dollar by way of any additional exemptions.

My own experience in this field of municipal finance and tax-exempt financing—and the Senator knows this, I am sure, very well—has been that in the bond market for municipal securities, any kind of little possible variation which might cause the bonds to lose their tax exemption does not simply impair their marketability, it just abolishes it. The possibility that at some later date within 3 years, someone out there would make a mistake or forget they were not supposed to make a capital investment, is something that would break the tax-exempt status, and this is something the market has no control over. The bonds are sold into the hands of people all over the country, and they become subject to tax exemption. How do you tell the investor in this market that his bond has now become subject to taxation? I think this is an important point.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the names of the Senator from Texas (Mr. BENTSEN) and the Senator from Georgia (Mr. GAMBRELL) be added as cosponsors of the amendment.

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

Mr. SPARKMAN. Mr. President, I yield 3 minutes to my colleague from Alabama.

Mr. ALLEN. I thank my distinguished colleague.

Mr. President, I urge my fellow Senators to support amendment No. 655, because it is designed to promote capital investment by industry and the creation of additional jobs. I know of no amendment that has been adopted, on such a small scale, that will be as productive as this amendment in promoting capital investment and in creating jobs.

A companion bill has been introduced in the House of Representatives by the chairman of the Ways and Means Committee, Mr. WILBUR MILLS. I ask unanimous consent that a copy

of that bill, H.R. 11124, be printed in the RECORD at this point.

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That (a) section 103(c)(4) of the Internal Revenue Code of 1954 (relating to certain exempt activities) is amended—

(1) by striking out in subparagraph (E) "energy, gas, or water, or" and by inserting in lieu thereof "energy or gas,";

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof ", or"; and

(3) by adding at the end thereof the following:

"(G) facilities for the furnishing of water, whether or not to the general public."

(b) Section 103(c)(6) of such Code (relating to exemption from industrial development bond treatment for certain small issues) is amended—

(1) by striking out "$1,000,000" in subparagraph (A) and by inserting in lieu thereof "$5,000,000"; and

(2) by striking out subparagraphs (D), (E), (F), (G), and (H).

(c) The amendments made by this Act shall apply with respect to obligations issued after January 1, 1970.

Mr. SPARKMAN. Mr. President, may I ask the Senator, is that not almost identical with our amendment?

Mr. ALLEN. It is identical, word for word, except as to the issue date of the securities proposed to be affected by the amendment, and a little different language which will assure that these water systems provided for in the amendment will be available on reasonable demand to the general public.

This amendment would remove a provision from the existing law that pretty well nullifies the exemption sought to be given thereby, because the existing law provides that if the entity issuing the bonds has made capital investments in the 3 years preceding the issuance of the bonds, or if it makes capital investments in the ensuing 3 years, then the securities cannot be tax exempt.

This puts a tremendous burden on the issuing entity, and it is self-defeating, in that once the bonds are issued and the improvements are made, then no further improvements can be made for 3 years, even if there is great need for additional improvements.

So the pending amendment eliminates the 3 back years and the 3 prospective years in which there may be no capital investments.

There was no real reason for that prohibition in the original law, that the junior Senator from Alabama can detect. This amendment would leave the ceiling exactly where it is, at $5 million, but would provide a method for getting the bonds issued and the capital investment made.

The PRESIDING OFFICER (Mr. BROCK). The Senator's 3 minutes have expired.

Mr. ALLEN. I yield myeslf 1 additional minute.

I know of at least one industry waiting on the passage of this bill to add to its existing facilities in my State, to the extent of several million dollars. They contemplate putting on some 2,500 new employees. This bill does carry the concept of the President's plan to create more jobs, to provide for more capital investment, and to promote rural development, for most of the plants are in small towns and rural areas.

I urge my colleagues to vote favorably on the amendment.

Mr. SPARKMAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Alabama has 4 minutes remaining.

Mr. SPARKMAN. Mr. President, the Senator from Alabama will bear me out in this statement. Under the industrial bond development plan, we have been able, in Alabama, to locate in small towns, in rural areas, many small businesses that have given employment to people who needed jobs. Is that not correct?

Mr. ALLEN. That is definitely correct. Furthermore, it carries out the concept of rural development which the administration is interested in, which the Committee on Agriculture and Forestry is interested in, and which the Subcommittee on Rural Development, headed by the distinguished Senator from Minnesota (Mr. HUMPHREY), is greatly interested in.

Mr. SPARKMAN. We have bills here that the administration sent up, urging rural development.

Mr. President, one thing I am afraid of in the President's economic program—and I am supporting it wholeheartedly—the only part in it of which I am afraid, is that of unemployment. Yet, here is something that makes it possible to get jobs where they are needed.

I want to point out another thing. I want to emphasize what the Senator from Georgia said. As it stands now, if this law continues, how are you going

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to sell a $5 million bond issue? You would almost have to shave it down by something so as to make room for those capital improvements. The way it is now, you spend $1 on capital improvements after you get that loan, and then the tax-exempt status is lost with respect to the whole issue. Who would buy a bond issue of that kind?

Mr. President, I have referred to section 502 of the Small Business Act. I want to say that that was written into the small business law primarily upon the example that New England had set. Several States in New England, if not all of them, had local industrial development associations, and many of them were assisted by the States. Arkansas had one. It was primarily upon the example that we had from those areas that we wrote into the law section 502. It is under that section that most of these bond issues are made. It is a rural development program. It is a small business program. It is one that makes for better economy throughout the country, and we certainly ought to vote for it.

Mr. President, I am ready to yield back the remainder of my time, if I have any more time.

Mr. FANNIN. Mr. President, I will take 2 minutes, and then I will yield back the remainder of my time.

Mr. SPARKMAN. I reserve the remainder of my time, then.

Mr. FANNIN. Mr. President, why was this device stopped by Congress in 1968? Because there is a limited market for tax-exempt bonds—high-bracket individual investors—and the floodings of the market with these bonds had sharply raised interest rates on all other bona fide State and local bond issues—for school financing, road construction, and other needed State and local government purposes. I think we need to reemphasize that. The net effect of these industrial development bond issues is that State and local taxpayers, in general, pay a higher interest rate to finance their government needs so that some States can lure manufacturing plants away from other States by enabling the private business to pay a lower interest rate to finance their factories.

The PRESIDING OFFICER. Does the Senator from Arizona yield back the remainder of his time?

Mr. FANNIN. If the Senator from Alabama will.

Mr. SPARKMAN. I yield back the remainder of my time.

Mr. FANNIN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

Mr. RIBICOFF. Mr. President, I have at the desk an amendment to amendment No. 655 which I believe could correct some of its deficiencies.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that further reading of the amendment 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 is as follows:

On page 2, line 15, insert the following:

Section 103(c) is further amended by adding a new paragraph (8) as follows:

(8) Employee Housing: The exception provided in paragraph (6) shall not apply to any industrial development bond issued by any state, territory or possession of the United States or any political subdivision thereof that has not complied with the following requirements:

Definitions

(A) As used in paragraph (8), except where otherwise specified, the following terms shall bear the definitions provided—

(i) "facility" shall mean any building, complex of buildings, plant, factory, installation or other place of business financed by an industrial development bond which is occupied by more than 25 employees;

(ii) "company" shall mean any person, corporation, partnership, or association with more than twenty-five employees;

(iii) "immediate area" shall mean any area which is within the corporate limits of the community in which a facility is located and which is within a reasonable commuting distance as defined by the Secretary;

(iv) "Secretary" shall mean the Secretary of Housing and Urban Development or his designee;

(v) "Commissioner" shall mean the Commissioner of the Internal Revenue Service or his designee;

(vi) "community" shall mean any political subdivisions of a State;

Community Agreement

(B) (i) Before approving the tax exempt status for any industrial development bond issue under this section, the Commissioner must have received from the Secretary certification that the community in which the facility is to be located has entered into an agreement with the Secretary whereby adequate housing is or will be made available to persons employed as a result of the construction of the facility.

(ii) Should, after the acceptance of the agreement by the Secretary, any community fail to comply with its approved agreement, the Secretary shall bring suit in the United States District Court for the District of Columbia to secure an injunction to require such community to conform to its agreement.

(iii) The agreement required by paragraph (B) (i) shall contain a timetable for provision of the housing units required under the agreement: *Provided,* That at least one-half of such units shall be in existence within six months after the actual completion date of the facility, with the remaining units to be in existence within twelve months after the completion date.

(C) (i) Should the Secretary determine that a change in the local situation, the size of the facility or other relevant factors necessitates a modification of the agreement, he may approve such modifications, if they are proposed by the community or require a community to make necessary modifications: *Provided,* That such modifications do not impede the effectuation or achievement of the purposes of paragraph (8);

(ii) Should the Chairman determine that, as a result of the size, location, and accessibility of two or more communities, it would facilitate implementation of the purposes of this Act for such communities to develop a joint agreement he may approve such a plan: *Provided,* That any such agreement otherwise meets the requirements of paragraph (8); *And provided further,* That each such community shall be jointly and severally liable for specific performance under paragraph (B) (ii).

(D) The community's agreement shall also provide the necessary assurances from the company that any previous employees of the company who might lose their jobs as a result of the new facility shall be given the right of first refusal for the new jobs.

FINANCIAL ASSISTANCE

(E) Each community that files an agreement under paragraph (8) may also file an application with the Secretary for financial assistance and the Secretary shall grant to each an amount not to exceed $100,000 to reimburse such community for the expense of developing an agreement to conform to the requirements of paragraph (8).

APPROPRIATIONS

(F) For fiscal year beginning July 1, 1971, and for each fiscal year thereafter there are authorized to be appropriated sufficient funds to allow the Secretary to fulfill the requirements of paragraph (8).

The PRESIDING OFFICER. Each side on the amendment to the amendment has 15 minutes.

Mr. RIBICOFF. Mr. President, I have opposed the use of industrial development bonds for many years because they are a subterfuge which only serves to undermine the legitimate municipal bond market.

I am also opposed to them because these tax exempt bonds are being used by communities which have exhibited a noticeable lack of concern for meeting the needs of the incoming company's employees.

I do not believe that such local communities should be allowed to tap the Federal treasury and then turn their backs on problems these bonds create —such as the shortage of housing for the new workers. Yet this is precisely what is happening across the Nation. Federal funds are being used to establish plants in communities which do not have an adequate supply of housing.

Consider the situation nationwide. The growth of manufacturing and service jobs in the suburbs and beyond has begun to distort our labor market because those most able to fill those jobs are often unable to reach them. Our present housing policies have served to effectively exclude millions of low- and moderate-income Americans from new employment opportunities.

Most of the Nation's housing units now being constructed are going up outside the cities. The housing being built, however, is simply too expensive for low- and moderate-income families. The land is there to be used, but all but the most expensive housing has been zoned out through the use of large-lot zoning and the absence of any provisions for low density multifamily housing.

For example, the 20 local governments in a 400 square mile area around Princeton, N.J., have zoned enough underdeveloped land for industry and research firms to support 1,200,000 jobs. The same towns, however, have zoned the remaining land to house only 144,000 workers—one-tenth of the potential work force.

The effect of such practices is obvious.

The House Banking and Currency Committee found earlier this year that 28.4 million families—101 million people—cannot afford payments on a $20,000 mortgage. Yet the median sales price for an existing single family home is now over $25,000.

In fact, approximately 80 percent of the housing on the market nationally now is above the level a family with an

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$8,000 income can afford. This means that the people who need the jobs opening up in new areas are trapped in the central city. The result is a scarcity of needed employment for the poor and in some cases an actual shortage of low- and moderate-income employees for new concerns. Numerous communities are now discovering that they have even priced their teachers, firemen, policemen and other municipal employees out of their own cities.

The only solution to this housing shortage and labor market distortion is to build more housing units near the new jobs. Unless the Government begins to assist in building the necessary housing, the unemployment, welfare and social dependency now endemic to the central cities will continue to soar upward at an alarming rate.

I believe it is unconscionable for the Federal Government to subsidize the establishment of industry in a community which does not have an adequate supply of housing for its employees.

Yet this is how many tax-exempt industrial development bonds are being used.

Too many towns offering such bonds want the benefits an industry brings in, but none of the responsibilities, such as schooling or housing the new employees.

Furthermore, people in the town which is losing the industry to another community find that people who have worked for 20 or 25 years, no longer have a job.

The purpose of this amendment is simply to bring equity to the situation. If a community wants to use tax exempt industrial development bonds, it has an obligation to arrange for adequate supply of housing for the new employees the bonds will bring us.

Furthermore, any employee whose job is being lost because a plant is moving from one section of the country to another section of the country should have priority on that job. So, if a company should be moving from Wisconsin or Rhode Island or Connecticut to Alabama, Georgia, or Arkansas, the employee in Connecticut or Rhode Island or Wisconsin should have the right of first refusal on the job opening up in the new plant.

That, in essence, is the amendment I have offered to the amendment of the distinguished Senator from Alabama.

Mr. NELSON. Mr. President, will the Senator yield for a question?

Mr. RIBICOFF. I yield.

Mr. NELSON. Do I correctly understand that the theory of the requirement in the Senator's amendment, that they give first preference to a current employee, is that if we are going to have legislation which uses tax exempt revenue bonds, under a statute passed by Congress, to induce industries to build in a particular community, they should then be required to give their older employees —that is, their current employees—in whatever community they are now living, the right to their job in the new plant, as a preferential matter, over any other new employee?

Mr. RIBICOFF. That is correct.

It has been said that these new plants will generate new jobs in rural areas. The distinguished Senator from Alabama referred to a new plant that gave 2,500 jobs to people in Alabama. That is all well and good. But where did that plant come from, and what happened to those 2,500 employees in the community that lost that plant?

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

Mr. NELSON. The Senator from Connecticut has the floor.

Mr. RIBICOFF. I yield.

Mr. ALLEN. I will state, for the Senator's benefit, inasmuch as he was quoting the junior Senator from Alabama, that this is an enlargement of an existing plant that has been in Alabama for several decades, and it is not a plant that has been raided from another State. It is merely an enlargement of an existing plant.

Mr. RIBICOFF. I am pleased to be corrected. But in many instances they are not the enlargement of existing plants, but they are plants that are being taken from one section of the country to another and are aided by tax-exempt industrial development bonds.

Nothing is as cruel as to take a job from a man who has worked on it and lived in a community for 20 or 25 years, who is now 50 or 52 years of age, and who suddenly finds the plant is sold out from under him, and has gone to another community, which issues tax-exempt bonds that Uncle Sam pays for. If that man is willing to move to the new community, he should have the first shot at any new job he can qualify for.

Mr. PASTORE. If the Senator will yield, as a matter of fact, that is the historic story of the moving, the exodus, of the textile industry out of New England. I mean, concessions were made in other States to which we had been making concessions on this floor time and again because of their low per capita wealth. In every case we gave them the advantage and the consideration because they were the more depressed States and we were happy to do this. Then along with that in those States came special, nontax situations which were attracting textiles to go out of Rhode Island.

When I was Governor of Rhode Island, the gross income of my State was 45 percent from the textile industry. Today it is less than 15 percent.

Mr. President, do you know where those factories are? They are in Alabama, North Carolina, and South Carolina. They are all over the South.

Mr. RIBICOFF. May I ask the Senator at that point, what happened to the workers in Rhode Island who lost their jobs?

Mr. PASTORE. Many of them went on relief.

Mr. SPARKMAN. Mr. President, will the Senator from Connecticut yield right there?

Mr. RIBICOFF. I am pleased to yield.

Mr. SPARKMAN. There is not a single textile plant in the State of Alabama that came down. We have had textile plants from 1830 and we have had them ever since throughout the State. Furthermore, I want to answer the question of the Senator from Rhode Island—he may not remember but JOHN MCCLELLAN remembers and BILL FULBRIGHT remembers, because they were here when we had a terrific fight over trying to equalize freight rates in this country. In those days, they could buy cotton from the South, have it shipped to New England, manufacture it into goods, and then send it to Chicago and sell it there more cheaply than we could in the South, because of freight rates.

Mr. PASTORE. I never resisted that——

Mr. SPARKMAN. I am not saying that the Senator did, but when those freight rates were equalized and made fair, then there was no need to ship cotton to New England or to manufacture it there and ship it back to the South.

Mr. PASTORE. That may be so——

Mr. SPARKMAN. That is the reason the plants came down.

Mr. PASTORE. I am saying that Federal money was used to finance and construct the mills—modern mills——

Mr. SPARKMAN. Not in my State.

Mr. PASTORE. I do not know whether in the Senator's State, but in the South—in the South——

Mr. RIBICOFF. If that is the case, may I make this comment to my colleague. If we say the purpose is not to raid the northern plants then, may I ask, what objection is there to giving priority to the northern worker from the northern plant who has followed his job south? I mean, is there any objection on your part, then, to complying with a request to give priority to that northern worker who has lost his job after 30 years? I would like an answer to that from my Southern colleagues.

Several Senators addressed the Chair.

Mr. RIBICOFF. I yield to the Senator from Georgia.

Mr. GAMBRELL. I am not sure I can answer that question specifically, but I would like to say that I think there is a red herring running loose in this Chamber today, because the tax-exempt financing we are talking about is just as available in Connecticut as it is in Georgia. We are not talking about the matter of concessions to build a textile plant in Georgia, in North Carolina, in South Carolina, or in Alabama. The same financing program can be used to build textile plants in Connecticut or in Rhode Island, and if there is a need to keep jobs in Connecticut or Rhode Island, this plant can be used.

Mr. RIBICOFF. May I say to the distinguished Senator from Georgia that Connecticut does not permit the use of these bonds. Nevertheless, if a northern town took a plant from the South, then the new plant should give priority to the Southern worker who lost his job. This should apply throughout the 50 States.

Mr. PASTORE. Mr. President, I will give you one example. We were

called upon to support the TVA. We supported the TVA. Since they were not paying any taxes to the Federal Government, they were able to give reduced rates to their commercial users. What happened? You would pick up the New York Times or Newsweek and you would find their invitation, "Come to us because electricity is cheaper." This was after we had helped them build the plant at the TVA, and only because they were tax free. In our State,

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because our public utilities are not tax free, they have to pay taxes to the tune of 52 percent of their profits. So that we were losing our mills. So what did we do? We came on the floor of the Senate and developed and financed the TVA and then they used the TVA to take our industries away from us. If that is not pirating, I do not know what pirating is.

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

The yeas and nays were ordered.

Mr. JORDAN of North Carolina. Mr. President, will the Senator yield to me?

Mr. RIBICOFF. The Senator from South Carolina (Mr. HOLLINGS) asked me to yield to him and I would like to do that now and then yield later to the Senator from North Carolina.

Mr. HOLLINGS. Mr. President, my friend from Rhode Island comes on and talks about his concern for the textile mills. Well, he could just as well be talking about Tokyo now. The fact is, the Senator could very well talk about two things: One is about the municipal tax-free bonds—the industrial development bonds. There are no other States developing more industry in the South than the State of South Carolina. Governor Hodges and myself, we never used the new development bonds in bringing industry to our State. We came to the Senator's State of Connecticut and adopted his program of industrial and technical programs and we put those in, but we never used TVA power in South Carolina, either.

The fact is, that is the worst way to run industry away, that is, to take away from the taxing power of a particular community which is going to build a school or wants to provide public facilities. Industry is not coming to southern communities where they have been denuded of their taxing power by giveaways and gimmicks and otherwise. They cannot provide for fine community facilities. They could say, "Here we have good educational facilities," and you are in the wrong key."

Regarding the textile industry, I had the Senator from Maine (Mr. MUSKIE) come down and he could not find it, if it had moved down 10 years before, because it has gone over to Tokyo now.

Mr. RIBICOFF. Will the Senator from Alabama (Mr. SPARKMAN) yield time to some of his colleagues on this colloquy so that I may have a few minutes left for my side? I will be glad to yield to the Senator from North Carolina (Mr. JORDAN) and to the Senator from Arkansas (Mr. MCCLELLAN) on the time of the Senator from Alabama.

Mr. SPARKMAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. BROCK). The Senator from Connecticut has 4 minutes and the Senator from Alabama has 15 minutes.

Mr. SPARKMAN. How many?

The PRESIDING OFFICER. Fifteen minutes.

Mr. RIBICOFF. I have 4 minutes.

Mr. SPARKMAN. Mr. President, the Senator from Alabama has not used any of his time. The Senator from Connecticut yielded to me on this colloquy so that the Senator from Alabama has not used any of his own time yet.

Mr. RIBICOFF. The Senator has 15 minutes remaining.

Mr. SPARKMAN. Oh, was it 15 minutes? I am sorry. I thought we had 20 minutes. Yes, I yield.

Mr. RIBICOFF. If the Senator would please yield some of his time to his colleagues so that I could answer some of their questions.

Mr. SPARKMAN. Yes, I am very pleased to yield—wait a minute—wait a minute——

Mr. RIBICOFF. Go ahead.

Mr. SPARKMAN. I thought the Senator was going to yield some time.

Mr. President, I wonder whether I could say a few words before we continue. I have considerable sympathy with the Senator from Connecticut in his general overall thesis here. He presented a program to the Committee on Banking, Housing and Urban Affairs which was much more comprehensive than this one. When he presented it to me today, I said, "I wish you would wait and let it come on the housing bill and let us see what we can do with it as a part of the housing bill."

Mr. MCCLELLAN. Mr. President, will the Senator from Alabama yield right there?

Mr. SPARKMAN. We are going to act on that in the early part of the new year.

I want to remind the Senator from Rhode Island (Mr. PASTORE) that it is true the TVA is not taxed, as you and I are; but they give more money to the Federal Treasury each year, I suppose, than any taxation on them would amount to. They do not pay on navigation or on flood control and neither does any other part of the country, but they pay on their power. Every dollar's worth of power that they sell they pay into the Treasury.

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

Mr. SPARKMAN. I yield.

Mr. PASTORE. Mr. President, will the Senator deny that in other States they buy TVA power that is tax free and at a much lower rate than the rate in Rhode Island.

Mr. SPARKMAN. They are not tax free since they are required by law to pay into the Treasury a certain amount each year.

Mr. PASTORE. A certain amount that they cannot use.

Mr. SPARKMAN. They are far ahead of the payment schedule.

Mr. President, I yield 2 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 2 minutes.

Mr. JORDAN of North Carolina. Mr. President, we never have used it. We do not get TVA power there. We do not get any of it in North Carolina. They do have some cheaper rates, that is quite true. However, I think the distinguished Senator from South Carolina (Mr. HOLLINGS) hit the nail on the head when he said we had better go to Tokyo, South Korea, Taiwan, and Hong Kong to find out what happened to the plants. American money was spent to accomplish that.

Mr. PASTORE. Mr. President, no one fought harder about the situation that the Senator is talking about than the Senator from Rhode Island. I have been defending the mills in the South. However, we are talking about tax concessions to build plants and, at the same time, taking the work out of other States. Whether it goes into Rhode Island or South Carolina or North Carolina, when this is done, we should give the jobs to the people who have lost jobs because of those concessions. What is wrong with that? It works both ways.

If we in Rhode Island were to take advantage of this market and build a mill and take it out of South Carolina, the workers in South Carolina would have first preference to come to Rhode Island and work in that mill. What is fair for one is fair for the other.

Mr. JORDAN of North Carolina. Is the Senator saying that they have to move or that they have a right to move?

Mr. RIBICOFF. No. My amendment provides that in the event a company uses tax-exempt bonds to move a plant from one section of the country to another, two things must be done. The company must give first priority to the people that had been working in the plant at its previous location.

Mr. JORDAN of North Carolina. Does the Senator mean the worker has to move there?

Mr. RIBICOFF. No. The worker must be given the opportunity to move there if he wants to do so.

Second, if he chooses to move, the community must make arrangement for a sufficient supply of adequate housing so that when a person moves, he will have a decent place in which to live.

Mr. JORDAN of North Carolina. Is the Senator proposing to put him on a pension before he moves?

Mr. RIBICOFF. No. He may, however, be forced to go on welfare if he does not move because his job was shipped out from under by the use of tax exempt industrial development bonds.

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

Mr. SPARKMAN. I yield 2 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 2 minutes.

Mr. AIKEN. Mr. President, Vermont lost its lowest wage industry, the textile industry, some years ago. We have been better off since that textile industry went to other lower-wage States. It has been replaced by electronic and plastic industries and by other high-grade industries until today the average worker in Vermont gets a larger rate of pay and takes home more pay than workers in four of the other New England States. The only reason that he does not get more than the worker in Connecticut is that Connecticut has been so involved in Government contracts and contracts at higher prices that they can continue to pay higher wages. Although at present Connecticut has a much higher level of unemployment.

I will say that Vermont encourages people to come there with their industries. And when an industry moves from Connecticut or any other State to Vermont, their employees have usually come

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with them if they want to. However, up to recently they have not had the opportunity. New industry has now been developed to encourage them to come to Vermont. The latest census shows Vermont to have had a 14-percent increase in population in the last decade.

The State of Vermont pays one-fourth the cost of rural water and sewage programs. That has been a tremendous help in developing rural living and rural industry. It is the only State that does that, so far as I know.

Mr. President, I want to add one other thing. We do not have the TVA in Vermont. However, we have the lowest electric rates of any State in the Northeast. We are, in effect, the yardstick for the Northeast in the electric field.

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

Mr. SPARKMAN. Mr. President, I yield 1 additional minute to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 1 additional minute.

Mr. AIKEN. Mr. President, the monopoly-minded utility boys in the other States around our State do not like that one bit. They are now doing the best they can to make our power

companies fail so that they can take them over.

We are doing all right. One company in southern New England which bought a machine tool business in Vermont and took it over has been losing business to foreign countries so fast that it is not funny. Overall we still have the best wage rates in the Northeast, the lowest power rates, the lowest rate of unemployment, and the most contented men and women that one ever saw.

Mr. SPARKMAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Alabama has 6 minutes remaining.

Mr. SPARKMAN. Mr. President, I yield 1 minute to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 1 minute.

Mr. STENNIS. Mr. President, in addition to the other points that have been mentioned, I know that as a matter of fact, this is, in the first place, a very small tax exemption. It just increases it to $5 million.

Mr. SPARKMAN. Mr. President, it does not change the amount.

Mr. STENNIS. We had a terrible struggle a few years ago to even survive there.

I appreciate the fact that it was set at a certain figure and the Senator from Rhode Island was agreeable to that.

A great deal of this is used to create small, new industries for villages and rural communities that are helping to supply the expanded demand of the economy of the Nation.

With respect to lightbulbs, for instance, the first factory in the South that made lightbulbs was located in Mississippi a few years ago. We have been the purchasers and the consumers for many years. Now through this little effort, we are getting the opportunity to have small industry located there. It benefits those with small incomes. It is a miraculous thing to watch how it works.

I hope the amendment is agreed to.

Mr. SPARKMAN. Mr. President, I yield 2 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 2 minutes.

Mr. FULBRIGHT. Mr. President, the existing law has worked extremely well in my State. Of the plants that I am aware of in my State, the major ones use the domestic raw materials such as the aluminum in the bauxite which is to be found there and the fuel and water transportation.

It appears to me that the amendment is not necessarily to provide housing.

The senior Senator from Arkansas has discussed with me, and we are all aware of the fact, that we face a shortage of housing and that there is unfunded appropriation for housing already. We cannot get the money.

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

Mr. FULBRIGHT. I yield.

Mr. McCLELLAN. Mr. President, in the last 2 fiscal years, 5,178 units have been authorized and funded at a cost of $21,000,000-plus. We have pending applications for 14,028 units.

We had applied for funding in the amount of $96 million. In other words, we were only able to get one-third of what we wanted to get funded. If we want to achieve the objectives of the distinguished Senator from Connecticut, we ought to be given priority to build houses.

Mr. FULBRIGHT. They do not move the plants there. Those plants are indigenous to our local climate and raw materials.

We have only a few textile plants. They did not come from New England. There is one that makes a cer-

tain kind of velveteen. It is a branch of a plant from Virginia. It did not originate in New England.

It appears that the Senator's amendment is designed to prevent the Sparkman amendment from being agreed to.

If he is serious about doing something about housing, which I would support, I do not know why the Senator does not pursue the matter in the regular course with the chairman of the Committee on Housing, who has already stated it would be put in the regular bill carrying the housing authority. I am for the housing bill and I would vote for more money.

We have been under-funded. This money for rural water and sewers, which is very much needed in my State, has been impounded. But there are many implications involved here. The Sparkman amendment is a constructive way to reduce the population trend toward the swelling urban ghettos of the north and to encourage people to live in rural areas. I would guess an insignificant percentage of employees in plants in Arkansas come from other areas.

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

Mr. RIBICOFF. Mr. President, I yield myself 1 minute in order to reply.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. RIBICOFF. If what the Senator from Arkansas states is so, there would be no problem because if they did not take a plant from another section of the country there would be no obligation to give an employee a job.

I am trying to be practical and fair, and so far I have heard nothing to controvert the equity, soundness, and decency of my amendment.

Mr. FULBRIGHT. There is nothing here that says they have to pick up the plant and bodily move it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SPARKMAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. SPARKMAN. I yield 1 minute to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I want to say that in the overall view the amendment to the amendment offered by the distinguished Senator from Connecticut, in my humble judgment, has the effect of making a challenge to the validity for this method of financing.

I believe the ultimate question on the vote is whether we will have industrial development revenue bonds with a tax-free status. I thought we settled that question in the previous session when we had extended debate and agreed on a compromise between unlimited financing of this type and the limitation of $5 billion. I think $5 million is reasonable.

If the Senate were to agree to this amendment to the amendment it would have the practical effect of killing industrial bonds for industrial financing, and I am opposed to it.

Mr. RIBICOFF. Mr. President, I will vote for the Sparkman amendment if my amendment is agreed to. My purpose is to put some social purpose behind the use of tax exempt industrial development bonds.

Mr. PASTORE. I know there is very little time left but I wish to say that is my sentiment too. If the amendment of the Senator from Connecticut is not carried I will vote for the Sparkman amendment. I am not gauging one against the other.

Mr. BAKER. Mr. President, do I have time remaining?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SPARKMAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. SPARKMAN. Mr. President, I shall use that minute for one purpose.

I have read this amendment. I do not see any tie-in with a plant being moved. The only place we have anything about employees with respect to being in some other plant is where it states:

> The community's agreement shall also provide the necessary assurances from the company that any previous employees of the company who might lose their jobs as a result of the new facility shall be given the right of first refusal for the new jobs.

There is nothing there about housing and there is nothing there about plants being reimbursed.

The PRESIDING OFFICER. The Senator's time has expired.

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Mr. RIBICOFF. Mr. President, the answer is in section (B) (1) of my amendment. Section (D) provides that if a company does move as a result of these bonds the first refusal of jobs should be given the employee whose plant was moved out from under him.

That is the substance of my amendment.

The PRESIDING OFFICER: All time has expired on the amendment.

Mr. AIKEN. Mr. President, what amendment is the Senate now going to vote on?

The PRESIDING OFFICER. This is the amendment of the Senator from Connecticut to the amendment of the Senator from Alabama.

Mr. AIKEN. We are voting on the amendment offered by the Senator from Connecticut to the amendment offered by the Senator from Alabama?

The PRESIDING OFFICER. The Senator correctly stated the parliamentary situation.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. ELLENDER), the Senator from Montana (Mr. MANSFIELD), and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) and the Senator from Iowa (Mr. HUGHES) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Montana (Mr. CURTIS), the Senator from Idaho (Mr. JORDAN), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. SAXBE) and the Senator from Alaska (Mr. STEVENS) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are detained on official business.

If present and voting, the Senator from Nebraska (Mr. CURTIS), the Senator from Pennsylvania (Mr. SCOTT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 37, nays 42, as follows:

[No. 333 Leg.]

YEAS—37

Bayh	Hatfield	Nelson
Bible	Hollings	Packwood
Brooke	Inouye	Pastore
Burdick	Javits	Pell
Cannon	Kennedy	Percy
Case	Magnuson	Proxmire
Church	Mathias	Ribicoff
Cranston	McGee	Schweiker
Eagleton	McIntyre	Smith
Gravel	Metcalf	Symington
Griffin	Mondale	Tunney
Hart	Moss	Williams
	Muskie	

NAYS—42

Aiken	Cook	Jordan, N.C.
Allen	Cooper	Long
Anderson	Cotton	McClellan
Baker	Dole	Miller
Beall	Dominick	Pearson
Bellmon	Eastland	Randolph
Bennett	Ervin	Roth
Bentsen	Fannin	Sparkman
Boggs	Fong	Spong
Brock	Fulbright	Stafford
Buckley	Gambrell	Stennis
Byrd, Va.	Gurney	Stevenson
Bryd, W. Va.	Hansen	Taft
Chiles	Hruska	Weicker

NOT VOTING—21

Allott	Humphrey	Saxbe
Curtis	Jackson	Scott
Ellender	Jordan, Idaho	Stevens
Goldwater	Mansfield	Talmadge
Harris	McGovern	Thurmond
Hartke	Montoya	Tower
Hughes	Mundt	Young

So the Ribicoff-Nelson amendment to the Sparkman amendment was rejected.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Alabama (Mr. SPARKMAN).

Mr. SPARKMAN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. 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. BENNETT (after having voted in the negative). Mr. President, on this vote, I have a pair with the Senator from Nebraska (Mr. CURTIS). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. ELLENDER), the Senator from Montana (Mr. MANSFIELD), and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

I further announce that if, present and voting, the Senator from Washington (Mr. JACKSON) and the Senator from Iowa (Mr. HUGHES) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Nebraska (Mr. CURTIS), the Senator from Idaho (Mr. JORDAN), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. SAXBE) and the Senator from Alaska (Mr. STEVENS) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are detained on official business.

If present and voting, the Senator from Texas (Mr. TOWER) would vote "yea."

The pair of the Senator from Nebraska (Mr. CURTIS) has been previously announced.

On this vote, the Senator from South Carolina (Mr. THURMOND) is paired with the Senator from Pennsylvania (Mr. SCOTT). If present and voting, the Senator from South Carolina would vote "yea" and the Senator from Pennsylvania would vote "nay."

The result was announced—yeas 55, nays 23, as follows:

[No. 334 Leg.]

YEAS—55

Aiken	Dominick	Miller
Allen	Eagleton	Mondale
Baker	Eastland	Moss
Bayh	Ervin	Muskie
Beall	Fong	Packwood
Bellmon	Fulbright	Pastore
Bentsen	Gambrell	Pearson
Bible	Gravel	Pell
Boggs	Hansen	Percy
Brock	Hollings	Randolph
Burdick	Hruska	Roth
Byrd, W. Va.	Inouye	Sparkman
Cannon	Jordan, N.C.	Stafford
Chiles	Long	Stennis
Cook	Magnuson	Stevenson
Cooper	McClellan	Symington
Cranston	McGee	Tunney
Dole	McIntyre	Weicker
	Metcalf	

NAYS—23

Anderson	Griffin	Proxmire
Brooke	Gurney	Ribicoff
Buckley	Hart	Schweiker
Byrd, Va.	Hatfield	Smith
Case	Javits	Spong
Church	Kennedy	Taft
Cotton	Mathias	Williams
Fannin	Nelson	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Bennett, against.

NOT VOTING—21

Allott	Humphrey	Saxbe
Curtis	Jackson	Scott
Ellender	Jordan, Idaho	Stevens
Goldwater	Mansfield	Talmadge
Harris	McGovern	Thurmond
Hartke	Montoya	Tower
Hughes	Mundt	Young

So Mr. SPARKMAN'S amendment was agreed to.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG and Mr. RANDOLPH moved to lay the motion on the table.

The motion to lay on the table was agreed to.

[p. S18579]

1.9b(4)(c) Dec. 9: House agreed to conference report, pp. H12114–H12134

[No Relevant Discussion on Pertinent Section]

1.9(4)(d) Dec. 9: Senate agreed to conference report, pp. S21095–S21109

[No Relevant Discussion on Pertinent Section]

1.10 UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

42 U.S.C. §4633 (1971)

SUBCHAPTER I.—GENERAL PROVISIONS

Sec.

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4602. Effect upon property acquisition.

SUBCHAPTER II.—UNIFORM RELOCATION ASSISTANCE

4621. Declaration of policy.
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(c) Displacement from business or farm operation; election of payments; limitations; eligibility for business payments; "average annual net earnings" defined.
4623. Replacement housing for homeowner; mortgage insurance.
4624. Replacement housing for tenants and certain others.
4625. Relocation assistance advisory services.
(a) Program for displaced persons and economically injured occupants of adjacent property.
(b) Cooperation between assisting and displacing agencies to assure maximum assistance.
(c) Measures, facilities, or services; description.
(d) Coordination of relocation activities with project work and governmental actions in the community or nearby areas affecting carrying out relocation assistance programs.
4626. Housing replacement by Federal agency as last resort.
4627. State required to furnish real property incident to Federal assistance (local cooperation).
4628. State acting as agent for Federal program.
4629. Public works programs and projects of District of Columbia government and Washington Metropolitan Area Transit Authority.
4630. Requirements for relocation payments and assistance of Federally assisted program; assurance of availability of housing.
4631. Federal share of costs.
4632. Administration; relocation assistance in programs receiving Federal financial assistance.
4633. Regulations and procedures.
4634. Annual report to President; Presidential report to Congress.
4635. Planning and other preliminary expenses for additional housing.
4636. Payments not to be considered as income for revenue purposes or for eligibility for assistance under Social Security Act or other Federal law.
4637. Displacement by code enforcement, rehabilitation, and demolition programs receiving Federal assistance.
4638. Transfers of surplus property.

SUBCHAPTER III.—UNIFORM REAL PROPERTY ACQUISITION POLICY

Sec.
4651. Uniform policy on real property acquisition practices.
4652. Buildings, structures, and improvements.
4653. Expenses incidental to transfer of title to United States.
4654. Litigation expenses.
4655. Requirements for uniform land acquisition policies; payments of expenses incidental to transfer of real property to State; payment of litigation expenses in certain cases.

SUBCHAPTER I.—GENERAL PROVISIONS

§ 4601. Definitions

As used in this chapter—

(1) The term "Federal agency" means any department, agency, or instrumentality in the executive branch of the Government (except the National Capital Housing Authority), any wholly owned Government corporation (except the District of Columbia Redevelopment Land Agency), and the Architect of the Capitol, the Federal Reserve banks and branches thereof.

(2) The term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the Trust Territory of the Pacific Islands, and any political subdivision thereof.

(3) The term "State agency" means the National Capital Housing Authority, the District of Columbia Redevelopment Land Agency, and any department, agency, or instrumentality of a State or of a political subdivision of a State, or any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States.

(4) The term "Federal financial assistance" means a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance and any annual payment or capital loan to the District of Columbia.

(5) The term "person" means any individual, partnership, corporation, or association.

(6) The term "displaced person" means any person who, on or after January 2, 1971, moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by a Federal agency, or with Federal financial assistance; and solely for the purposes of sec-

tions 4622(a) and (b) and 4625 of this title, as a result of the acquisition of or as the result of the written order of the acquiring agency to vacate other real property, on which such person conducts a business or farm operation, for such program or project.

(7) The term "business" means any lawful activity, excepting a farm operation, conducted primarily—

(A) for the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(B) for the sale of services to the public;

(C) by a nonprofit organization; or

(D) solely for the purposes of section 4622(a) of this title, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(8) The term "farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(9) The term "mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

Pub.L. 91–646, Title I, § 101, Jan. 2, 1971, 84 Stat. 1894.

§ 4602. Effect upon property acquisition

(a) The provisions of section 4651 of this title create no rights or liabilities and shall not affect the validity of any property acquisitions by purchase or condemnation.

(b) Nothing in this chapter shall be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of value or of damage not in existence immediately prior to January 2, 1971.

Pub.L. 91–646, Title I, § 102, Jan. 2, 1971, 84 Stat. 1895.

SUBCHAPTER II.—UNIFORM RELOCATION ASSISTANCE

§ 4621. Declaration of policy

The purpose of this subchapter is to establish a uniform policy for the fair and equitable treatment of persons displaced as a result of Federal and federally assisted programs in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole.
Pub.L. 91–646, Title II, § 201, Jan. 2, 1971, 84 Stat. 1895.

§ 4622. Moving and related expenses—General provision

(a) Whenever the acquisition of real property for a program or project undertaken by a Federal agency in any State will result in the displacement of any person on or after January 2, 1971, the head of such agency shall make a payment to any displaced person, upon proper application as approved by such agency head, for—

(1) actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property;

(2) actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the head of the agency; and

(3) actual reasonable expenses in searching for a replacement business or farm.

Displacement from dwelling; election of payments; moving expense and dislocation allowance

(b) Any displaced person eligible for payments under subsection (a) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (a) of this section may receive a moving expense allowance, determined according to a schedule established by the head of the Federal agency, not to exceed $300; and a dislocation allowance of $200.

Displacement from business or farm operation; election of payments; limitations; eligibility for business payments; "average annual net earnings" defined

(c) Any displaced person eligible for payments under subsection (a) of this section who is displaced from his place of business or from his farm operation and who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section, may receive a fixed payment in an amount equal to the average annual net earnings of the business

or farm operation, except that such payment shall be not less than $2,500 nor more than $10,000. In the case of a business no payment shall be made under this subsection unless the head of the Federal agency is satisfied that the business (1) cannot be relocated without a substantial loss of its existing patronage, and (2) is not a part of a commercial enterprise having at least one other establishment not being acquired by the United States, which is engaged in the same or similar business. For purposes of this subsection, the term "average annual net earnings" means one-half of any net earnings of the business or farm operation, before Federal, State and local income taxes, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, or during such other period as the head of such agency determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period.

Pub.L. 91–646, Title II, § 202, Jan. 2, 1971, 84 Stat. 1895.

§ 4623. Replacement housing for homeowner; mortgage insurance

(a) (1) In addition to payments otherwise authorized by this subchapter, the head of the Federal agency shall make an additional payment not in excess of $15,000 to any displaced person who is displaced from a dwelling actually owned and occupied by such displaced person for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of the property. Such additional payment shall include the following elements:

(A) The amount, if any, which when added to the acquisition cost of the dwelling acquired by the Federal agency, equals the reasonable cost of a comparable replacement dwelling which is a decent, safe, and sanitary dwelling adequate to accommodate such displaced person, reasonably accessible to public services and places of employment and available on the private market. All determinations required to carry out this subparagraph shall be made in accordance with standards established by the head of the Federal agency making the additional payment.

(B) The amount, if any, which will compensate such displaced person for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwell-

ing acquired by the Federal agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

(C) Reasonable expenses incurred by such displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(2) The additional payment authorized by this subsection shall be made only to such a displaced person who purchases and occupies a replacement dwelling which is decent, safe, and sanitary not later than the end of the one year period beginning on the date on which he receives from the Federal agency final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

(b) The head of any Federal agency may, upon application by a mortgagee, insure any mortgage (including advances during construction) on a comparable replacement dwelling executed by a displaced person assisted under this section, which mortgage is eligible for insurance under any Federal law administered by such agency notwithstanding any requirements under such law relating to age, physical condition, or other personal characteristics of eligible mortgagors, and may make commitments for the insurance of such mortgage prior to the date of execution of the mortgage.

Pub.L. 91–646, Title II, § 203, Jan. 2, 1971, 84 Stat. 1896.

§ 4624. Replacement housing for tenants and certain others

In addition to amounts otherwise authorized by this subchapter, the head of the Federal agency shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under section 4623 of this title which dwelling was actually and lawfully occupied by such displaced person for not less than ninety days prior to the initiation of negotiations for acquisition of such dwelling. Such payment shall be either—

(1) the amount necessary to enable such displaced person to lease or rent for a period not to exceed four years, a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, and reasonably accessible to his place of employment, but not to exceed $4,000, or

(2) the amount necessary to enable such person to make a downpayment (including incidental expenses described in section 4623(a) (1) (C) of this title) on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, but not to exceed $4,000, except that if such amount exceeds $2,000, such person must equally match any such amount in excess of $2,000, in making the downpayment.

Pub.L. 91–646, Title II, § 204, Jan. 2, 1971, 84 Stat. 1897.

§ 4625. Relocation assistance advisory services—Program for displaced persons and economically injured occupants of adjacent property

(a) Whenever the acquisition of real property for a program or project undertaken by a Federal agency in any State will result in the displacement of any person on or after January 2, 1971, the head of such agency shall provide a relocation assistance advisory program for displaced persons which shall offer the services described in subsection (c) of this section. If such agency head determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, he may offer such person relocation advisory services under such program.

Cooperation between assisting and displacing agencies to assure maximum assistance

(b) Federal agencies administering programs which may be of assistance to displaced persons covered by this chapter shall cooperate to the maximum extent feasible with the Federal or State agency causing the displacement to assure that such displaced persons receive the maximum assistance available to them.

Measures, facilities, or services; description

(c) Each relocation assistance advisory program required by subsection (a) of this section shall include such measures, facilities, or services as may be necessary or appropriate in order to—

(1) determine the need, if any, of displaced persons, for relocation assistance;

(2) provide current and continuing information on the availability, prices, and rentals, of comparable decent, safe, and sanitary sales and rental housing, end of comparable commercial properties and locations for displaced businesses;

(3) assure that, within a reasonable period of time, prior to displacement there will be available in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary dwellings, as defined by such Federal agency head, equal in number to the number of and available to such displaced persons who require such dwellings and reasonably accessible to their places of employment, except that the head of that Federal agency may prescribe by regulation situations when such assurances may be waived;

(4) assist a displaced person from his business or farm operation in obtaining and becoming established in a suitable replacement location;

(5) supply information concerning Federal and State housing programs, disaster loan programs, and other Federal or State programs offering assistance to displaced persons; and

(6) provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation.

Coordination of relocation activities with project work and governmental actions in the community or nearby areas affecting carrying out relocation assistance programs

(d) The heads of Federal agencies shall coordinate relocation activities with project work, and other planned or proposed governmental actions in the community or nearby areas which may affect the carrying out of relocation assistance programs.

Pub.L. 91–646, Title II, § 205, Jan. 2, 1971, 84 Stat. 1897.

§ 4626. Housing replacement by Federal agency as last resort

(a) If a Federal project cannot proceed to actual construction because comparable replacement sale or rental housing is not available, and the head of the Federal agency determines that such housing cannot otherwise be made available he may take such action as is necessary or appropriate to provide such housing by use of funds authorized for such project.

(b) No person shall be required to move from his dwelling on or

after January 2, 1971, on account of any Federal project, unless the Federal agency head is satisfied that replacement housing, in accordance with section 4625(c) (3) of this title, is available to such person.

Pub.L. 91-646, Title II, § 206, Jan. 2, 1971, 84 Stat. 1898.

§ 4627. State required to furnish real property incident to Federal assistance (local cooperation)

Whenever real property is acquired by a State agency and furnished as a required contribution incident to a Federal program or project, the Federal agency having authority over the program or project may not accept such property unless such State agency has made all payments and provided all assistance and assurances, as are required of a State agency by sections 4630 and 4655 of this title. Such State agency shall pay the cost of such requirements in the same manner and to the same extent as the real property acquired for such project, except that in the case of any real property acquisition or displacement occurring prior to July 1, 1972, such Federal agency shall pay 100 per centum of the first $25,000 of the cost of providing such payments and assistance.

Pub.L. 91-646, Title II, § 207, Jan. 2, 1971, 84 Stat. 1898.

§ 4628. State acting as agent for Federal program

Whenever real property is acquired by a State agency at the request of a Federal agency for a Federal program or project, such acquisition shall, for the purposes of this chapter, be deemed an acquisition by the Federal agency having authority over such program or project.

Pub.L. 91-646, Title II, § 208, Jan. 2, 1971, 84 Stat. 1899.

§ 4629. Public works programs and projects of District of Columbia government and Washington Metropolitan Area Transit Authority

Whenever real property is acquired by the government of the District of Columbia or the Washington Metropolitan Area Transit Authority for a program or project which is not subject to sections 4630 and 4631 of this title, and such acquisition will result in the displacement of any person on or after January 2, 1971, the Commissioner of the District of Columbia or the Washington Metropolitan Area Transit Authority, as the case may be, shall make all relocation payments and provide all assistance required of a Federal agency by this chapter. Whenever real property is acquired for such a program or project on or after January 2, 1971, such Commissioner or Authority, as the case may be, shall

make all payments and meet all requirements prescribed for a Federal agency by subchapter III of this chapter.
Pub.L. 91–646, Title II, § 209, Jan. 2, 1971, 84 Stat. 1899.

§ 4630. Requirements for relocation payments and assistance of Federally assisted program; assurances of availibility of housing

Notwithstanding any other law, the head of a Federal agency shall not approve any grant to, or contract or agreement with, a State agency, under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after January 2, 1971, unless he receives satisfactory assurances from such State agency that—

(1) fair and reasonable relocation payments and assistance shall be provided to or for displaced persons, as are required to be provided by a Federal agency under sections 4622, 4623, and 4624 of this title;

(2) relocation assistance programs offering the services described in section 4625 of this title shall be provided to such displaced persons;

(3) within a reasonable period of time prior to displacement, decent, safe, and sanitary replacement dwellings will be available to displaced persons in accordance with section 4625(c)(3) of this title.

Pub.L. 91–646, Title II, § 210, Jan. 2, 1971, 84 Stat. 1899.

§ 4631. Federal share of costs

(a) The cost to a State agency of providing payments and assistance pursuant to sections 4626, 4630, 4635, and 4655 of this title, shall be included as part of the cost of a program or project for which Federal financial assistance is available to such State agency, and such State agency shall be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other program or project costs, except that, notwithstanding any other law in the case where the Federal financial assistance is by grant or contribution the Federal agency shall pay the full amount of the first $25,000 of the cost to a State agency of providing payments and assistance for a displaced person under sections 4626, 4630, 4635, and 4655 of this title, on account of any acquisition or displacement occurring prior to July 1, 1972, and in any case where such Federal financial assistance is by loan, the Federal agency shall loan such State agency the full amount of the first $25,000 of such cost.

(b) No payment or assistance under section 4630 or 4655 of this

title shall be required or included as a program or project cost under this section, if the displaced person receives a payment required by the State law of eminent domain which is determined by such Federal agency head to have substantially the same purpose and effect as such payment under this section, and to be part of the cost of the program or project for which Federal financial assistance is available.

(c) Any grant to, or contract or agreement with, a State agency executed before January 2, 1971, under which Federal financial assistance is available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after January 2, 1971, shall be amended to include the cost of providing payments and services under sections 4630 and 4655 of this title. If the head of a Federal agency determines that it is necessary for the expeditious completion of a program or project he may advance to the State agency the Federal share of the cost of any payments or assistance by such State agency pursuant to sections 4626, 4630, 4635, and 4655 of this title.

Pub.L. 91–646, Title II, § 211, Jan. 2, 1971, 84 Stat. 1900.

§ 4632. Administration; relocation assistance in programs receiving Federal financial assistance

In order to prevent unnecessary expenses and duplications of functions and to promote uniform and effective administration of relocation assistance programs for displaced persons under sections 4626, 4630, and 4635 of this title, a State agency may enter into contracts with any individual, firm, association, or corporation for services in connection with such programs, or may carry out its functions under this subchapter through any Federal or State governmental agency or instrumentality having an established organization for conducting relocation assistance programs. Such State agency shall, in carrying out the relocation assistance activities described in section 4626 of this title, whenever practicable, utilize the services of State or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities.

Pub.L. 91–646, Title II, § 212, Jan. 2, 1971, 84 Stat. 1900.

§ 4633. Regulations and procedures

(a) In order to promote uniform and effective administration of relocation assistance and land acquisition of State or local housing agencies, or other agencies having programs or projects by Federal agencies or programs or projects by State agencies receiving Federal financial assistance, the heads of Federal agencies shall

consult together on the establishment of regulations and procedures for the implementation of such programs.

(b) The head of each Federal agency is authorized to establish such regulations and procedures as he may determine to be necessary to assure—

(1) that the payments and assistance authorized by this chapter shall be administered in a manner which is fair and reasonable, and as uniform as practicable;

(2) that a displaced person who makes proper application for a payment authorized for such person by this subchapter shall be paid promptly after a move or, in hardship cases, be paid in advance; and

(3) that any person aggrieved by a determination as to eligibility for a payment authorized by this chapter, or the amount of a payment, may have his application reviewed by the head of the Federal agency having authority over the applicable program or project, or in the case of a program or project receiving Federal financial assistance, by the head of the State agency.

(c) The head of each Federal agency may prescribe such other regulations and procedures, consistent with the provisions of this chapter, as he deems necessary or appropriate to carry out this chapter.

Pub.L. 91–646, Title II, § 213, Jan. 2, 1971, 84 Stat. 1900.

§ 4634. Annual report to President; Presidential report to Congress

The head of each Federal agency shall prepare and submit an annual report to the President on the activities of such agency with respect to the programs and policies established or authorized by this chapter, and the President shall submit such reports to the Congress not later than January 15 of each year, beginning January 15, 1972, and ending January 15, 1975, together with his comments or recommendations. Such reports shall give special attention to: (1) the effectiveness of the provisions of this chapter assuring the availability of comparable replacement housing, which is decent, safe, and sanitary, for displaced homeowners and tenants; (2) actions taken by the agency to achieve the objectives of the policies of Congress, declared in this chapter, to provide uniform and equal treatment, to the greatest extent practicable, for all persons displaced by, or having real property taken for, Federal or federally assisted programs; (3) the views of the Federal agency head on the progress made to achieve such objectives

in the various programs conducted or administered by such agency, and among the Federal agencies; (4) any indicated effects of such programs and policies on the public; and (5) any recommendations he may have for further improvements in relocation assistance and land acquisition programs, policies, and implementing laws and regulations.

Pub.L. 91–646, Title II, § 214, Jan. 2, 1971, 84 Stat. 1901.

§ 4635. Planning and other preliminary expenses for additional housing

In order to encourage and facilitate the construction or rehabilitation of housing to meet the needs of displaced persons who are displaced from dwellings because of any Federal or Federal financially assisted project, the head of the Federal agency administering such project is authorized to make loans as a part of the cost of any such project, or to approve loans as a part of the cost of any such project receiving Federal financial assistance, to nonprofit, limited dividend, or cooperative organizations or to public bodies, for necessary and reasonable expenses, prior to construction, for planning and obtaining federally insured mortgage financing for the rehabilitation or construction of housing for such displaced persons. Notwithstanding the preceding sentence, or any other law, such loans shall be available for not to exceed 80 per centum of the reasonable costs expected to be incurred in planning, and in obtaining financing for, such housing, prior to the availability of such financing, including, but not limited to, preliminary surveys and analyses of market needs, preliminary site engineering, preliminary architectural fees, site acquisition, application and mortgage commitment fees, and construction loan fees and discounts. Loans to an organization established for profit shall bear interest at a market rate established by the head of such Federal agency. All other loans shall be without interest. Such Federal agency head shall require repayment of loans made under this section, under such terms and conditions as he may require, upon completion of the project or sooner, and except in the case of a loan to an organization established for profit, may cancel any part or all of a loan if he determines that a permanent loan to finance the rehabilitation or the construction of such housing cannot be obtained in an amount adequate for repayment of such loan. Upon repayment of any such loan, the Federal share of the sum repaid shall be credited to the account from which such loan was made, unless the Secretary of the Treasury determines that such account is no longer in existence, in which case such sums

shall be returned to the Treasury and credited to miscellaneous receipts.
Pub.L. 91–646, Title II, § 215, Jan. 2, 1971, 84 Stat. 1901.

§ 4636. Payments not to be considered as income for revenue purposes or for eligibility for assistance under Social Security Act or other Federal law

No payment received under this subchapter shall be considered as income for the purposes of Title 26; or for the purposes of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal law.
Pub.L. 91–646, Title II, § 216, Jan. 2, 1971, 84 Stat. 1902.

§ 4637. Displacement by code enforcement, rehabilitation, and demolition programs receiving Federal assistance

A person who moves or discontinues his business, or moves other personal property, or moves from his dwelling on or after January 2, 1971, as a direct result of any project or program which receives Federal financial assistance under title I of the Housing Act of 1949, as amended, or as a result of carrying out a comprehensive city demonstration program under title I of the Demonstration Cities and Metropolitan Development Act of 1966 shall, for the purposes of this subchapter, be deemed to have been displaced as the result of the acquisition of real property.
Pub.L. 91–646, Title II, § 217, Jan. 2, 1971, 84 Stat. 1902.

§ 4638. Transfers of surplus property

The Administrator of General Services is authorized to transfer to a State agency for the purpose of providing replacement housing required by this subchapter, any real property surplus to the needs of the United States within the meaning of the Federal Property and Administrative Services Act of 1949, as amended. Such transfer shall be subject to such terms and conditions as the Administrator determines necessary to protect the interests of the United States and may be made without monetary consideration, except that such State agency shall pay to the United States all amounts received by such agency from any sale, lease, or other disposition of such property for such housing.
Pub.L. 91–646, Title II, § 218, Jan. 2, 1971, 84 Stat. 1902.

SUBCHAPTER III.—UNIFORM REAL PROPERTY ACQUISITION POLICY

§ 4651. Uniform policy on real property acquisition practices

In order to encourage and expedite the acquisition of real prop-

erty by agreements with owners, to avoid litigation and relieve congestion in the courts, to assure consistent treatment for owners in the many Federal programs, and to promote public confidence in Federal land acquisition practices, heads of Federal agencies shall, to the greatest extent practicable, be guided by the following policies:

(1) The head of a Federal agency shall make every reasonable effort to acquire expeditiously real property by negotiation.

(2) Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property.

(3) Before the initiation of negotiations for real property, the head of the Federal agency concerned shall establish an amount which he believes to be just compensation therefor and shall make a prompt offer to acquire the property for the full amount so established. In no event shall such amount be less than the agency's approved appraisal of the fair market value of such property. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The head of the Federal agency concerned shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount he established as just compensation. Where appropriate the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

(4) No owner shall be required to surrender possession of real property before the head of the Federal agency concerned pays the agreed purchase price, or deposits with the court in accordance with section 258a of Title 40, for the benefit of the owner, an amount not less than the agency's approved appraisal of the fair market value of such property, or the amount of the award of compensation in the condemnation proceeding for such property.

(5) The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling as required by subchapter II of this chapter will be available), or to move his business or farm operation, without at least ninety days' written

notice from the head of the Federal agency concerned, of the date by which such move is required.

(6) If the head of a Federal agency permits an owner or tenant to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the Government on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(7) In no event shall the head of a Federal agency either advance the time of condemnation, or defer negotiations or condemnation and the deposit of funds in court for the use of the owner, or take any other action coercive in nature, in order to compel an agreement on the price to be paid for the property.

(8) If any interest in real property is to be acquired by exercise of the power of eminent domain, the head of the Federal agency concerned shall institute formal condemnation proceedings. No Federal agency head shall intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

(9) If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the head of the Federal agency concerned shall offer to acquire the entire property.
Pub.L. 91–646, Title III, § 301, Jan. 2, 1971, 84 Stat. 1904.

§ 4652. Buildings, structures, and improvements

(a) Notwithstanding any other provision of law, if the head of a Federal agency acquires any interest in real property in any State, he shall acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property so acquired and which he rejquires to be removed from such real property or which he determines will be adversely affected by the use to which such real property will be put.

(b) (1) For the purpose of determining the just compensation to be paid for any building, structure, or other improvement required to be acquired by subsection (a) of this section, such building, structure, or other improvement shall be deemed to be a part of the real property to be acquired notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove such building, structure, or improvement at the expiration of his term, and the fair market value which such building, structure, or improvement contributes to the fair market value of the real property to be acquired, or the fair market value of such building, structure, or improvement for re-

moval from the real property, whichever is the greater, shall be paid to the tenant therefor.

(2) Payment under this subsection shall not result in duplication of any payments otherwise authorized by law. No such payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any such payment, the tenant shall assign, transfer, and release to the United States all his right, title, and interest in and to such improvements. Nothing in this subsection shall be construed to deprive the tenant of any rights to reject payment under this subsection and to obtain payment for such property interests in accordance with applicable law, other than this subsection.

Pub.L. 91–646, Title III, § 302, Jan. 2, 1971, 84 Stat. 1905.

§ 4653. Expenses incidental to transfer of title to United States

The head of a Federal agency, as soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, shall reimburse the owner, to the extent the head of such agency deems fair and reasonable, for expenses he necessarily incurred for—

(1) recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the United States;

(2) penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property; and

(3) the pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the United States, or the effective date of possession of such real property by the United States, whichever is the earlier.

Pub.L. 91–646, Title III, § 303, Jan. 2, 1971, 84 Stat. 1906.

§ 4654. Litigation expenses

(a) The Federal court having jurisdiction of a proceeding instituted by a Federal agency to acquire real property by condemnation shall award the owner of any right, or title to, or interest in, such real property such sum as will in the opinion of the court reimburse *such owner for his reasonable costs, disbursements, and* expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of the condemnation proceedings, if—

(1) the final judgment is that the Federal agency cannot acquire the real property by condemnation; or

(2) the proceeding is abandoned by the United States.

(b) Any award made pursuant to subsection (a) of this section shall be paid by the head of the Federal agency for whose benefit the condemnation proceedings was instituted.

(c) The court rendering a judgment for the plaintiff in a proceeding brought under section 1346(a) (2) or 1491 of Title 28 awarding compensation for the taking of property by a Federal agency, or the Attorney General effecting a settlement of any such proceeding, shall determine and award or allow to such plaintiff, as a part of such judgment or settlement, such sum as will in the opinion of the court or the Attorney General reimburse such plaintiff for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of such proceeding.

Pub.L. 91–646, Title III, § 304, Jan. 2, 1971, 84 Stat. 1906.

§ 4655. Requirements for uniform land acquisition policies; payments of expenses incidental to transfer of real property to State; payment of litigation expenses in certain cases

Notwithstanding any other law, the head of a Federal agency shall not approve any program or project or any grant to, or contract or agreement with, a State agency under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the acquisition of real property on and after January 2, 1971, unless he receives satisfactory assurances from such State agency that—

(1) in acquiring real property it will be guided, to the greatest extent practicable under State law, by the land acquisition policies in section 4651 of this title and the provisions of section 4652 of this title, and

(2) property owners will be paid or reimbursed for necessary expenses as specified in sections 4653 and 4654 of this title.

Pub.L. 91–646, Title III, § 305, Jan. 2, 1971, 84 Stat. 1906.

1.10a UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

January 2, 1970, P.L. 91-646, §213, 84 Stat. 1900

REGULATIONS AND PROCEDURES

Sec. 213. (a) In order to promote uniform and effective administration of relocation assistance and land acquisition of State or local housing agencies, or other agencies having programs or projects by Federal agencies or programs or projects by State agencies receiving Federal financial assistance, the heads of Federal agencies shall consult together on the establishment of regulations and procedures for the implementation of such programs.

(b) The head of each Federal agency is authorized to establish such regulations and procedures as he may determine to be necessary to assure—

(1) that the payments and assistance authorized by this Act shall be administered in a manner which is fair and reasonable, and as uniform as practicable;

(2) that a displaced person who makes proper application for a payment authorized for such person by this title shall be paid promptly after a move or, in hardship cases, be paid in advance; and

(3) that any person aggrieved by a determination as to eligibility for a payment authorized by this Act, or the amount of a payment, may have his application reviewed by the head of the Federal agency having authority over the applicable program or project, or in the case of a program or project receiving Federal financial assistance, by the head of the State agency.

(c) The head of each Federal agency may prescribe such other regulations and procedures, consistent with the provisions of this Act, as he deems necessary or appropriate to carry out this Act.

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1.10a(1) SENATE COMMITTEE ON GOVERNMENT OPERATIONS

S. REP. No. 91-488, 91st Cong., 1st Sess. (1969)

UNIFORM RELOCATION ASSISTANCE AND LAND ACQUISITION POLICIES ACT OF 1969

OCTOBER 21, 1969.—Ordered to be printed

Mr. MUSKIE, from the Committee on Government Operations, submitted the following

REPORT

[To accompany S. 1]

The committee on Government Operations, to which was referred the bill (S. 1) to provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and federally assisted programs and to establish uniform and equitable land acquisition policies for Federal and federally assisted programs, having considered the same, reports favorably thereon, with amendment, and recommends that the bill, as amended, do pass.

PURPOSE

S. 1, the Uniform Relocation Assistance and Land Acquisition Policies Act of 1969, is designed to provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal or federally assisted programs, and to establish uniform and equitable land acquisition policies for Federal and federally assisted programs.

The accelerating demands for public services of all kinds, and the attendant growth in population, particularly in urban areas, has brought with it the shattering effect of people displaced from their homes, their neighborhoods, and their businesses to make way for public projects.

In its studies and its hearings, the Subcommittee on Intergovernmental Relations demonstrated, the effects of this displacement and the need for fair and reasonable measures of assistance for those being displaced.

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In large part, S. 1 is designed to permit the Federal Government to deal consistently and fairly with all those whose property is taken for public projects and all those who are displaced from their homes and their businesses. It follows as closely as possible the substantive provisions of the Housing and Urban Development Act and the Federal Highway Act, modifying them only as necessary to achieve a system of requirements and aids that can be applied uniformly in all Federal and federally assisted programs.

It gives particular attention to the need for consistency in dealings with property owners and displaced persons. It places responsibility for coordination of all Federal operations under the act in the Executive Office of the President.

The bill further provides that one State or local agency may make relocation payments and provides relocation assistance on behalf of all programs causing displacements in the locality. This will reduce conflict and confusion in the federally aided program areas.

EXPLANATION OF AMENDMENTS

S. 1, as amended, has four titles: "Title I—Definitions," "Title II—Uniform Relocation Assistance," "Title III—Uniform Land Acquisition Policy," and "Title IV—Judicial Review."

Title IV of the amended bill was added by the committee.

The principal changes made by amendment, title by title, are as follows:

* * * * * * *

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TITLE II—UNIFORM RELOCATION ASSISTANCE

S. 1, as introduced, did not provide for comparability of assistance provisions between farm and business operations. Section 211 (c) (1) and (d) (1), as amended, would provide for such comparability of assistance.

In recognition of the problem of small business displacement, the committee added language to section 211 (c) (1) providing for assistance on behalf of the so-called mom-and-pop enterprise.

Section 213, as amended, includes provision of more flexible reimbursement provisions to fit the economic characteristics of different parts of the country, in order to take into account extraordinarily high cost-of-living areas.

As introduced, section 214 provided for fund availability for both Federal and federally assisted programs. This section was

shifted in order to eliminate possible confusion on the intent of the measure to cover both types of programs, and is now section 254.

S. 1, as introduced, did not provide that relocation payments could be made administratively by the head of the Federal agency acquiring real property nor that none of the relocation provisions in any way affected any condemnation action or the just compensation to be determined or payment to the landowner in such action. Accordingly the committee amended the bill to make such provisions by adding a new subsection 211 (h).

In recognition of the fact that relocation assistance might not be available to persons displaced by peculiar sets of circumstance, or who were not otherwise included under the provisions of the bill, the committee added section 233 which is intended to cover such situations.

Thus, section 233 would make eligible for relocation relief residents who and businesses which remained on, or moved to, property after it was acquired by a Federal agency, but left such property on or after January 1, 1969, and before the effective date of the act, providing they remained on the property at least 1 year prior to the date of enactment of the legislation. Such residents and businesses would be covered only where the Federal Government acquired and held the property for at least 5 years prior to the effective date of the act.

All such persons and businesses on the property subsequent to the effective date of the act would be entitled to its benefits if forced to relocate.

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HEARINGS

Public hearings were held by the Senate Subcommittee on Intergovernmental Relations on February 19, 20, 25, 26, and 27, 1969, on S. 1, the proposed Uniform Relocation Assistance and Land Acquisition Policies Act of 1969.

More than 30 witnesses testified, including, among others: U.S. Senators Charles McC. Mathias, and Joseph D. Tydings, both of Maryland, and Frank E. Moss, of Utah; U.S. Representatives Henry B. Gonzalez, 21st Congressional District of Texas, and Edward I. Koch, 17th Congressional District of New York; Phillip S. Hughes, Deputy Director, Bureau of the Budget, accompanied by James M. Frey, Deputy Director, Office of Legislative Reference; William G. Coleman, Executive Director, Advisory Commission on Intergovernmental Relations, accompanied by David B. Walker, Assistant Director (Governmental Structure and Functions);

James L. Martin, assistant director, office of Federal-State relations, National Governors' Conference; Mrs. Gladys N. Spellman, member of the Board of County Commissioners, Prince Georges County, Md., and vice president of the National Association of Counties, accompanied by Jerry Laughlin, legislative assistant, National Association of Counties; Hon. Thomas D'Alesandro, mayor of the city of Baltimore, accompanied by Arthur G. Christensen, acting director for relocation, department of housing and community development; L. Thomas Appleby, vice president for renewal, National Association of Housing & Redevelopment [p. 5]

Officials and president of the United Nations Development Corporation, New York, N.Y., accompanied by Miss Mary K. Nenno, associate director, program policy/research, NAHRO, and Peter R. Reimer, Deputy Director for Operations, Redevelopment Land Agency of Washington, D.C.; Clarence Mitchell, director, Washington bureau, National Association for the Advancement of Colored People, accompanied by Jesse H. Hamilton, chairman of the board of directors of the Frederick Douglass United Community Center, and Anacostia Merchants and Citizens Committee; David K. Hartley, director of institute development, American Institute of Planners; Ross G. Stapp, president, American Association of State Highway Officials, accompanied by A. E. Johnson, executive director; Phillip Tocker, president, Outdoor Advertising Association of America, accompanied by Frank Blake, vice president, and John E. Murray, counsel; Lawson B. Knott, Administrator, General Services Administration, accompanied by Joe E. Moody, Deputy Administrator; Berkeley G. Burrell, president, National Business League, accompanied by Buxton Cooke, associate director of research; Matt Triggs, assistant legislative director, American Farm Bureau; Richard C. Van Dusen, Under Secretary, Department of Housing and Urban Development, accompanied by Sherman Unger, General Counsel; F. C. Turner, Director, Bureau of Public Roads, accompanied by John Jamieson, Acting Federal Highway Administrator; John O'Marra, Assistant Postmaster General Bureau of Facilities, accompanied by David A. Nelson, General Counsel; Woodrow L. Berge, Director of Real Estate, Army Corps of Engineers, accompanied by Loney W. Hart, Chief, Legislative Services, and Roy Markon, Chief, Acquisition Division.

In opening the hearings, Chairman Muskie said:

> We begin hearings on legislation to establish a uniform policy with respect to relocation assistance and land ac-

quisition involving Federal and federally assisted programs.

In my opinion, this is as high priority a measure as stands before the Senate today. There are more than 50 Federal programs which result in the condemning of land and, literally, the bulldozing of hundreds of thousands of people from their homes and businesses each year.

A large number of these people are low-income families. They are the elderly. They are small farmers and small businessmen. Most of their entire lives and economic well-being have centered around the property or neighborhoods which are being uprooted.

We know what we are doing to these people, but what are we doing for them? The record is clear. Nearly all federally assisted programs have differing and conflicting provisions for helping those displaced. They range from no assistance at all in some cases to liberal benefits and protection in others, such as that provided by urban renewal.

The letters that we have received from the displaced persons describing the inequities in this treatment are heart rending.

In a typical hardship neighborhood, people on one side of the street were receiving special relocation assistance and fairly negotiated prices for their land, while on the other, they were being evicted with no assistance and

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compensation, and prices were being offered by Federal authorities at below the appraised value. Up the street an expressway was coming through with a set of moderate benefits and land-taking policies—a situation which has been cleaned up substantially by last year's Federal Aid Highway Act. And in another section of the neighborhood, small businesses were receiving little or no assistance either in relocation or economic adjustment.

The supreme irony of this is the fact that these were problems caused by Federal programs where Federal taxpayer money was involved.

This lack of uniformity only provides irritation and confusion in the communities affected. It provides an un-

fortunate image of the Federal Government at the State and local level. It results in a continuing and annoying conflict between Federal agencies and State and local aid recipients. And it undermines confidence in and support for Government programs.

This problem has been explored in depth by the subcommittee over the past 4 years. Building on the recommendations of the Select Subcommittee on Real Property Acquisition of the House Public Works Committee, a special report of the Advisory Commission on Intergovernmental Relations, and other basic studies in the field, we held hearings in 1965, and reported out S. 1681, which was passed unanimously by the Senate during the 89th Congress.

Hearings were held again in the 90th Congress, and the legislation was improved and strengthened. It was added as a part of S. 698, the Intergovernmental Cooperation Act, which also passed the Senate unanimously.

During the 90th Congress, Congress included in its Highway Act of 1968 a substantial part of the relocation provisions of S. 698, and expanded HUD's relocation authorizations under the Housing Act of 1949.

Although the House passed S. 698, it did not include the relocation and land acquisition sections of the bill because the House Public Works Committee had not completed its consideration of these issues. Nevertheless, the conferees on S. 698 were in agreement on the desirability of congressional action on a uniform relocation and acquisition bill, and recommended that action be taken as soon as possible.

We understand the House Public Works Committee plans hearings and active consideration of such legislation this session.

The present bill is almost identical with the bill which passed the Senate last year. But, because we have a new administration and several new committee members, I thought it would be desirable to conduct hearings prior to subcommittee and committee action in this Congress.

Our primary objective in sponsoring S. 1 is to establish a uniform policy among Federal agencies, and State and local recipients of Federal funds in their dealings

with property owners and others displaced by Federal or federally aided land acquisitions.

The economic and social problems created by the impact of such acquisitions have long been at the top of our country's list of domestic burdens. Various estimates indicate the displacement of over 1 million families, 180,000 businesses, and 40,000 farms over the next 10 years.

Much of this problem will be relieved by the present relocation and acquisition programs of HUD, and the new programs under the Highway Act to which I have referred. But many other agencies and programs still lack any consistency or identity with requirements of these programs.

The result of these inconsistencies has caused serious confusion and hardship, and will continue to do so unless there is a coordination of all Federal and federally assisted operations in the Executive Office of the President.

The uprooting of an individual, his family, his business or farm, and the taking of his land is a very personal matter. We cannot make the process painless, but we can insure fair and even-handed administration, consistent with protection of individual rights and community needs, no matter what agency is involved.

S. 1 seeks to do this in two ways:

First, it provides for relocation payments, advisory assistance, assurance of available relocation housing, and economic adjustments and other assistance to owners, tenants, and others displaced.

Second, it establishes policies to guide all Federal and federally assisted agencies in negotiation with owners for the acquisition of real property for public use.

The testimony of the witnesses was overwhelmingly in support of the objectives of the legislation—produced suggestions for additions and improvements—all of which were thoroughly considered by the committee.

SECTION-BY-SECTION ANALYSIS

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TITLE II—UNIFORM RELOCATION ASSISTANCE

Declaration of policy

Section 201 states that it is the purpose of this title to establish a uniform policy for the fair and equitable treatment of owners, tenants, and other persons displaced by the acquisition of real property in Federal or federally assisted programs to the end that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole. It provides that such a policy shall be uniform as practicable as to relocation payments, advisory assistance, assurance of availability of standard housing, and Federal reimbursement for relocation payments under federally assisted programs.

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States furnishing real property incident to Federal assistance

Section 213 provides that whenever real property is acquired by a State agency and furnished as a required contribution incident to a Federal project to improve a locality, the Federal agency may not accept such property unless the acquiring State agency has made relocation payments, provided relocation assistance, and provided assurance of availability of housing as required in the case of acquisitions of real property by a Federal agency. The State agency shall bear the costs of relocation payments and assistance as a part of the real property acquisition cost, except that the Federal agency having authority over the project shall contribute the first $25,000 of the cost of providing such payments and assistance to any person displaced prior to July 1, 1972. The figure is increased to $27,500 if the displaced person, at the time of displacement, lives in a State which is not contiguous to any other State.

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1.10a(2) HOUSE COMMITTEE ON PUBLIC WORKS

H.R. REP. No. 91-1656, 91st Cong., 2d Sess. (1970)

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

DECEMBER 2, 1970.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. FALLON, from the Committee on Public Works, submitted the following

REPORT

[To accompany S. 1]

The Committee on Public Works, to whom was referred the bill (S. 1) to provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and federally assisted programs and to establish uniform and equitable land acquisition policies for Federal and federally assisted programs, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the matter that appears in italic type in the reported bill.

PURPOSE

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is the culmination of lengthy and extensive efforts to develop legislation establishing a uniform policy for the fair and equitable treatment of persons who are displaced, or have their real property taken for Federal and federally assisted programs. The need for such legislation arises from the increasing impact of Federal and federally assisted programs as such programs have evolved to meet the needs of a growing and increasingly urban population. In a less complex time, Federal and federally assisted public works projects seldom involved major displacements of people. There was relatively little taking of residential or commercial property for farm-to-market routes or for reservoirs or public buildings. Indeed, local support for such projects often

resulted in little, if any, cost for land acquisition or rights-of-way. However, with the growth and development of an economy which is increasingly urban and metropolitan, the demand for public [p. 1]

facilities and services has increasingly centered on such urban areas, and the acquisition of land for such projects has become the most difficult facet of many undertakings by public agencies. Also, a major public project—be it a highway, urban renewal project, or hospital—inevitably involves the acquisition and clearance of sites which now provide residential, commercial, or other services. As the thrust of Federal and federally assisted programs have shifted from rural to urban situations, it became increasingly apparent that the application of traditional concepts of valuation and eminent domain resulted in inequitable treatment for large numbers of people displaced by public action. When applied to densely populated urban areas, with already limited housing, the result can be catastrophic for those whose homes or businesses must give way to public needs. The result far too often has been that a few citizens have been called upon to bear the burden of meeting public needs.

These circumstances have received long and careful examination by committees of the Congress. In October 1961, the House Committee on Public Works established the Select Committee on Real Property Acquisition for the specific purpose of providing a comprehensive appraisal of the impact of Federal and federally assisted programs on displaced persons and property owners. This select subcommittee was chaired by the late Clifford Davis, of Tennessee, whose long experience in legislative affairs made a tremendous contribution to the workings of the subcommittee. The staff report to that subcommittee stands as the most comprehensive and authoritative work on the subject ever undertaken (Committee Print 31, 88th Congress, second session, 1964).

The imperative need for a uniform, fair, and comprehensive program in this area has been further documented in three major surveys. These are: Relocation: Unequal Treatment of People and Businesses Displaced by Governments, by the Advisory Commission on Intergovernmental Relations (January 1965); Housing of Relocated Families—Summary of the Bureau of the Census Survey of Families Recently Displaced from Urban Renewal Sites, by the then Housing and Home Finance Agency, Office of the Administrator (March 1965); and the Highway Relocation Assistance Study, required by section 12, Public Law 89–574, 89th Congress,

second session, prepared by Bureau of Public Roads of the Department of Transportation (July 1967).

In addition, several committees of Congress have held numerous hearings on the subject in an effort to develop a comprehensive Federal policy. A major precedent was established in the Federal-Aid Highway Act of 1968, which provided a far more equitable and just system of relocation payments for both property owners and tenants displaced by federally assisted highway projects. On November 20, 1969, H.R. 14898 was introduced by Chairman Fallon to establish uniform policies for all Federal and federally assisted land acquisition programs. Beginning in December 1969 and continuing into the spring of this year, the committee held extensive hearings and received very helpful testimony from a variety of witnesses with knowledge and experience in this field.

The bill as recommended is necessary to eliminate the great inconsistencies that exist among Federal and federally assisted programs with respect to the amount and scope of payments, other

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assistance provided, and assurance of housing offered. It recognizes that relocation is a serious and growing problem in the United States and that the pace of displacement will accelerate in the years immediately ahead. It recognizes that advisory assistance is of special importance in the relocation process especially for the poor, the nonwhite, the elderly, and people engaged in small business. It recognizes the need for more equitable land acquisition policies in connection with the acquisition of real property for these programs. In short, this legislation recognizes that the Federal Government has a primary responsibility to provide uniform treatment for those forced to relocate by Federal and federally aided public improvement programs and to ease the impact of such forced moves.

This legislation refines and strengthens the basic principles and programs in S. 1, as passed by the Senate. It provides a humanitarian program of relocation payments, advisory assistance, assurance that comparable, decent, safe, and sanitary replacement housing will be available for displaced persons prior to displacement, economic adjustments, and other assistance to owners and tenants displaced from their homes, farms, and places of business. It establishes a uniform policy on real property acquisition practice for all Federal and federally assisted programs. And, perhaps most important of all, it gets to the heart of the dislocation problem by

providing the means for positive action to increase the available housing supply for displaced low and moderate income families and individuals.

Each element of the reported bill is discussed in some detail in the section-by-section explanation that follows in this report.

The committee believes that this bill as reported provides for relief of the economic dislocation which occurs in the acquisition of real property for Federal and federally assisted programs. The tools in the reported bill are adequate to deal with the problem. The Congress, however, can only provide such tools. Their effective use depends upon the attitudes and skill of the officials in the executive branch of the Government responsible for their administration. The principle of adequate housing, for example, will require not only the use of the more liberal financial allowances authorized by the reported bill, but also imagination, ingenuity, and a desire on the part of its administrators to translate this authorization into equitable and satisfactory conditions for the people affected. It is the committee's intention to review the implementation of this legislation periodically with special emphasis on its impact on displaced persons.

This bill, as reported, is reported unanimously. It is a comprehensive effort to provide equitably for all persons affected by Federal or federally assisted programs.

SECTION-BY-SECTION EXPLANATION

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TITLE II—UNIFORM RELOCATION ASSISTANCE

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Section 213. Regulations and procedures

In order to promote uniform and effective administration of relocation assistance and land acquisition programs or projects conducted by Federal agencies or by State agencies with Federal financial assistance, subsection (a) requires the heads of Federal agencies to consult together on the establishment of regulations and procedures for implementing the bill.

Subsections (b) and (c) authorize the heads of Federal agen-

cies to establish regulations and procedures for carrying out the purposes of the bill, including provisions to assure that—

(1) the payments and assistance authorized by the bill shall be administered in a manner which is fair and reasonable, and as uniform as practicable;

(2) a displaced person who makes proper application for a payment authorized for such person by title II shall be paid promptly after a move or, in hardship cases, be paid in advance; and

(3) any person aggrieved by a determination as to eligibility for a payment authorized by the bill, or the amount of a payment, may have his application reviewed by the head of the Federal agency having authority over the applicable program or project, or in the case of a program or project receiving Federal financial assistance, by the head of the State agency.

The Committee believes that this section, together with sections 212, 214, and other provisions of the bill, offers a reasonable means for achieving the Congressional objective to provide a uniform policy that will assure fair and equitable treatment for displaced persons in all Federal and Federal financially assisted programs, without unnecessary interference with the jurisdiction and authority of any Federal agency over programs which it administers, or with present intergovernmental relationships.

The vesting of authority in the heads of each Federal agency provides flexibility for agencies to formulate procedures consistent with their respective programs. Uniformity can and should be accomplished by a coordinated effort among the various agencies.

The Committee anticipates that major program personnel, among others, in the Executive Office of the President will participate in discussions with the Federal agency heads, and that proposed regulations and procedures will be reviewed within that Office, or in cooperation with an advisory group of knowledgeable people representing a variety of interests, before permanent regulations and procedures are issued by the agencies. The Committee expects that interim instructions will, in any event, be issued promptly.

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1.10a(3) CONGRESSIONAL RECORD

1.10a(3)(a) Vol. 115 (1969), Oct. 27: Passed Senate, pp. 31533–31535

UNIFORM RELOCATION ASSISTANCE AND LAND ACQUISITION POLICIES ACT OF 1969

The Senate resumed the consideration of the bill (S. 1) to provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and federally assisted programs and to establish uniform and equitable land acquisition policies for Federal and federally assisted programs.

Mr. MUSKIE. Mr. President, the Uniform Relocation Assistance and Land Acquisition Policies Act of 1969 will establish a uniform policy with respect to relocation assistance and land acquisition involving Federal and federally assisted programs. S. 1 came to the floor of the Senate with the sponsorship of 42 Senators, the endorsement of many public officials throughout the country and the strong support of citizen groups devoted to the public interest. Hearings were held on February 19, 20, 25, 26, and 27, and the bill was approved by the Subcommittee on Intergovernmental Relations on April 16, 1969. Favorable action was taken by the Committee on Government Operations on September 23, 1969.

This is as high priority a measure as stands before the Senate. There are more than 50 Federal programs which result in the condemning of land and quite literally, the bulldozing of hundreds of thousands of people from their homes and businesses annually. Many of these people are low-income families. Many are the elderly. They are small farmers and small businessmen. In most cases, their entire lives and economic and social well-being have centered around the property or neighborhoods which are being uprooted.

This is what we have been doing to them. The question that must be answered is: What are we to do for them?

Here, the record is clear. Nearly all federally assisted programs have differing, if not conflicting, provisions for helping those displaced. They range from no assistance in some cases to liberal benefits and protection in others. This lack of uniformity only provides irritation and confusion, as well as an unfortunate image of the Federal Government at the State and local level. It has served to undermine confidence in and support for many Federal programs.

The problem has been explored thoroughly by the Subcommittee on Intergovernmental Relations over the past 4 years. Building on the recommendation of the Select Subcommittee on Real Property Acquisition of the House Public Works Committee as well as a special report on the problem developed by ACIR, and on other basic studies in the field, legislation was developed and passed unanimously by the Senate during the 89th Congress. Again, during the 90th Congress, the legislation, as part of the Intergovernmental Cooperation Act of 1968, was improved and strengthened and passed by the Senate. At the same time, the Congress included in its Highway Act of 1968, a substantial part of the relocation provision developed through earlier efforts, and expanded HUD's relocation authorizations under the Housing Act of 1949.

Although the House passed the Intergovernmental Cooperation Act, it had not completed its consideration of the issue of relocation and land acquisition. Conferees on the bill were, however, in agreement regarding desirability of congressional action on

the matter and recommended that it be taken up as soon as possible.

I understand that the House Public Works Committee plans hearings and active consideration of this legislation this session.

The primary objective of S. 1 is to establish a uniform policy among Federal agencies, and State and local recipients of Federal funds in their dealing with property owners and others displaced by Federal or federally aided land acquisitions.

Specifically, S. 1, does this in two ways: First, it provides for relocation payments, advisory assistance, assurance of available relocation housing, and economic adjustments and other assistance to owners, tenants and others displaced; and second, it establishes policies to guide all Federal and federally assisted agencies in negotiations with owners for the acquisition of real property for public use.

With regard to relocation assistance, the displaced person is entitled to payments including a moving expense and a dislocation allowance. The individual's need for readjustment allowance is covered by the bill's provision that he receive an amount equal to the average annual net earnings of his business or farm, or $5,000, whichever is less, if the enterprise had net earnings of less than $10,000. For the small farm operator with earnings of less than $1,000 annually, the bill provides payment of $1,000.

For the large number of individuals displaced from their homes, and not eligible for assistance as owners, the bill provides payment up to $1,500. For the owner-occupier, the bill provides for an amount, which when added to the acquisition payment, equals the price required for a decent, safe, and sanitary dwelling.

The bill further provides that the Federal Government will provide the first $25,000 of the cost of providing such payments and assistance to any person displaced prior to July 1, 1972.

Relocation policies of the past have failed to account for the need of advisory assistance for those being displaced by acquisitions for public improvements. The bill would require that steps be taken to assure that the displaced persons receive the maximum help necessary to make the move. These would include the following:

First, determination of the needs of the displaced families, individuals, business concerns, and farm operators for such assistance.

Second, assurance that there will be adequate services in the areas to which the affected persons will move, including utilities, commercial facilities, and housing, as well as accessibility to their places of employment.

Third, assistance to businesses and farm operators in obtaining and becoming established in suitable location.

Fourth, supplying of information concerning FHA home acquisition program benefits, and the small business disaster loan program and other such programs offering assistance to displaced persons.

Fifth, assistance in minimizing hardships incurred as a result of adjusting to dislocation.

Sixth, assurance that the coordination of relocation activities with other governmental actions undertaken in the community or nearby areas will be done.

With regard to uniform land acquisition policies and procedures, the bill sets forth a congressional mandate of 12 provisions which must be followed in the taking of property for Federal purposes. They are as follows:

First. Transactions must be carried out in a manner that will assure that the person whose property is taken is no worse off economically than before the property was taken.

Second. Every reasonable effort must be made to acquire the property at a negotiated price.

Third. Real property must be appraised before the negotiations begin, and the owner is given the opportunity

to accompany the appraiser during his inspection of the property.

Fourth. Before negotiations begin, the Federal agency head involved will establish an amount he believes to be just compensation, but the amount cannot be less than the approved appraised value of the property. This

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provision is intended to assure that the Government will reimburse an owner in an amount which is fair and reasonable, and that its offer will not be less than the appraised value. It is not intended to preclude effective negotiation nor establish a one-price policy.

Fifth. No owner is required to surrender possession of real property before the agency concerned pays the agreed purchase price.

Sixth. Construction will be scheduled to provide the owner/occupant with at least 90 days' notice to move.

Seventh. If the structure is not required, he shall offer to permit its owner to remove it.

Eighth. Those who are permitted to occupy the property on a rental basis for a short term, are to be charged a fair rental value figure.

Ninth. Condemnation time cannot be advanced nor deferred. Every effort must be made to assure that the owner is given reasonable time to negotiate with the agency.

Tenth. No Federal agency shall intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his property.

Eleventh. If only a portion is to be acquired, leaving the unacquired portion without economic use, the Federal agency concerned shall offer to acquire the whole property.

Twelfth. In determining the boundaries of a proposed public improvement, the Federal agency is required to take into account human considerations including the economic and social effects on the owners and tenants of the property in the area.

The testimony of witnesses was overwhelmingly in support of the objectives of the legislation.

The problems created by the impact of such acquisitions have long been one of the Nation's top domestic burdens. Various estimates place the displacement figure, over the next 10 years, in excess of one million people, 180,000 businesses and 40,000 farms. Much of this problem will be covered by the present relocation and acquisition programs of HUD and the new programs authorized under the Highway Act of 1968. Yet, many other agencies and programs still lack consistency as well as identity with requirements of these programs.

The results of these inconsistencies have caused confusion and hardship—often of a very serious nature. They will continue to do so unless there is coordination of all operations.

The uprooting of an individual, his family, his business or farm, and the taking of his land is a very personal matter. We cannot make the process painless, but we can insure fair and evenhanded administration—consistent with protection of individual rights and community needs. To do less is to continue to exact a high price from people who are least able to absorb the burden of these Federal programs.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. MUNDT. Mr. President, I want to associate myself with the remarks of my colleague, the senior Senator from Maine, in support of passage of S. 1. This legislation would provide fair and just treatment for those whose home and businesses are taken for projects of the Federal Government or by State and local govern-

ment with Federal financial assistance.

This bill has one basic purpose and that is to make these people so displaced "economically whole." Our Constitution provides that when property is taken for a public purpose that the owner will receive just compensation. However, when the fair price is paid for the property it does not provide for expenses that are incurred by the owner for being disrupted and in seeking a new location for his home or business. This bill would seek to compensate for these expenses and would seek to establish uniform land acquisition policies in the hope that the Government as buyer and the landowner as seller can arrive at a just price without going into condemnation court.

The effort to provide additional compensation was recognized by Congress when it approved the urban renewal legislation and more recently in the Highway Act of 1968. Our bill seeks to carry the benefit of these two statutes to all Federal and federally assisted land acquisition to provide uniformity of policy so badly needed in this area.

The Senate approved the essential language of S. 1 in both the 89th and 90th Congresses in recognition of this need and I hope it will see fit to do so again today.

Mr. JAVITS. Mr. President, it is a fact, is it not, that this legislation is really a landmark measure, and I ask that with real deference to the Senator from Maine, because so many of us have joined with him so often in legislative matters.

Mr. MUSKIE. It is a landmark measure. And I welcome the opportunity to express my appreciation to the distinguished Senator from New York and all the other cosponsors who have taken a real and active interest in the legislation.

The fact that the measure passed so easily is a reflection of the fact that over the past 3 years a great deal of time and effort has been devoted to it and many committee hearings have been held in which the Senator was involved.

I hope that this year the Senate action will be matched on the House side.

Mr. JAVITS. Mr. President, this matter has been and is of profound importance. It is so difficult for people to understand the structure of the inequities involved here in respect to housing and road construction when we are dealing with the homes of individuals. Under the leadership of the distinguished Senator from Maine (Mr. MUSKIE), this measure has been brought to passage. It is a matter that has been long overdue.

Mr. President, we all owe a debt of gratitude to the distinguished Senator from South Dakota (Mr. MUNDT), the ranking member of the committee.

Mr. MUSKIE. Mr. President, the distinguished Senator from South Dakota (Mr. MUNDT) has taken affirmative, positive, and a cooperative attitude toward the bill during the 3 or 4 years we have studied the measure and has made invaluable contributions to its structure. He has been of great assistance. I have welcomed his help and support over the years.

Mr. JAVITS. Mr. President, I think it is fair for us to express a deep feeling of grievance over the inequities which the bill seeks to cure. I hope very much for that reason that it will find a response in the other body.

The Senator from Maine, the Senator from South Dakota, and I and others will do our utmost in this endeavor.

Mr. President, relating to the so-called outdoor advertising industry amendment, this measure also dealt with moving expenses for billboards. I want to confirm that by collaboration between the majority and minority, the expenses of moving the billboards were limited to what they are really entitled to under the present

Federal law, and that there is no expansion of anything but the concepts established by virtue of codification which is the inheritance from the old bill.

Mr. MUSKIE. The Senator is correct. I know that he has taken a special interest in this problem and with his help, the outdoor advertising business is helped to the extent of making it eligible for actual moving costs and no more. This is the sort of assistance which is available to many displaced businesses.

Mr. JAVITS. Mr. President, I thank the Senator.

Mr. President, I congratulate the Senator from Maine. It has been a longstanding fight. I think that really out of deference to him we ought to move heaven and earth to get this matter enacted into law.

Mr. MUSKIE. I thank the Senator from New York.

THE MOM AND POP AMENDMENT

Mr. TYDINGS. Mr. President, as a cosponsor of S. 1, the Uniform Relocation Assistance and Land Acquisition Policies Act of 1969, I am pleased that the Senate will shortly enact the bill and want to congratulate the junior Senator from Maine for his fine effort on the Intergovernmental Relations Subcommittee in preparing this legislation.

Providing for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal or federally assisted projects is only fair.

The disruptive impact on people as they are displaced is now all too familiar. Hearings held by the subcommittee have illustrated the damaging effects on individuals resulting from displacement. They brought out the confusion and unfairness caused by the basic inadequacy and inconsistency of the measures available to the public agencies to relieve the consequent hardship.

This bill will go a long way toward removing this inconsistency and inadequacy.

Mr. President, of special interest to [p. 31534]

me is the effect of land acquisition, clearance, and relocation of small businesses, particularly those owned by the elderly—such as the "mom and pop" grocery or candy store. The price of progress here in urban renewal is very high. It often means destruction of the livelihood of the small neighborhood storekeeper.

I know of a corner candy store owner in Baltimore who lived in the same location for 40 years. His store was a hub of neighborhood activity, part and parcel of the community. I lived nearby when I was a student at the University of Maryland and often stopped off at the store to chat and buy a newspaper or last-minute groceries.

An urban renewal project was begun in the neighborhood a number of years later, land was acquired and the store owner reimbursed for his property. But the amount was insufficient. The owner was too old to start again. His clientele was gone, his goodwill a thing of the past. He was set adrift at age 65 with little or no future.

I felt that such an individual deserved additional assistance.

I, therefore, offered an amendment which provided a lump-sum payment, in lieu of relocation and moving expenses, equal to three times the average annual net earnings of the business for the last 3 years to be made to a store owner over 50 years of age. This was known as the "mom and pop amendment" and provided for the small business proprietor who could not start over again.

The subcommittee accepted my amendment but changed the payment to twice the annual net earnings, limited the payments to not more than $5,000, and raised the age requirement

to 62. I felt that, while a step in the right direction, this still fell short of what was really needed.

I thus urged the subcommittee at its hearings on February 20 of this year to increase the amount of the possible payment and, at the minimum, to lower the age limitation to 58 years. This would not substantially increase the cost of the program, but would soften significantly the impact of dislocation on our older, small businessmen.

The subcommittee agreed to increase the upper limitation of the payment to not more than $6,000, an increase of $1,000; to allow the payment to be equal to three times the average annual net earnings, as originally provided, rather than twice; and to lower the age requirements from 62 to 60. The amendment, the last sentence in section 211(c)(1) of the bill, now reads:

> Notwithstanding the preceding sentence, in the case of a displaced person who is sixty years of age or over, this payment shall be in an amount equal to three times the average annual net earnings of the business or $6,000, whichever is less.

The subcommittee deserves high marks for this action which demonstrates their continued concern for the Nation's older, small businessman. I am delighted that it has, to a very large extent, accepted my "mom and pop amendment" and want to call this amendment to the attention of my colleagues.

The "mom and pop amendment" will cushion the impact of federally necessitated relocation programs on many of our older citizens and ease the often difficult adjustment period that results. It is completely within the tradition of a government "for the people."

Mr. COOPER. Mr. President, last year when the Senate Committee on Public Works, on which I serve as the ranking minority member, extended the biennial highway authorizations and enacted one of the most constructive measures to be recommended to the Senate during my service on the committee, it included in the Federal-Aid Highway Act of 1968 a title II providing relocation assistance to families, farms and businesses displaced by road construction. The committee, under the leadership of our chairman, the Senator from West Virginia (Mr. RANDOLPH), and largely on the initiative of the Senator from Maine (Mr. MUSKIE), devoted a great deal of attention and the most careful consideration to the provisions of title II, which added a new chapter 5 to title 23 of the United States Code.

I think it fair to say that we considered at that time that this legislation could provide a model for relocation assistance in the programs of other Federal agencies which acquire property in carrying out Federal construction and Federal grant programs. In fact, in my statement of views, which were made a part of the committee report on the Highway Act of 1968, I called attention to the significance of this legislation in these words:

> Of great importance, title II will establish a comprehensive program of relocation assistance designed to assure fair treatment and reasonable help to those individuals, families, farms, and businesses displaced by highway construction projects. I consider these provisions fair, proper, and a great advance in compensating those who are uprooted and dislocated by Federal projects. The Intergovernmental Relations Subcommittee of the Committee on Government Operations has given leadership in this field, and I hope very much that the relocation assistance provided by this bill for the highway programs will be extended to the construction projects of the Corps of Engineers, and to the other Federal agencies.

I also spoke in the Senate in support of this wonderful new program—because I have been interested for many years in securing fair and better treatment for those who are displaced by great dam, highway or other projects, and I have had a good deal of experience with those problems as they have arisen in connection with projects in my own State of Kentucky.

The Senators from Maine and from West Virginia will recall that I suggested at that time that these provisions ought to be extended to Corps of Engineers' projects, which are also under the jurisdiction of the Committee on Public Works.

As I understand, the bill now before the Senate, S. 1, which has come to us from the Committee on Government Operations, would extend to all Federal agencies and programs the land acquisition policy and relocation assistance program first applied to road construction by the 1968 Highway Act —and its purpose is to do so on a uniform basis. While S. 1 technically would repeal title II of the 1968 act, those provisions would be incorporated in this act, and applied to other programs as well as to the Federal-aid highway program.

The States are now implementing the provisions of the 1968 Highway Act, and as its provisions, or the provisions of S. 1 if adopted by the House of Representatives, are put into effect, no doubt some problems may arise, as is usually the case with any new program of such scope. But I hope very much that the experience under the Highway Act will prove helpful. If difficulties arise in applying these principles to highway or civil works projects, I am sure that our committee will want to be helpful.

Providing just compensation, and equitable assistance to those who are displaced, so that their lives are not unduly disrupted by public projects and they are kept "whole" as we say, is not simple or easy. But it is right and necessary, and I have been glad to support this measure. I commend the Senator from Maine, and his colleagues from South Dakota (Mr. MUNDT) and New York (Mr. JAVITS) for what I know was long and careful work in bringing this bill before the Senate for its approval.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment; if there be no further amendment 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, was read the third time, and passed.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD of West Virginia. Mr. President, I move to lay that motion on the table.

The motion was agreed to.

[p. 31535]

1.10a(3)(b) Vol. 116 (1970), Dec. 7: Amended and passed House, pp. 40169–40172

* * * * *

Mr. KYL. Mr. Speaker, I thank the gentleman for yielding. In this bill we talk about some of the inequities that have been forced on individuals by the administrative departments, and I would not want to let this opportunity pass without pointing out some of the injury which the Congress itself imposes in land acquisition propositions when we continually authorize projects of various kinds, such as park and recreation areas, without appropriating funds to implement them, and then literally tying the hands and capabilities of property owners for years, until the Congress—not the administrative agencies—takes care of the proposition.

I think this is a good moment to try to point out that this body is at times —and quite frequently, I add—guilty of doing just that. Therefore, we too, must be conscious of this business of protecting the rights of the individual

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property owners, as well as reminding the administrative departments of their responsibilities.

Mr. EDMONDSON. Mr. Speaker, I thank the gentleman from Iowa for his observations.

Mr. COHELAN. Mr. Speaker, it is with pleasure and satisfaction that I rise today to support S. 1, a bill that will provide uniform and equitable treatment for all persons displaced from their homes, businesses, or farms by a federally assisted project. For many years I have been vitally interested in this type of legislation. Two years ago, I introduced H.R. 386 in the 90th Congress. At that time, I said that several extensive studies including the relocation report of the Advisory Commission on Intergovermental Relations and hearings before House and Senate committees had documented, beyond question, the increasing size in inequities of Government-caused displacement of persons and businesses. The compensation assistance is unequal, inadequate, and causes extraordinary burdens for the elderly, the poor, and our minority citizens.

The situation existing at that time is still with us today but its effect has been magnified. It is estimated that within the next 10 years over 1 million households, 180,000 businesses, and 40,000 farms will be forced to relocate. The burden of this displacement falls most heavily on the elderly, the poor, and the underprivileged groups, which increasingly inhabit our central cities. For them the absence of adequate housing near jobs at prices they can afford is particularly severe.

We must also note that not only does the burden of relocating constitute an extreme hardship to these people but also that most of the relocation takes place in the central city—the very area that these people inhabit. In effect, our Federal and federally assisted urban and rural improvement program commonly presents us with a tragic paradox. We want to improve the lives and surroundings of our people and so we push ahead with urban renewal, mass transit, and highways; yet many of those who need to benefit most from these programs actually suffer the most. With this bill we can do much better.

There, of course, have been relocation assistance programs in operation. These have been conflicting programs, however, and S. 1 gives us the opportunity to establish a uniform Federal standard applicable to all Federal and federally assisted projects. This past year in the 91st Congress, I introduced H.R. 14965. This bill, a uniform relocation measure, was similar to S. 1 but included provisions which would have extended the benefits for those persons displaced primarily from older but substantial and adequate homes. I am very pleased to note that a number of the provisions in H.R. 14965 have been adopted in modified form in the House version of S. 1, which is before us today.

One of the things we must recognize is that under the traditional concepts of eminent domain the value paid on a piece of condemned property is equal to its market value. Very often a property that is sound and adequate is often undervalued due to its location in a semi-industrial zoned area—for instance, in such cases a house may have a legitimate market value of $7,000 to $10,000. This, of course, is far less than what would be needed to purchase a home of comparable size and convenience in another area of the city. Under the bill being considered today, section 203 provides additional payments to cover such circumstances. The authorized supplemental payment will not exceed $15,000 under this measure. While the $15,000 supplemental will not bridge the gap between the eminent domain market value standard and the actual reasonable cost which a displaced home-

owner must pay for a comparable dwelling it goes far in that direction.

I must commend the Committee on Public Works for passing out an exceptional and far-reaching piece of important legislation. And I strongly urge that this measure be accepted by the House.

Mrs. MINK. Mr. Speaker, I rise in support of S. 1, legislation to provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and federally assisted programs and to establish uniform and equitable land acquisition policies for such programs.

My interest in this bill particularly concerns several projects in Hawaii where Federal land is being acquired by the State under federally assisted programs. These are the John Rodgers and Manana veterans housing areas. I am hopeful that this bill will help persons affected by these transactions receive fair and equitable payment and/or relocation assistance.

When the John Rodgers property, formerly owned by the Navy but being acquired by the State for expansion of Honolulu International Airport, is conveyed, the displacing agency will be the State Department of Transportation. The second project involves the sale of land to the Hawaii Housing Authority of 5.5 acres for housing developments and conveyance of the remaining 14.7 acres to the State for low-rent public housing purposes.

This legislation provides a humanitarian program of relocation payments, advisory assistance, assurance that comparable, decent, safe, and sanitary replacement housing will be available for displaced persons prior to displacement, economic adjustments, and other assistance to owners and tenants displaced from their homes, farms, and places of business. The need for such legislation has long been apparent as mushrooming Federal programs have ousted thousands from their homes with no uniform guarantee of proper compensation or treatment.

In view of the importance of this bill to Hawaii and our other States, I strongly urge its adoption.

Mr. JOHNSON of California. Mr. Speaker, some 9 years ago, the House of Representatives established a Select Committee on Real Property Acquisition, chaired by that distinguished gentleman from Tennessee, the late Judge Clifford Davis. I was privileged to serve on that select committee.

Over a period of more than 3 years, the committee traveled throughout the Nation, from the heart of redevelopment areas in Boston to the mountains of California, holding hearings and uncovering vast inequities in the acquisition programs of the various Federal agencies.

We found not only a lack of uniformity among the agencies, but also uncovered serious cases of discrimination and abuse of power by acquisition officials representing the Federal Government. After the committee completed its work in 1965, I introduced an omnibus bill incorporating the numerous recommendations made by the committee in its final report.

Since that first introduction, we have worked on several proposals, refining them, improving them, modifying them until we have before us today the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 which, in the words of House Report 91–1656 is "the culmination of lengthy and extensive efforts to develop legislation establishing a uniform policy for the fair and equitable treatment of persons who are displaced or have their real property taken for Federal and federally assisted programs."

The hearings of the select committee and the reviews subsequently conducted by the Committee on Public Works, headed by its outstanding chairman, the gentleman from Mary-

land (Mr. FALLON) have demonstrated dramatically the urgency for action.

It is always difficult to force an individual to move as we expand hospital, sanitation, transportation, and other public facilities, to serve a growing population. But it is cruel to force those who are suffering personal hardships because of this displacement to suffer economic hardship as well.

The few should not be made to pay unfairly for the progress that will benefit the many. This is not our American way, but has happened, and without an equitable policy for land acquisition, this will continue to occur.

In brief, the legislation before us today provides a humanitarian program of relocation payments, advisory assistance; assurance that comparable, decent, safe, and sanitary replacement housing will be available for displaced persons prior to displacement; economic adjustments, and other assistance to owners and tenants displaced from their homes, farms, and places of business. It establishes a uniform policy on real property acquisition practice for all Federal and federally assisted programs. And, perhaps most important of all, it gets to the heart of the dislocation problem by providing the means for positive action to increase the available housing supply for displaced low- and moderate-income families and individuals.

In conclusion, Mr. Speaker, I would call on my colleagues to give unanimous support to the proposal we have before us today. I urge this not only because it is the fair and proper course of action by which we can protect the rights and interests of those whose property is being acquired for public purposes, but also, Mr. Speaker, because action on this proposal would bring to a successful conclusion a massive and important effort undertaken in recent years by one of the finest men I have served with in this distinguished House of Representatives, our respected and beloved friend, Judge Davis.

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Mr. BROTZMAN. Mr. Speaker, in the 90th Congress I first introduced legislation to make the Government's real property acquisition policies more equitable. While S. 1 does not contain all of the important features contained in the legislation I have sponsored, I believe it materially improves the existing law, and I hope the bill wins speedy approval.

My interest in fairly compensating individuals and businesses forced to vacate their premises so that worthwhile public projects may be erected dates back quite a few years. In the private practice of law, as the U.S. attorney for the district of Colorado, and as a Congressman, I have had occasion to witness the strengths and weaknesses of our current eminent domain laws.

In an effort to improve condemnation proceedings and alleviate hardship on the condemnees, I introduced a three-bill legislative package in both the 90th and 91st Congresses. One of the bills would have provided for a more equitable treatment of persons affected by capital gains caused by the sale of real property through eminent domain proceedings to the Federal Government or for federally assisted projects. The second bill would have amended the Small Business Act to provide assistance for owners and employees of small business concerns displaced or injured by Federal or federally assisted programs. The provisions of these two bills are not now before us, but I would hope that we might have the opportunity to consider them in the 92d Congress.

The third part of my legislative package is largely incorporated in S. 1. The bill provides for moving expenses for displaced persons. In the case of persons displaced from businesses or farms, provision is made for relocation assistance. For homeown-

ers, new relief is included so that condemnees will not be economically worse off as a result of their being forced to move. This program of relocation assistance is urgently needed. When a home or business is condemned, merely tendering the fair market value is insufficient. Experience has shown that there are often additional costs involved if the affected person is to be successfully relocated. If the project is in the public interest, the public ought to be willing to share these additional costs.

Title III of the bill establishes a uniform policy for real property acquisition. The emphasis is on equal treatment for all landowners and the avoidance of litigation. Great care is taken to assure that the Federal Government act to assist displaced families and businesses. While I would have preferred language guaranteeing the accessibility of appraisals to condemnees, I take comfort in the bill's recognition of the pitfalls of the appraisal process. Provision is made for the property owner to accompany the appraiser on his inspection and responsibility is placed on the acquiring agency to determine, in advance of negotiations, an amount which it regards as the fair market value of the property, and to make an offer to the property owner for the full amount so determined. I am also pleased by the recognition that an across-the-board recovery of attorney fees in condemnation proceedings would be an invitation to litigation. Attorney fees would be recoverable only where the court determines that a condemnation was unauthorized, where the Government abandons a condemnation, or where the property owner wins compensation in an inverse condemnation proceeding.

Mr. Speaker, it is too late to assist the citizens who have already had their land taken, but it is not too late to help the nearly 200,000 persons who have their land condemned by the Federal Government each year. In my own district, it is probable that several public works projects will be initiated in the near future, and I would feel safe in predicting that each of the 435 congressional districts will, to some degree, be affected by the land acquisition policies of the Federal Government within the next few years.

In conclusion, Mr. Speaker, I want to congratulate the distinguished members of the Public Works Committee for reporting the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and I urge its adoption.

Mr. BENNETT. Mr. Speaker, I appreciate this opportunity to speak in favor of S. 1, the Uniform Relocation Assistance and Land Acquisition Policies Act. I have legislation which is identical to S. 1, but I do not claim authorship or expertise in developing this bill, which has already passed the Senate. I believe it is a good bill, and I hope the House will promptly pass it.

I have introduced this legislation and testified before the Public Works Committee in part because of a situation which occurred in my hometown of Jacksonville, Fla., last year.

The Public Works Committee in 1966 approved the prospectus for construction of a much needed new postal facility in Jacksonville. In January 1969 the site for the building was selected by the Post Office Department. The 19.4-acre site included several businesses and about 200 families, mostly below the stated poverty level with less than $3,000 annual income.

The displacement of these families was of great concern to me and to Jacksonville city officials. I contacted the Post Office Department to see what relief might be given to these families when their homes would be destroyed and they would be forced to leave their property. The Post Office Department wrote in March 1969:

> We appreciate your concern for these families (in Jacksonville, Florida) and would like to assure you that the Department is keenly

aware of the problem. Our inability to provide for relocation assistance is due to the lack of statutory authority to pay for relocation costs.

As a result, on April 23, 1969, I introduced H.R. 10525, a bill to provide for relocation payments to individuals, families, and business concerns displaced by the construction of a postal facility in Jacksonville, Fla. This bill was referred to the Committee on the Judiciary.

It was my feeling at the time, and it is today, that when any agency of the Federal Government displaces an individual then the Government has an obligation to aid that individual and provide whatever relocation assistance is necessary under the circumstances.

In reporting on my earlier bill, H.R. 10525, the Bureau of the Budget referred to the House Public Works Committee's Select Subcommittee on Real Property Acquisition Report of 1965. The report found that Federal and federally assisted programs for relocation "have fallen short of fairness in the treatment of those displaced by Government programs." The Bureau of the Budget said it believed that comprehensive relocation legislation was needed that would "assure adequate and uniform relocation assistance to all who are displaced when land is acquired for use in all Federal or federally assisted programs." The legislation, which passed the Senate last year, S. 1, was recommended as a broader based bill to cover the problem which we faced in constructing the new Jacksonville postal facility. The General Services Administration also recommended the more uniform legislation contained in S. 1. On January 21, 1970, I introduced H.R. 15479 which is identical to S. 1.

This bill will not directly affect my constituents who were forced to move because of the proposed construction of a new post office building in Jacksonville because the bill will not retroactively include Federal construction projects. I do feel, however, even though I no longer have a parochial interest, the concept of the bill is good and merits passage.

Mr. ANNUNZIO. Mr. Speaker, I rise in support of the Equitable Land Acquisition Policies Act.

This legislation is sorely needed to deal with a problem of increasing complexity and magnitude. I wish to commend the distinguished chairman and members of the Public Works Committee for developing an outstanding measure to introduce equity and uniformity in the treatment of hundreds of thousands of citizens who are dislocated under numerous Federal and federally assisted programs.

As all of us recognize, rapid population growth and technological change make imperative the Federal programs to assist in building and rebuilding our cities, highways, and airports. These programs have been enacted and must go forward for the benefit of our entire society. But they should not impose an undue burden upon those individuals and businesses whose properties have to be acquired to make way for the necessary improvements to benefit the rest of us.

Construction of public improvements frequently takes place in the older sections of our urban areas. Residents and businesses located in such areas are the ones who can least afford to absorb a financial setback occasioned by the need to relocate. They are the poor and the elderly and the small businesses. Many find it difficult or impossible to move from older low-rent areas to newer buildings whose costs and rents reflect the inflation that has taken place over the past several years.

For many businesses, the financial burden of relocation can be so great that they have to close up shop. Employees as well as employers suffer. We can ill afford such shutdowns. When businesses are forced to seek distant relocations, in order to obtain reasonably priced land, some em-

ployees cannot move with the business. Older employees may simply retire. Again, both employees and business owners suffer.

All of you are no doubt aware of examples of dislocation, with resulting suffering and financial loss. There is one in the city of Chicago with which I am most familiar. Hundreds of people who live in my own congressional district and surrounding areas are employed by Edward Don E. Co. This company has been in business for 50 years. It is now being forced to relocate because part of the new Interstate Highway System is being built through the center of our city.

This case can be multiplied a thousandfold. The number of people who will suffer from the effects of Government-sponsored dislocation in their economic and personal activities can literally be counted in the tens of thousands. Unless the Government can provide equal and equitable relief to all who are thus affected, the disillusionment that is abroad in our land will become more and more widespread.

At this time, the unequal treatment of dislocation households, businesses, and farms under different federally supported programs is, in itself, a cause for deep dissatisfaction. The inadequacy of relocation payments under some of the programs is grounds for justifiable resentment by those who are injured.

The provisions of S. 1 would serve to ameliorate the situation. The authorized relocation payments under the different programs would be uniform. There would also be some compensation above the modest moving and dislocation allowances for the small businessman who is dislocated, with special consideration for the elderly displaced businessman who may not be able to start over again in a new location. There is also special consideration for the small farm operator who is dislocated. A payment above the acquisition price would be allowed for homeowners, to offset the effects of inflation and enable them to acquire an adequate home in a suitable location.

Federal agencies which acquire property will also have to provide positive relocation assistance to those who are displaced.

Renters who are displaced from residences will also be eligible to receive assistance payments toward payments of rent in a decent, safe, and sanitary dwelling over the succeeding 2 years.

These and other provisions for financial assistance cannot compensate for the dislocation of lives for persons who must leave neighborhoods in which they had established many personal ties. By providing financial assistance, however, we can allay the economic hardships that are caused by dislocation, we can encourage the continuation of business and employment at new sites and we can minimize the suffering and despair of those who are displaced.

Enactment and implementation of S. 1 will help us greatly in coping with the relocation problem that has been created by Government programs. I strongly urge that all the Members of this body vote to pass this bill.

Mr. KOCH. Mr. Speaker, I would like to note at this time my support for S. 1, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 which we are now considering.

For too long citizens have been subject to differing and often deficient relocation policies. The economic dislocation and hardship for a man losing his home or business is the same whether the federally sponsored project forcing his move falls under the jurisdiction of one agency or another. But to date, the assistance he has been eligible for has varied from none at all to several thousand dollars depending on the sponsoring agency. S. 1

would provide for the uniform and equitable treatment of all persons displaced from their homes, businesses or farms by Federal and federally assisted programs and provide uniform acquisition policies for all these projects.

This legislation is of interest to me in part because shortly after I was elected to Congress in 1968, the first request I had was from a group of citizens who were being displaced from their homes in New York City to make way for a new post office, but were to receive no relocation benefits at all. They further told me that they could not understand why this was since their friends in another part of town who had been similarly displaced to make way for another post office had been given both relocation services and financial assistance. My first reaction to this was that certainly some bureaucratic error had been made. I soon learned, however, that the facts my constituents had were correct—that they were not eligible for assistance because the Post Office Department was undertaking the construction directly while the other post office had been constructed by private enterprise on a leaseback arrangement. The private corporation was subject to the city's relocation requirements; the Federal Government was not. I must say that I felt a little foolish trying to explain that while it was true that a post office was being built in both instances, the Government in this case could not give relocation benefits, while the private company did.

Today's legislation, which I had a hand in drafting, rectifies this situation. It fills the gaps where assistance is not available while providing a single uniform policy for all of the Government's agencies.

During the past 2 years I have worked with the committee on this bill making certain that it would provide equitable benefits to these constituents. A great deal of consideration and time has been given by the committee to this bill to assure the enactment and implementation of a comprehensive and equitable program. I hope it will receive the support of this body.

The SPEAKER. The question is on the motion of the gentleman from Oklahoma (Mr. EDMONDSON), that the House suspend the rules and pass the bill S. 1, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

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[p. 40172]

1.10a(3)(c) Vol. 116 (1970), Dec. 17: Senate agrees to House amendment with an amendment, pp. 42137–42140

Mr. MUSKIE. Mr. President, I think it is appropriate in the closing days of the Congress to finally take up action on the first bill introduced in this Congress, S. 1. It is legislation dealing with the establishment of a uniform policy for the fair and equitable treatment of people who are displaced by Federal and federally supported programs.

The Senate has enacted this legislation twice, once last Congress and once early in this Congress. The House has now acted on it with some amendments in disagreement which we have discussed with the House. The House is unwilling to go to conference. So we have undertaken to work out amendments to which the House will agree so that we can avoid the conference.

That is the substance of the amend-

ments which I have offered on the floor this afternoon.

The principal amendment has to do with the question of judicial review. The Senate bill, as enacted, provided for judicial review. The House struck out that provision.

We are now offering an amendment that will leave the question of review in the existing law.

The distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished Senator from Massachusetts (Mr. KENNEDY) have both been concerned with this issue. The amendment I am offering has met with their agreement and approval.

I think we are ready to move at this point this afternoon.

Mr. ERVIN. Mr. President, will the Senator yield without losing his right to the floor?

Mr. MUSKIE. Mr. President, I yield to the Senator from North Carolina.

Mr. ERVIN. Mr. President, the distinguished Senator from Maine has worked very hard on this bill for several years. As he stated, it has passed the House twice.

The Senator from Maine stated very eloquently when the bill was introduced during the present Congress that the uprooting of an individual, his family, his business or farm, and the taking of his land is a very personal matter. We cannot make the process painless, but we can assure fair and evenhanded—

Mr. BYRD of West Virginia. Mr. President, may we have order in the Chamber? There are too many colloquies taking place. Senators in the rear cannot hear what the Senator from North Carolina is saying. Will the Chair ask Senators to take their seats?

The PRESIDING OFFICER. The Chair requests Senators to take their seats.

Mr. ERVIN. Mr. President, I am quoting the statement made by the distinguished Senator from Maine when he introduced the bill early in this Congress.

He said:

> The uprooting of an individual, his family, his business, or farm, and the taking of his land is a very personal matter. We cannot make the process painless, but we can assure fair and even-handed administration of that process, consistent with the protection of individual rights and community needs, no matter what agency is involved.

Pursuant to the thought thus expressed by the distinguished Senator from Maine on the predecessor of this bill and on the present bill containing the provision, title 4, secured to every person adversely affected and every public agency of a State adversely affected by one of these Federal projects which necessitates the relocation of an individual's home or business, the right to have a judicial review of any rights that might be placed in jeopardy by such action.

The members of the Senate committee which handled this bill have been strongly in favor of expressly securing the right of judicial review to those who are adversely affected by such Federal action having to do with relocation.

I concur in the present position of the Senator from Maine. I believe it is rather essential to have judicial protection of the rights of persons, State agencies, and State subdivisions

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which are dislocated by Federal projects. However, this bill has some very fine provisions to insure their being dealt with justly.

I feel that these provisions have been too long delayed by the failure of the House to follow the action of the Senate in this area.

For this reason I concur, with reluctance, in the motion made by the Senator from Maine.

I point out that it will take some time to implement the provisions of this bill. I believe that there would be ample opportunity for those of us who

are interested in this problem to introduce in the next session of the Congress with at least a reasonable hope of being able to have the House follow our lead on the matter, provisions which will secure the right of judicial review in this connection.

For this reason, I am sure that the Senator from Maine feels as I do about this matter and that he and the Senator from Massachusetts will join me in an amendment to try to supply this omission in the legislation.

Mr. MUSKIE. The Senator is correct. I have asked the staff to prepare the legislation for introduction early in the new Congress. I will promise to hold early hearings so that we can get at this question at an early stage in the next Congress.

I think there is sufficient support on this side so that there will be no difficulty in processing the legislation very quickly.

Mr. ERVIN. Mr. President, with that assurance, I join with the Senator in asking that the Senate take the action he has suggested.

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

Mr. MUSKIE. Mr. President, I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, the Senator from Illinois worked with the distinguished Senator from Maine on this subject. It is certainly legislation that is desired by mayors and Governors throughout the country.

The Senate's will has been frustrated on a number of occasions in the past because the matter has not passed the House.

There are some significant differences between the House-passed version and the Senate-passed version.

I ask unanimous consent that a memorandum prepared analyzing the differences between the House and Senate versions be printed in the RECORD.

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

S. 1, THE UNIFORM RELOCATION ASSISTANCE AND LAND ACQUISITION POLICIES ACT

The House passed their version of S. 1, Monday, December 7. The essential differences between House-Senate versions of the bill are:

MAJOR CHANGES

1. *Judicial Review*—House version strikes Title IV provisions of S. 1. All determinations made by heads of federal agencies regarding relocation/acquisition, are final. Nothing in the bill is to be construed as creating any element of value or damage under condemnation proceedings.

2. *Rules and Regulations for implementation*—The Senate version placed responsibility for preparation and execution with the President. The House version authorizes head of each agency involved with relocation/acquisition to establish regulations and procedures. These, in turn, to be uniform to the maximum extent possible through consultation with heads of other agencies.

The House version requires preparation of an annual report beginning January 15, 1972, and for each year until January 15, 1975, which will detail for the President, and also for the Congress, the effectiveness of the bill, actions taken to achieve Congressional objectives, views on progress made toward such objectives, effects on the public, and recommended changes, improvements, etc. These reports would be the nucleus for additional Congressional action should implementation of the law prove difficult in terms of achieving uniformity and equity.

Comment: (i) *The judicial review* feature included in the Senate version was knocked out because neither Justice nor BOB felt it served any immediately useful purpose. (Excessive litigation and crowded dockets being the reasons.) The House provisions require considerable discretion on the part of the administrator, inasmuch as judicial review could effectively hamstring implementation of any project while the parties sought resolution through the courts, its omission undoubtedly will free the hand of the administrator in his approach to individual cases. (House staff have indicated that if the Senate insists on it being included, the bill will be lost.)

(ii). *The Rules and Regulations* procedures imply substantial good will on the part of the administrators. Where the Senate bill attempts to fix responsibility in the Presidential office, it is left to agency heads to iron out their differences. The Senate version was conceived without consideration of the coordinative role of the newly created Office of Management and Budgeting, which promulgate the necessary procedures under which

agency heads consult and work toward common solutions. The annual report should provide sufficient opportunity for Congressional review and reactions.

OTHER CHANGES

The House bill increases basic moving and dislocation allowances from $200 and $100 to $300 and $200 respectively. In lieu of fixed allowances, the bill provides for payment of "actual" reasonable costs, etc.," not less than $2,500 nor more than $10,000 (up from $5,000 in S. 1). This is based on average annual net earnings. (The House allows computation over either the two previous years, or such other 2-year period as would be determined more equitable, i.e. in cases where the previous two year period was affected by bad business conditions, etc.)

The House bill provides for expanded replacement housing costs through supplemental payment of up to $15,000—to bridge the gap between acquisition payment and actual reasonable cost to reenter the housing market. Replacement housing must be available before displacement. House bill also provides coverage of such items as interest rate differential on mortgages, unpaid debt at time of acquisition, etc., through the $15,000 supplemental payment.

The House bill provides for tenant displacement through a replacement allowance of up to $4,000 necessary to enable lease or rent for a period not to exceed 4 years. Tenant can enter housing market by use of up to $4.000 (matched by his own sum) for making a downpayment.

The House bill provides for expanded relocation assistance services, including determination of needs for assistance, information, assurance in advance of availability, loan programs information, etc.

The House bill provides for housing replacement by the displacing Federal agency as a last resort, including direct construction of new housing, acquisition and rehabilitation of existing housing, relocation of existing housing, and jointly financed projects which could aggregate rental housing requirements into feasible units. Examples include HUD, Agriculture work out programs for construction for low or moderate income families/individuals.

The House version provides for full Federal funding of the first $25,000 (same as in S. 1 except for Hawaii and Alaska), for any acquisition or displacement prior to July 1, 1972. In the case of federally-assisted projects, State can establish a trust fund, using an advance from the Feds (the costs being 100% Federally reimbursable up to $25,000). This would permit States to overcome any legal incapacities with respect to the expending of State funds until such period of full Federal funding expires.

The effective date of the bill is *enactment, except* where a State is unable to comply fully, in which case it becomes effective as soon as the State can comply, and in every case, after July 1, 1972.

The special case of the Murray Hill Post Office Station is taken care of by the bill, and the mandates for a uniform land acquisition policy are included with minor exceptions and changes. The expenses provided for by S. 1 are retained in the House bill, i.e. recording fees, transfer taxes, etc., but, in addition, the House bill will reimburse the owner for litigation expenses within reason.

Mr. PERCY. Mr. President, there are some points of concern that the administration has with respect to this bill. I ask unanimous consent that these differences of opinion that the administration has had with respect to this bill be printed in the RECORD at this point.

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

POINTS OF SIGNIFICANT CONCERN WITH HOUSE-PASSED S. 1, THE PROPOSED RELOCATION AND LAND ACQUISITION POLICIES ACT

I. The following are items in the House bill of particular concern.

a. *Implementing regulations.* The House bill provides in section 213 for the establishment of regulations and procedures by the heads of the various displacing agencies. It thus does not provide, as does the Senate bill, for the assured uniformity that would be provided through Presidential regulations. It also omits provisions requiring centralized determinations with respect to housing availability and standards so as to assure uniformity in handling these matters among different agencies and programs.

b. *Availability of replacement dwellings.* The House bill in section 205(c)(3) weakens the requirement of availability of replacement housing by requiring assurance that suitable replacement dwellings will be available prior to displacement only "to the extent that can reasonably be accomplished." The Committee report states that this limiting phrase is used only "to provide for emergency or other extraordinary situations where immediate possession of real property is of crucial importance." Nevertheless, this phrase is still subject to interpretation by the heads of various displacing agencies. The Senate version is preferable in that it establishes an absolute

requirement that replacement housing be available, subject only to Presidential waiver.

c. *Replacement housing for homeowners.* Although the concept of providing additive payments to assist owner-occupants in obtaining decent, safe and sanitary replacement dwellings is essential, the $15,000 maximum payment proposed in section 203 of the House

[p. 42138]

bill is exorbitant and would create pressure for unnecessarily high costs for public improvements. The limit of $5,000 established in the Senate version is adequate, based upon operating experience, to meet the legitimate cost of assuring suitable replacement housing.

d. *Compensation for increased interest costs.* Section 203(a)(1)(B) would provide a payment to homeowners whose property is mortgaged to compensate them for the increased cost, if any, of obtaining a new mortgage at higher interest rates. This provision would present serious administrative difficulties and could result in substantial windfall payments to homeowners where the new mortgage is not held for the full period for which the homeowner has been compensated. It would also remove the incentive to seek the lowest interest rate mortgage available, and hence would contribute to inflationary pressure.

e. *Mortgage insurance for displacees.* This provision in section 203(b) of the House bill would allow Federal agencies administering mortgage insurance programs to insure mortgages of displacees eligible for assistance under this section without regard to their age, physical condition or other characteristics. This provision would create a new insurance program characterized by limited applicability and high risks. No new insurance fund has been provided to cover this new class of high risk policies. In view of the numerous technical problems which such a program would entail, any decision concerning it should be deferred to consideration in connection with new housing legislation.

f. *Effective date.* Section 221 of the House bill provides that the bill is effective immediately. The Senate bill is preferable in that it provides necessary time for the assignment of responsibility and for the drafting of regulations for direct Federal programs. Time will also be required in order to make adjustments between existing relocation systems and the new system authorized by the legislation.

g. *Interest free loans for housing studies.* Section 215 would authorize the administering Federal agency to make or approve loans to a variety of organizations for the purpose of meeting preliminary expenses of providing replacement housing. Fragmented management and inefficient organization would result from having every agency separately undertaking this type of activity.

h. *Transfer of surplus property.* Section 218 would authorize the Administrator of General Services to transfer surplus property without monetary consideration to State agencies for the purpose of providing replacement housing. While the Congress has authorized special write-downs for land to be used for low cost housing, the 100 percent donation authorized here is excessive and unnecessary because the bill provides adequate reimbursement of expenses.

i. *Displacement by a specific program.* Section 219 contains a special provision for the relief of individuals who have been (or may be) displaced from certain property acquired and held by the Post Office Department in the City of New York. This is special legislation and has no place in general legislation, the major purpose of which is uniformity. This provision should be deleted from the bill, and the subject should be considered separately.

j. *Mortgage penalty costs.* Both the House and Senate versions of S. 1 provide that the head of the acquiring Federal agency shall reimburse the owner for penalty costs for prepayment of preexisting mortgages. The House bill, however, fails to provide that such reimbursement may be made only if such mortgage is on record on the date of the official announcement of the project. Experience has shown this safeguard which is in the Senate bill is workable and necessary.

k. *Instituting formal condemnation proceedings.* Section 301(8) of the House bill provides that if any interest in real property is to be acquired by the exercise of the power of eminent domain, the head of the Federal agency shall institute formal condemnation proceedings. The heads of Federal agencies do not institute such proceedings, except in the case of the Tennessee Valley Authority, where they request the Attorney General to institute such proceedings. This subject is better dealt with in Section 301(a)(10) of the Senate bill.

l. *Litigation expenses.* Section 304(c) would provide that in any action brought against the United States for the recovery of just compensation for the taking of any interest in real property where it is determined that such taking occurred without a tender of compensation to the plaintiff or that the just compensation exceeds the amount tendered before the institution of the action, the United States shall be liable for all the expenses of court costs, including attorneys' fees, appraisal and engineering fees actually incurred. This provision is highly objectionable as it would result in all cases of this type going to court. The usual situation of this type takes place when a Government action inadvertently floods or in some other way takes property which

was not expected to be taken in the project. At the time the Government becomes aware of the fact that it has taken the property, the agency usually makes an offer or seeks funds so that it can buy. If court costs would be reimbursed in every such case, the owner would always sue for a higher amount and no cases would be settled out of court.

II. In addition to the above, there are a number of other items which are major differences of a kind which should warrant a conference.

a. *Judicial review and finality of determinations.* The Senate version of S. 1 would apply the administrative procedure and judicial review provisions of the APA to all determinations under this bill. The House bill omits this and, in addition contains in section 102, a finality of determination provision which would preclude judicial review of *any* determinations under titles II and III, including a preclusion against raising any violation of the proposed Act as a defense in any court.

b. *Definition of displaced person.* The House bill would limit the status of displaced person to those who move as the result of the acquisition of, or written notice to vacate, real property. The Senate version would provide a broader definition which includes those who move as the result of acquisition or reasonable expectation of acquisition.

c. *Construction of replacement housing.* The House version of S. 1 would provide for construction of replacement housing by any displacing Federal agency, if suitable replacement housing cannot otherwise be made available. The Senate bill does not contain a similar authorization.

Mr. PERCY. As I understand it, it would have been far more desirable for us to have perfected this legislation by having a conference. However, the time involved is simply inadequate and the House refused a conference on this particular legislation. The desire of the mayors, Governors, and many branches of the Federal Government is so great that I think the legislation should be enacted at this time, and the two points the House agreed to accept, I think, are good modifications.

I recommend that we now pass this legislation. We must take into account that in the final analysis the decision ultimately has to be made by the White House when legislation comes before the President for signature. There is a possibility the President might veto the legislation, but because of the lateness of the hour I believe this is the best we could do and I recommend that the legislation pass with these amendments.

Mr. MUSKIE. I thank the Senator from Illinois, who has been concerned with this matter from the beginning. There are differences between the view of the Senate and the view of the House, involving modest increases in moving and dislocation expenses, but I think these increases reflect increases in the cost of living that have taken place since the bill was first taken up. I hope the administration will undertake to accept the bill. It has taken us two Congresses to move the legislation to this point. This is important legislation and we should accept it as such and move on from this base which has been so long in establishment.

Mr. COOPER. Mr. President, as a member of the Public Works Committee, I have studied and interested myself over a long period of time with the problems relating to the diverse land acquisition policies of the Federal Government and the need for uniformity.

During this period I was constantly made aware of the efforts of the senior Senator of Alabama to remedy this situation.

Senator SPARKMAN's interest in this matter arose particularly out of his concern for the problems of small businesses and individuals displaced by urban renewal and other Federal and federally assisted projects. These problems had come to his attention as chairman of the Senate Select Committee on Small Business and through his work on the Small Business and Housing Subcommittees of the Banking and Currency Committee.

I believe it would be appropriate to recall the constructive approach of Senator SPARKMAN in his early proposals and his recognition of the problems with which S. 1 deals. To that

end, I ask unanimous consent that the statements he made on January 30, 1961, when he introduced S. 671 be included in the RECORD at this point.

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

COMMISSION TO STUDY COMPENSATION FOR LAND CONDEMNED UNDER FEDERAL PROGRAMS

Mr. SPARKMAN. Mr. President, in recent years the Federal Government has instituted programs under which millions of acres of land have been acquired from private owners. While much of the land has been acquired by purchase, a great deal has been acquired through condemnation proceedings; and in the cases in which voluntary sales were effected, the threat of condemnation proceedings was in the background.

These Federal programs include some in which Federal agencies use the land directly—for example, in the military programs; in other cases, the land is owned by State or local agencies—for example, in most road programs; and, in other cases, the land may be resold for private use—for example, in the urban renewal program. But regardless of these differences in the purpose of the taking or the use to which the land is put, the individual or business dispossessed or otherwise affected by the acquisition suffers the same loss.

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Probably the biggest acquisition program has been that of the military. I am advised that in 1940, the War and Navy Departments used about 2½ million acres of land. By the close of the war, these two Departments had the use of 52 million acres—about equal in size to Kansas or Utah.

By June 30, 1955, the land used for military purposes by the Army, the Navy, the Air Force, and the AEC, amounted to more than 23 million acres—about the size of Indiana, Virginia, Kentucky, or Tennessee. Other Federal programs have acquired or are acquiring substantial amounts of land.

In the urban renewal program under title I of the Housing Act of 1949, the first 400 projects have called for the clearance of about 15,000 acres, not including streets and alleys. Unlike much of the land used for military programs, these 15,000 net acres are located in urban areas, and consist mostly of developed land. The Federal highway programs also call for the acquisition of large areas; including both expensive developed land in cities, and farmland and wasteland outside cities. For the Interstate Highway System, $621 million—of which the Federal share will be $418 million—is authorized for the acquisition of rights-of-way during the fiscal year 1959. Under the regular Federal highway programs, $126 million—of which the Federal share will be $65 million—is authorized for acquisition of rights-of-way during the fiscal year 1959. Other Federal programs, such as the public works programs, involve the acquisition of large areas.

The acquisition of land in this volume is very different from the Federal acquisition of land during the 19th century, or even during the 20th century, up to World War II. The problems created when, under Federal programs, thousands of acres of land are acquired in rural areas, or scores of acres are acquired in developed urban areas, are different, both in kind and in degree, from the problems created in earlier days, when Federal acquisitions of land amounted merely to taking enough land for the construction of a post office, an arsenal, or even an army post. And the problem becomes particularly acute when an urban-renewal project cleans out an entire section of town—the houses, stores, office buildings, movie theaters, banks, churches, and all other structures.

The banking and Currency Committee has heard testimony which has set forth in dramatic detail the problems facing businesses, both large and small, which have been wiped out by urban-renewal projects or by Federal highway projects. Three bills on this subject have been introduced: S. 1340, by Senator HUMPHREY; S. 1351, by Senator BEALL; and S. 1777, by Senator CLARK and Senator JAVITS, which would provide for loans to small business concerns affected by the highway and urban-renewal programs.

The problem, of course, is not limited to small businesses or to these two Federal programs. The problem affects all sizes of business, and it affects all Federal programs under which land is acquired—particularly, of course, when the land acquisitions are very extensive. It was, I think, for this reason that the Banking and Currency Committee did not take action on any of these three bills in connection with either the small business legislation or the housing legislation.

It seems to me the question is a matter of much broader concern, and one which basically goes back to the requirement of the fifth amendment to the Constitution that private property shall not be taken for public use without just compensation.

Over many years, this constitutional requirement has been spelled out in judicial decisions and in statutes within the framework of the constitutional requirement. For the most part, this occurred before acquisitions of land by the Federal Government were substantial or had drastic effects upon wide areas. As I have said, there is a differ-

ence in kind, as well as a difference in degree, between acquiring enough land for a Federal office building, or even acquiring the Federal Triangle, and acquiring a square mile of city land for an urban-renewal project or acquiring a whole valley for the purpose of flooding it in connection with the construction of a dam.

It is because of this change in the nature and the effect of land acquisitions under Federal programs, either by condemnation or under threat of condemnation, that I think it desirable to make a thorough and impartial study of condemnation under Federal programs. This study should be under the highway program, under public works programs, under urban-renewal programs, under military programs, and any other Federal programs. It should also be broad enough to cover all the effects of land acquisition, including its effects on owners, on tenants, and on nearby property and businesses. The study should be made in the broad spirit of the just-compensation provision of the fifth amendment. It should not be limited to a determination of the legal bounds of that provision or of any particular statute. Instead, it should cover the broader subject of the extent to which the cost of Federal programs is paid by individuals or firms whose property is taken or whose property or business is either destroyed or is reduced in value by the taking of neighboring property, and the extent to which it would be feasible and proper to compensate these individuals and firms for the losses they suffer by reason of the Federal program.

Accordingly, I introduce a bill which would establish a bipartisan Federal Commission on Property Condemnation Compensation, to consist of 15 members, 7 to be appointed by the President, 4 to be appointed by the Vice President, and 4 to be appointed by the Speaker. The Commission would make a thorough study of compensation in connection with the condemnation of land, and would file a report with the Congress by December 31, 1961.

In introducing this bill, I do not, of course wish to take the position that any particular judicial awards have been either too high or too low; nor do I wish to take the position that any condemnation statute now on the books needs to be amended. But the testimony, which has been presented to the Banking and Currency Committee, on the effects on individuals and businesses of the widespread land acquisitions under Federal programs convinces me that this matter should be thoroughly reviewed.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 2802) to provide for a comprehensive study of the disposition of claims for just compensation for persons affected by the acquisition of property by the United States or under Federal programs through condemnation proceedings or otherwise, introduced by Mr SPARKMAN, was received, read twice by its title, and referred to the Committee on the Judiciary.

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

The motion was agreed to.

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1.10a(3)(d) Vol. 116 (1970), Dec. 18: House concurs in Senate amendment, pp. 42506–42507

UNIFORM RELOCATION ASSISTANCE AND LAND ACQUISITION POLICIES ACT OF 1969

Mr. EDMONDSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (S. 1) to provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and federally assisted programs and to establish uniform and equitable land acquisition policies for Federal and federally assisted programs, with Senate amendments to the House amendment thereto, and concur in the Senate amendments to the House amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments to the House amendment as follows:

Page 4, of the House engrossed amendment, strike out lines 10 to 17, inclusive, and insert:

"EFFECT UPON PROPERTY ACQUISITION"

Page 4, line 18, of the House engrossed amendment, strike out "(b)" and insert "SEC. 102. (a)".

Page 4, line 21, of the House engrossed amendment, Strike out "(c)" and insert "(b)".

On Page 4, line 24, of the House engrossed amendment, strike out "on" and insert "immediately prior to".

Page 12, lines 1 and 2, of the House engrossed amendment, strike out ", to the extent that can reasonably be accomplished,".

Page 12, line 10, of the House engrossed amendment, after "employment" insert ", except that the head of that Federal agency may prescribe by regulation situations when such assurances may be waived".

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

Mr. DON H. CLAUSEN. Mr. Speaker, reserving the right to object, would the gentleman explain the Senate amendments so that we can have a full understanding of what is taking place?

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

Mr. DON H. CLAUSEN. I am happy to yield to the gentleman from Oklahoma.

Mr. EDMONDSON. The substance of the amendments added to the House bill by the Senate can be stated in about 1 minute.

In the first place, the Senate strikes out language which they thought operated to limit judicial review. They make it quite clear as to any eminent domain or condemnation case that there would be full judicial review afforded. I believe it is agreeable to both sides, insofar as the committee is concerned, to accept this amendment.

They also strike from the House-passed bill the word "on" and substitute "immediately prior to" for clarifying purposes.

They also strike out the phrase "to the extent that can reasonably be accomplished." By that amendment, I believe, they make even more certain the requirement that there be relocation housing available before people are displaced from their homes by a Federal land-taking action.

[p. 42506]

The final amendment is that they add:

Except that the head of that Federal agency may prescribe by regulation situations when such assurances may be waived.

That is to provide for an emergency situation of very critical nature, a defense requirement that was very critical or something of that sort.

I believe the overall effect of the Senate amendments is to make a better bill. I believe the Senate has in that sense clarified a point or two which needed clarification, and I believe the House should concur in the Senate amendments.

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

Mr. DON H. CLAUSEN. I yield to the gentleman from Missouri.

Mr. HALL. I appreciate the gentleman yielding. I want to compliment the managers on the part of the House for bringing up this bill in this manner. In view of their content, strengthening, germaneness, and lack of additional cost, it simply expedites our business.

I agree with both the gentleman from California and the gentleman from Oklahoma who have conferred with me about this. It takes the rights of the individuals who are not "willing sellers" into greater consideration and assures them of proper relocation before the right of eminent domain is enforced on them. This is important in areas where there have been sudden condemnations for additional land rather than using some of the 34 percent of the land acreage of the United States that the Federal Government already has under its control.

I compliment the committee, and I appreciate the gentleman yielding to me.

Mr. DON H. CLAUSEN. Mr. Speaker, I want to make a final comment that this legislation is the culmination of some 7 years of work on

the part of the Committee on Public Works. It has brought about what I think will be one of the most significant pieces of legislation advanced in this Congress. Having served on the original Select Subcommittee on Real Property Acquisition that held hearings prior to the advancement of this bill.

I want it known that we Republican members of the minority support the position taken by the committee unanimously.

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

There was no objection.

The Senate amendments to the House amendment were concurred in.

A motion to reconsider was laid on the table.

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1.11 DEPARTMENTAL REGULATIONS, AS REVISED

5 U.S.C. §301 (1966)

DEPARTMENTAL REGULATIONS

5 § 301. Departmental regulations

The head of an Executive department or military department may prescribe regulations for the government of his deparment, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property. This section does not authorize withholding information from the public or limiting the availability of records to the public. Pub.L. 89–554, Sept. 6, 1966, 80 Stat. 379.

1.11a CODIFICATION OF 5 U.S.C. §301

September 6, 1966, P.L. 89–554, 80 Stat. 379

§ 301. Departmental regulations

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1.11a(1) SENATE COMMITTEE ON THE JUDICIARY

S. REP. No. 1380, 89th Cong., 2d Sess. (1966)

TITLE 5, UNITED STATES CODE, "GOVERNMENT ORGANIZATION AND EMPLOYEES"

JULY 21, 1966.—Ordered to be printed

Mr. ERVIN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 10104]

The Committee on the Judiciary, to which was referred the bill (H.R. 10104), to enact title 5, United States Code, "Government Organization and Employees," codifying the general and permanent laws relating to the organization of the Government of the United States and to its civilian officers and employees, having considered the same, reports favorably thereon, with amendments, and recommends that the bill, H.R. 10104, as amended, do pass.

[p. 1]

STATEMENT

H.R. 10104 was referred to the Subcommittee on Revision and Codification of the Committee on the Judiciary of the U.S. Senate. On September 30, 1965, a notice of the pendency of H.R. 10104 was inserted in the Congressional Record. Briefly, the purpose of this notice was to advise any and all interested parties of the consideration of this legislation by the subcommittee and to request that those interested inform the subcommittee of their interest therein, together with such suggestions or modifications that would from their point of view be reasonable and desirable. In addition thereto, agencies, departments, and committees of the Senate, were advised by writing of the pendency of this legislation and were requested to submit their comments thereon. As the result of such notice and letters many communications were received by the committee. Some of the received reports expressed approval of the legislation while others recommended amendments and modifications to the bill. All of these communications were studied and as a result of the suggestions, numbers of the pro-

posed amendments or modifications were accepted while others were rejected. In many instances where there were rejections, such acts were based upon the fact that the committee deemed that they were unnecessary or constituted a substantive change in existing law which is not within the concept of a codification.

Purpose.—The purpose of this bill is to restate in comprehensive form, without substantive change, the statutes in effect before July 1, 1965, that relate to Government employees, the organization and powers of Federal agencies generally, and administrative procedure, and to enact title 5 of the United States Code. Queries have been raised as to the effect of this bill on laws passed subsequent to July 1, 1965. This bill will in no way affect them. Only those laws existing prior to July 1, 1965, are the subject matter of this bill. The amendatory effect of laws effective on or after July 1, 1965, which will be covered by a supplemental codification bill, is preserved by section 7(a) of the bill. The bill, like any codification, does not constitute a current legislative endorsement of the substantive provisions of statutes in effect before July 1, 1965, some of which are being currently studied by Congress for possible substantive amendment. As stated in the House report (No. 901) on H.R. 10104, in the revised title 5, simple language has been substituted for awkward and obsolete terms, and superseded, executed, and obsolete statutes have been eliminated. This bill is a part of the program of the Committee on the Judiciary of the House of Representatives to enact into law all 50 titles of the United States Code.

History.—The statutes that relate to Government personnel begin with the first statute enacted by Congress (1 Stat. 23). With the growth of the United States and the accompanying growth in the size of the Government's work force and the complexity of their duties, the personnel statutes grew in number and in complexity. Attempts were made periodically to consolidate personnel statutes, but these attempts had only partial success and grew obsolete through the enactment of subsequent statutes. The Commission on Organization of the Executive Branch of the Government (Hoover Commission), in its report on personnel and civil service, February 1955, recommended that the Civil Service Commission prepare and that Congress enact a statute to codify the personnel statutes of the United States (Recommendation 17, pp. 82–83). The need for codification of the statutes relating to personnel has also been recognized by the Committees on Post Office and Civil Service of both Houses, the Bureau of the Budget, and the Civil Service Commission.

In June of 1956, the Civil Service Commission directed its General Counsel, L. V. Meloy, to undertake the recodification of title 5. The recodification effort resulted in two earlier bills, H.R. 8748, 86th Congress, 1st session, which was introduced on August 20, 1959, and H.R. 4158, 88th Congress, 1st session, which was introduced on February 25, 1963. Both bills were circulated among the departments and agencies of the Government and, after receipt, consideration, and adoption of the constructive comments submitted, and incorporation of subsequent legislation, the bill was revised into the form in which it was received by the Senate upon its passage by the House of Representatives.

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Standard changes.—Certain standard changes are made uniformly throughout title 5 as revised. Some of these are explained in chapter 1, "Organization", and chapter 21, "Definitions". The most significant of the other standard changes are explained in the following paragraphs.

As far as possible, the statute is stated in the present tense and in the active voice. Where there is a choice of two or more words, otherwise of equal legal effect, the more commonly understood word is used.

The word "shall" is used in the mandatory and imperative sense. The word "may" is used in the permissive sense, as "is permitted to" and "is authorized to". The words "may not" are used in a prohibitory sense, as "is not authorized to" and "is not permitted to". The words "no individual may" mean that no individual is required, authorized, or permitted to do the act.

The word "includes" means includes but is not limited to. The word "considered" denotes the exercise of judgment. The word "deemed" is used where a legal fiction, or what may in some cases be a legal fiction, is intended. The word "is" is used for statements of fact.

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CHAPTER 3—POWERS

Sec.

301. Departmental regulations.
302. Delegation of authority.
303. Oaths to witnesses.
304. Subpenas.
305. Systematic agency review of operations.

SECTION 301

Derivation:	United States Code	Revised Statutes and Statutes at Large
	5 U.S.C. 22	R.S. § 161. Aug. 12, 1958, Pub. L. 85–619, 72 Stat. 547.

The words "Executive department" are substituted for "department" as the definition of "department" applicable to this section is coextensive with the definition of "Executive department" in section 101. The words "not inconsistent with law" are omitted as surplusage as a regulation which is inconsistent with law is invalid.

The words "or military department" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which provided:

> "All laws, orders, regulations, and other actions relating to the National Military Establishment, the Departments of the Army, the Navy, or the Air Force, or to any officer or activity of such establishment or such departments, shall, except to the extent inconsistent with the provisions of this Act, have the same effect as if this Act had not been enacted; but, after the effective date of this Act, any such law, order, regulation, or other action which vested functions in or otherwise related to any officer, department, or establishment, shall be deemed to have vested such function in or relate to the officer or department, executive or military, succeeding the officer, department, or establishment in which such function was vested. For purposes of this subsection the Department of Defense shall be deemed the department succeeding the National Military Establishment, and the military departments of Army, Navy, and Air Force shall be deemed the depart-

ments succeeding the Executive Departments of Army, Navy, and Air Force."

This section was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, § 201(d), as added Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579 (former 5 U.S.C. 171–1), which provides "Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense" is omitted from this title but is not repealed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

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1.11a(2) CONGRESSIONAL RECORD, VOL. 112 (1966)

1.11a(2)(a) July 25: Amended and passed Senate, p. 17010

[No Relevant Discussion on Pertinent Section]

1.11a(2)(b) Aug. 11: House concurs in Senate amendments, p. 19077

[No Relevant Discussion on Pertinent Section]

1.12 PUBLIC HEALTH SERVICE ACT, AS AMENDED

42 U.S.C. §§ 203, 215, 241, 242, 242b, c, d, f, i, j, 243, 244, 244a, 245, 246, 247, 264 (1970)

§ 203. Organization of Service

The Service shall consist of (1) the Office of the Surgeon General, (2) the National Institutes of Health, (3) the Bureau of Medical Services, and (4) the Bureau of State Services. The Surgeon General is authorized and directed to assign to the Office of the Surgeon General, to the National Institutes of Health, to the Bureau of Medical Services, and to the Bureau of State Services, respectively, the several functions of the Service, and to establish within them such divisions, sections, and other units as he may find necessary; and from time to time abolish, transfer, and consolidate divisions, sections, and other units and assign their functions and personnel in such manner as he may find necessary for efficient operation of the Service. No division shall be established, abolished, or transferred, and no divisions shall be consolidated, except with the approval of the Secretary. The National Institutes of Health shall be administered as a part of the field service. The Surgeon General may delegate to any officer or employee of the Service such of his powers and duties under this chapter except the making of regulations, as he may deem necessary or expedient. July 1, 1944, c. 373, Title II, § 202, 58 Stat. 683; June 16, 1948, c. 481, § 6 (b), 62 Stat. 469; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631.

§ 215. Detail of personnel to governmental departments, States and subdivisions, and certain institutions; payment of salaries and allowances

(a) The Secretary is authorized, upon the request of the head of an executive department, to detail officers or employees of the Service to such department for duty as agreed upon by the Secretary and the head of such department in order to cooperate in, or conduct work related to, the functions of such department or of the Service. When officers or employees are so detailed their salaries and allowances may be paid from working funds established as provided by law or may be paid by the Service from applicable appropriations and reimbursement may be made as agreed upon by the Secretary and the head of the executive department concerned. Officers detailed for duty with the Army, Air Force, Navy or Coast Guard shall be subject to the laws for the government of the service to which detailed.

(b) Upon the request of any State health authority or, in the case of work relating to mental health, any State mental health authority, personnel of the Service may be detailed by the Surgeon General for the purpose of assisting such State or a political subdivision thereof in work related to the functions of the Service.

(c) The Surgeon General may detail personnel of the Service to nonprofit educational, research, or other institutions engaged in health activities for special studies of scientific problems and for the dissemination of information relating to public health.

(d) Personnel detailed under subsections (b) and (c) of this section shall be paid from applicable appropriations of the Service, except that, in accordance with regulations such personnel may be placed on leave without pay and paid by the State, subdivision, or institution to which they are detailed. The services of personnel while detailed pursuant to this section shall be considered as having been performed in the Service for purposes of the computation of basic pay, promotion, retirement, compensation for injury or death, and the benefits provided by section 213 of this title.

July 1, 1944, c. 373, Title II, § 214, 58 Stat. 690; July 3, 1946, c. 538, § 6, 60 Stat. 423; Oct. 12, 1949, c. 681, Title V, § 521 (e), 63 Stat. 835; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. April 11, 1953, 18 F.R. 2053, 67 Stat. 631.

SUBCHAPTER II.—GENERAL POWERS AND DUTIES

Part A.—Research and Investigations

§ 241. Research and investigations generally

The Surgeon General shall conduct in the Service, and encourage, cooperate with, and render assistance to other appropriate public authorities, scientific institutions, and scientists in the conduct of, and promote the coordination of, research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man, including water purification, sewage treatment, and pollution of lakes and streams. In carrying out the foregoing the Surgeon General is authorized to—

(a) Collect and make available through publications and other appropriate means, information as to, and the practical application of, such research and other activities;

(b) Make available research facilities of the Service to appropriate public authorities, and to health officials and scientists engaged in special study;

(c) Establish and maintain research fellowships in the Service with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most brilliant and promising research fellows from the United States and abroad;

(d) Make grants-in-aid to universities, hospitals, laboratories, and other public or private institutions, and to individuals for such research or research training projects as are recommended by the National Advisory Health Council, or, with respect to cancer, recommended by the National Advisory Cancer Council, or, with respect to mental health, recommended by the National Advisory Mental Health Council, or, with respect to heart diseases, recommended by the National Advisory Heart Council, or, with respect to dental disease and conditions, recommended by the National Advisory Dental Research Council; and include in the grants for any such project grants of penicillin and other antibiotic compounds for use in such project; and make, upon recommendation of the National Advisory Health Council, grants-in-aid to public or nonprofit universities, hospitals, laboratories, and other institutions for the general support of their research and research training programs: *Provided,* That such uniform percentage, not to exceed 15 per centum, as the Surgeon General may determine, of the amounts provided for grants for research or research training projects for any fiscal year through the appropriations for the National Institutes of Health may be transferred from such appropriations to a separate account to be available for such research and research training program grants-in-aid for such fiscal year;

(e) Secure from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants from the United States or abroad;

(f) For purposes of study, admit and treat at institutions, hospitals, and stations of the Service, persons not otherwise eligible for such treatment;

(g) Make available, to health officials, scientists, and appropriate public and other nonprofit institutions and organizations, technical advice and assistance on the application of statistical methods to experiments, studies, and surveys in health and medical fields;

(h) Enter into contracts during the fiscal year ending June 30,

1966, and each of the eight succeeding fiscal years, including contracts for research in accordance with and subject to the provisions of law applicable to contracts entered into by the military departments under sections 2353 and 2354 of Title 10, except that determination, approval, and certification required thereby shall be by the Secretary of Health, Education, and Welfare; and

(i) Adopt, upon recommendation of the National Advisory Health Council, or, with respect to cancer, upon recommendation of the National Advisory Cancer Council, or, with respect to mental health, upon recommendation of the National Advisory Mental Health Council, or, with respect to heart diseases, upon recommendation of the National Advisory Heart Council, or, with respect to dental diseases and conditions, upon recommendations of the National Advisory Dental Research Council, such additional means as he deems necessary or appropriate to carry out the purposes of this section.

July 1, 1944, c. 373, Title III, § 301, 58 Stat. 691; July 3, 1946, c. 538, § 7 (a, b), 60 Stat. 423; June 16, 1948, c. 481, § 4 (e, f), 62 Stat. 467; June 24, 1948, c. 621, § 4 (e, f), 62 Stat. 601; June 25, 1948, c. 654, § 1, 62 Stat. 1017; July 3, 1956, c. 510, § 4, 70 Stat. 490; Sept. 15, 1960, Pub.L. 86–798, 74 Stat. 1053; Oct. 17, 1962, Pub.L. 87–838, § 2, 76 Stat. 1073; Aug. 9, 1965, Pub.L. 89–115, § 3, 79 Stat. 448; Dec. 5, 1967, Pub.L. 90–174, § 9, 81 Stat. 540; and amended Oct. 30, 1970, Pub.L. 91–515, Title II, § 292, 84 Stat. 1308.

§ 242b. Research and demonstrations relating to health facilities and services—Grants and contracts for projects for research, experiments, or demonstrations and related training; cost limitation; wage rates, labor standards, and other conditions; payments

(a) (1) The Secretary is authorized—

(A) to make grants to States, political subdivisions, universities, hospitals, and other public or nonprofit private agencies, institutions, or organizations for projects for the conduct of research, experiments, or demonstrations (and related training), and

(B) to make contracts with public or private agencies, institutions, or organizations for the conduct of research, experiments, or demonstrations (and related training), relating to the development, utilization, quality, organization, and

financing of services, facilities, and resources of hospitals, facilities for long-term care, or other medical facilities (including, for purposes of this section, facilities for the mentally retarded, as defined in the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963), agencies, institutions, or organizations or to development of new methods or improvement of existing methods of organization, delivery, or financing of health services, including, among others—

(i) projects for the construction of units of hospitals, facilities for long-term care, or other medical facilities which involve experimental architectural designs or functional layout or use of new materials or new methods of construction, the efficiency of which can be tested and evaluated, or which involve the demonstration of such efficiency, particularly projects which also involve research, experiments, or demonstrations relating to delivery of health services, and

(ii) projects for development and testing of new equipment and systems, including automated equipment, and other new technology systems or concepts for the delivery of health services, and

(iii) projects for research and demonstration in new careers in health manpower and new ways of educating and utilizing health manpower, and

(iv) projects for research, experiments, and demonstrations dealing with the effective combination or coordination of public, private, or combined public-private methods or systems for the delivery of health services at regional, State, or local levels, and

(v) projects for research and demonstrations in the provision of home health services.

(2) Except where the Secretary determines that unusual circumstances make a larger percentage necessary in order to effectuate the purposes of this subsection, a grant or contract under this subsection with respect to any project for construction of a facility or for acquisition of equipment may not provide for payment of more than 50 per centum of so much of the cost of the facility or equipment as the Secretary determines is reasonably attributable to research, experimental, or demonstration purposes. The provisions of clause (5) of the third sentence of section 291e (a) of this title and such other conditions as the Secretary may determine shall apply with respect to grants or contracts under

this subsection for projects for construction of a facility or for acquisition of equipment.

(3) (A) Payments of any grants or under any contracts under this subsection may be made in advance or by way of reimbursement, and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this subsection.

(B) The amounts otherwise payable to any person under a grant or contract made under this subsection shall be reduced by—

(i) amounts equal to the fair market value of any equipment or supplies furnished to such person by the Secretary for the purpose of carrying out the project with respect to which such grant or contract is made, and

(ii) amounts equal to the pay, allowances, traveling expenses, and related personnel expenses attributable to the performance of services by an officer or employee of the Government in connection with such project, if such officer or employee was assigned or detailed by the Secretary to perform such services,

but only if such person requested the Secretary to furnish such equipment or supplies, or such services, as the case may be.

Systems analysis of national health care plans; cost and coverage report on existing legislative proposals

(b) (1) (A) The Secretary shall develop, through utilization of the systems analysis method, plans for health care systems designed adequately to meet the health needs of the American people. For purposes of the preceding sentence, the systems analysis method means the analytical method by which various means of obtaining a desired result or goal is associated with the costs and benefits involved.

(B) The Secretary shall complete the development of the plans referred to in subparagraph (A), within such period as may be necessary to enable him to submit to the Congress not later than September 30, 1971, a report thereon which shall describe each plan so developed in terms of—

(i) the number of people who would be covered under the plan;

(ii) the kind and type of health care which would be covered under the plan;

(iii) the cost involved in carrying out the plan and how such costs would be financed;

(iv) the number of additional physicians and other health care personnel and the number and type of health care facilities needed to enable the plan to become fully effective;

(v) the new and improved methods, if any, of delivery of health care services which would be developed in order to effectuate the plan;

(vi) the accessibility of the benefits of such plan to various socioeconomic classes of persons;

(vii) the relative effectiveness and efficiency of such plan as compared to existing means of financing and delivering health care; and

(viii) the legislative, administrative, and other actions which would be necessary to implement the plan.

(C) In order to assure that the advice and service of experts in the various fields concerned will be obtained in the plans authorized by this paragraph and that the purposes of this paragraph will fully be carried out—

(i) the Secretary shall utilize, whenever appropriate, personnel from the various agencies, bureaus, and other departmental subdivisions of the Department of Health, Education, and Welfare;

(ii) the Secretary is authorized, with the consent of the head of the department or agency involved, to utilize (on a reimbursable basis) the personnel and other resources of other departments and agencies of the Federal Government; and

(iii) the Secretary is authorized to consult with appropriate State or local public agencies, private organizations, and individuals.

(2) (A) The Secretary shall, in accordance with this paragraph, conduct a study of each legislative proposal which is introduced in the Senate or the House of Representatives during the Ninety-first Congress, and which undertakes to establish a national health insurance plan or similar plan designed to meet the needs of health insurance or for health services of all or the overwhelming majority of the people of the United States.

(B) In conducting such study with respect to each such legislative proposal, the Secretary shall evaluate and analyze such proposal with a view to determining—

(i) The costs of carrying out the proposal; and

(ii) the adequacy of the proposal in terms of (I) the portion of the population covered by the proposal, (II) the type

health care provided, paid for, or insured against under the proposal, (III) whether, and if so, to what extent, the proposal provides for the development of new and improved methods for the delivery of health care and services.

(C) Not later than March 31, 1971, the Secretary shall submit to the Congress a report on each legislative proposal which he has been directed to study under this paragraph, together with an analysis and evaluation of such proposal.

Authorization of appropriations

(c) (1) There are authorized to be appropriated for payment of grants or under contracts under subsection (a) of this section, and for purposes of carrying out the provisions of subsection (b) of this section, $71,000,000 for the fiscal year ending June 30, 1971 (of which not less than $2,000,000 shall be available only for purposes of carrying out the provisions of subsection (b)) of this section, $82,000,000 for the fiscal year ending June 30, 1972, and $94,000,000 for the fiscal year ending June 30, 1973.

(2) In addition to the funds authorized to be appropriated under paragraph (1) to carry out the provisions of subsection (b) of this section there are hereby authorized to be appropriated to carry out such provisions for each fiscal year such sums as may be necessary.

July 1, 1944, c. 373, Title III, § 304, as added July 28, 1955, c. 417, § 3, 69 Stat. 382, and amended Aug. 2, 1956, c. 871, Title V, § 502, 70 Stat. 930; Dec. 5, 1967, Pub.L. 90–174, § 3(a), 81 Stat. 534; and amended June 30, 1970, Pub.L. 91–296, Title IV, § 401(b) (1) (A), 84 Stat. 352; Oct. 30, 1970, Pub.L. 91–515, Title II, §§ 201–203, 84 Stat. 1301, 1303.

§ 242c. National health surveys and studies—Determination of extent of illness and disability and related information; development and test of methods for obtaining current data; use and publication of information.

(a) The Surgeon General is authorized (1) to make, by sampling or other appropriate means, surveys and special studies of the population of the United States to determine the extent of illness and disability and related information such as: (A) the number, age, sex, ability to work or engage in other activities, and occupation or activities of persons afflicted with chronic or other disease or injury or handicapping condition; (B) the type of disease or injury or handicapping condition of each person so afflicted; (C) the length of time that each such person has been

prevented from carrying on his occupation or activities; (D) the amounts and types of services received for or because of such conditions; (E) the economic and other impacts of such conditions; (F) health care resources; (G) environmental and social health hazards; and (H) family formation, growth, and dissolution; and (2) in connection therewith, to develop and test new or improved methods for obtaining current data on illness and disability and related information. No information obtained in accordance with this paragraph may be used for any purpose other than the statistical purposes for which it was supplied except pursuant to regulations of the Secretary; nor may any such information be published if the particular establishment or person supplying it is identifiable except with the consent of such establishment or person.

Development of uniform system of health information and statistics

(b) The Secretary is authorized, directly or by contract, to undertake research, development, demonstration, and evaluation, relating to the design and implementation of a cooperative system for producing comparable and uniform health information and statistics at the Federal, State, and local levels.

Publication of results

(c) The Surgeon General is authorized, at appropriate intervals, to make available, through publications and otherwise, to any interested governmental or other public or private agencies, organizations, or groups, or to the public, the results of surveys or studies made pursuant to subsection (a)of this section.

Authorization of appropriations

(d) There are authorized to be appropriated to carry out this section $15,000,000 for the fiscal year ending June 30, 1971, $20,000,000 for the fiscal year ending June 30, 1972, and $25,000,000 for the fiscal year ending June 30, 1973.

Cooperation with other Governmental or State agencies

(e) To assist in carrying out the provisions of this section the Surgeon General is authorized and directed to cooperate and consult with the Departments of Commerce and Labor and any other interested Federal Departments or agencies and with State health departments. For such purpose he shall utilize insofar as possible the services or facilities of any agency of the Federal

Government and, without regard to section 5 of Title 41, of any appropriate State or other public agency, and may, without regard to section 5 of Title 41, utilize the services or facilities of any private agency, organization, group, or individual, in accordance with written agreements between the head of such agency, organization, or group, or such individual, and the Secretary of Health, Education, and Welfare. Payment, if any, for such services or facilities shall be made in such amounts as may be provided in such agreement.

July 1, 1944, c. 373, Title III, § 305, as added July 3, 1956, c. 510, § 3, 70 Stat. 490; and amended Oct. 30, 1970, Pub.L. 91–515, Title II, § 210, 84 Stat. 1303.

§ 242d. Graduate or specialized training for physicians, engineers, nurses, and other professional personnel—Appropriations

(a) There are authorized to be appropriated for the fiscal year ending June 30, 1957, and for each of the next twelve fiscal years, such sums as the Congress may determine, but not to exceed $4,500,000 for the fiscal year ending June 30, 1965, $7,000,000 for the fiscal year ending June 30, 1966, $8,000,000 for the fiscal year ending June 30, 1967, $10,000,000 each for the fiscal year ending June 30, 1968, and the two succeeding fiscal years, $14,000,000 for the fiscal year ending June 30, 1971, $16,000,000 for the fiscal year ending June 30, 1972, and $18,000,000 for the fiscal year ending June 30, 1973, to cover the cost of traineeships for graduate or specialized training in public health for physicians, engineers, nurses, sanitarians, and other professional health personnel.

Awards of traineeships to individuals or institutions

(b) Traineeships under this section may be awarded by the Surgeon General either (1) directly to individuals whose applications for admission have been accepted by the public or other nonprofit institutions providing the training, or (2) through grants to such institutions.

Payments; time; conditions; limitations

(c) Payments under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Surgeon General finds necessary. Such payments to institutions may be used only for traineeships, and payments

under this section with respect to any traineeship shall be limited to such amounts as the Surgeon General finds necessary to cover the cost of tuition and fees, and a stipend and allowances (including travel and subsistence expenses) for the trainee.

Advisory committee; composition and functions

(d) The Surgeon General shall appoint an expert advisory committee, composed of persons representative of the principal health specialties in the fields of public health administration and training, to advise him in connection with the administration of this section and section 242g of this title, including the development of program standards and policies and including, in the case of section 242g of this title, certification to the Surgeon General of projects which it has reviewed and approved.

Conference; representatives; appraisal of traineeships; report and recommendations

(e) The Surgeon General shall, between June 30, 1958, and December 1, 1958, call a conference broadly representative of the professional and training groups interested in and informed about training of professional public health personnel, and including members of the advisory committee appointed pursuant to subsection (d) of this section, to assist him in appraising the effectiveness of the traineeships under this section in meeting the needs for trained public health personnel; in considering modifications in this section, if any, which may be desirable to increase its effectiveness; and in considering the most effective distribution of responsibilities between Federal and State governments with respect to the administration and support of public health training. The Surgeon General shall submit to the Congress, on or before January 1, 1959, a report of such conference, including any recommendations by it relating to the limitation, extension, or modification of this section. The Surgeon General shall, between June 30, 1963, and December 1, 1963, call a similar conference, and shall submit to the Congress, on or before January 1, 1964, a report of such conference, including any recommendations by it relating to the limitation, extension, or modification of this section. The Surgeon General shall, between June 30, 1967, and December 1, 1967, call a similar conference, and shall submit to the Congress, on or before January 1, 1968, a report of such conference, including any recommendations by it relating to the limitation, extension, or modification of this section.

Supervision of personnel or curriculum

(f) Except as otherwise provided in this section, nothing contained in this section shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the personnel or curriculum of any training institution.

July 1, 1944, c. 373, Title III, § 306, as added Aug. 2, 1956, c. 871, Title I, § 101, 70 Stat. 923, and amended July 23, 1959, Pub.L. 86–105, § 1, 73 Stat. 239; Sept. 8, 1960, Pub.L. 86–720, § 1(b), 74 Stat. 820; Aug. 27, 1964, Pub.L. 88–497, § 2, 78 Stat. 613; Aug. 16, 1968, Pub.L. 90–490, Title III, § 302(b), 82 Stat. 789; and amended Mar. 12, 1970, Pub.L. 91–208, § 3, 84 Stat. 52; Oct. 30, 1970, Pub.L. 91–515, Title VI, § 601(b) (2), 84 Stat. 1311.

§ 242f. International cooperation—Use of health research and research training resources

(a) To carry out the purposes of clause (1) of section 2101 of Title 22, the Surgeon General may, in the exercise of his authority under this chapter and other provisions of law to conduct and support health research and research training, make such use of health research and research training resources in participating foreign countries as he may deem necessary and desirable.

Fellowships; equipment; meetings and conferences; interchange of scientists and experts; consultants; compensation and travel expenses

(b) In carrying out his responsibilities under this section the Surgeon General may—

(1) establish and maintain fellowships in the United States and in participating foreign countries;

(2) make grants to public institutions or agencies and to nonprofit private institutions or agencies in the United States and in participating foreign countries for the purpose of establishing and maintaining fellowships;

(3) make grants or loans of equipment, medical, biological, physical, or chemical substances or other materials, for use by public institutions or agencies, or nonprofit private institutions or agencies, or by individuals, in participating foreign countries;

(4) participate and otherwise cooperate in any international health research or research training meetings, conferences, or other activities;

(5) facilitate the interchange between the United States and participating foreign countries, and among participating foreign countries, of research scientists and experts who are engaged in experiments and programs of research or research training, and in carrying out such purpose may pay per diem compensation, subsistence, and travel for such scientists and experts when away from their places of residence at rates not to exceed those provided in section 73b—2 of Title 5 for persons in the Government service employed intermittently; and

(6) procure, in accordance with the provisions of section 55a of Title 5, the temporary or intermittent services of experts or consultants; individuals so employed shall receive compensation at a rate to be fixed by the Secretary, but not in excess of $50 per diem, including travel time, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 73b—2 of Title 5 for persons in the Government service employed intermittently.

Building construction prohibition

(c) The Surgeon General may not, in the exercise of his authority under this section, assist in the construction of buildings for research or research training in any foreign country.

Definitions

(d) For the purposes of this section—

(1) The term "health research" shall include, but not be limited to, research, investigations, and studies relating to causes and methods of prevention of accidents, including but not limited to highway and aviation accidents.

(2) The term "participating foreign countries" means those foreign countries which cooperate with the United States in carrying out the purposes of this section.

July 1, 1944, c. 373, Title III, § 308, as added July 12, 1960, Pub. L. 86–610, § 3, 74 Stat. 364.

§ 242i. Administration of grants in multigrant projects; promulgation or regulations

For the purpose of facilitating the administration of, and expediting the carrying out of the purposes of, the programs established by subchapter VII of this chapter, and sections 242b,

246(a), 246(b), 246(c), 246(d), and 246(e) of this title in situations in which grants are sought or made under two or more of such programs with respect to a single project, the Secretary is authorized to promulgate regulations—

(1) under which the administrative functions under such programs with respect to such project will be performed by a single administrative unit which is the administrative unit charged with the administration of any of such programs or is the administrative unit charged with the supervision of two or more of such programs;

(2) designed to reduce the number of applications, reports, and other materials required under such programs to be submitted with respect to such project, and otherwise to simplify, consolidate, and make uniform (to the extent feasible), the data and information required to be contained in such applications, reports, and other materials; and

(3) under which inconsistent or duplicative requirements imposed by such programs will be revised and made uniform with respect to such project;

except that nothing in this section shall be construed to authorize the Secretary to waive or suspend, with respect to any such project, any requirement with respect to any of such programs if such requirement is imposed by law or by any regulation required by law.

July 1, 1944, c. 373, Title III, § 310A, as added Oct. 30, 1970, Pub.L. 91–515, Title II, § 270, 84 Stat. 1306.

§ 242j. Annual report by Secretary on activities related to health facilities and services and expenditure of funds

On or before January 1 of each year, the Secretary shall transmit to the Congress a report of the activities carried on under the provisions of subchapter VII of this chapter and sections 242b, 242c, 246(a), 246(b), 246(c), 246(d), and 246(e) of this title together with (1) an evaluation of the effectiveness of such activities in improving the efficiency and effectiveness of the research, planning, and delivery of health services in carrying out the purposes for which such provisions were enacted, (2) a statement of the relationship between Federal financing and financing from other sources of the activities undertaken pursuant to such provisions (including the possibilities for more efficient support of such activities through use of alternate sources of financing after an

initial period of support under such provisions), and (3) such recommendations with respect to such provisions as he deems appropriate.

July 1, 1944, c. 373, Title III, § 310B, as added Oct. 30, 1970, Pub.L. 91–515, Title II, § 280, 84 Stat. 1307.

Part B.—Federal-State Cooperation

§ 243. General grant of authority for cooperation—Enforcement of quarantine regulations; prevention of communicable diseases

(a) The Secretary is authorized to accept from State and local authorities any assistance in the enforcement of quarantine regulations made pursuant to this chapter which such authorities may be able and willing to provide. The Secretary shall also assist States and their political subdivisions in the prevention and suppression of communicable diseases, shall cooperate with and aid State and local authorities in the enforcement of their quarantine and other health regulations and in carrying out the purposes specified in section 246 of this title, and shall advise the several States on matters relating to the preservation and improvement of the public health.

Comprehensive and continuing planning; training of personnel for State and local health work

(b) The Secretary shall encourage cooperative activities between the States with respect to comprehensive and continuing planning as to their current and future health needs, the establishment and maintenance of adequate public health services, and otherwise carrying out the purposes of section 246 of this title. The Secretary is also authorized to train personnel for State and local health work.

Problems resulting from disasters; emergencies; reimbursement of United States

(c) The Secretary may enter into agreements providing for cooperative planning between Public Health Service medical facilities and community health facilities to cope with health problems resulting from disasters, and for participation by Public Health Service medical facilities in carrying out such planning. He may also, at the request of the appropriate State or local authority, extend temporary (not in excess of forty-five days) assistance to

States or localities in meeting health emergencies of such a nature as to warrant Federal assistance. The Secretary may require such reimbursement of the United States for aid (other than planning) under the preceding sentences of this subsection as he may determine to be reasonable under the circumstances. Any reimbursement so paid shall be credited to the applicable appropriation of the Public Health Service for the year in which such reimbursement is received.

July 1, 1944, c. 373, Title III, § 311, 58 Stat. 693; Nov. 3, 1966, Pub.L. 89–749, § 5, 80 Stat. 1190; Dec. 5, 1967, Pub.L. 90–174, § 4, 81 Stat. 536; and amended Oct. 30, 1970, Pub.L. 91–515, Title II, § 282, 84 Stat. 1308.

§ 244. Health conferences

A conference of the health authorities of the several States shall be called annually by the Secretary. Whenever in his opinion the interests of the public health would be promoted by a conference, the Secretary may invite as many of such health authorities and officials of other State or local public or private agencies, institutions, or organizations to confer as he deems necessary or proper. Upon the application of health authorities of five or more States it shall be the duty of the Secretary to call a conference of all State and Territorial health authorities joining in the request. Each State represented at any conference shall be entitled to a single vote. Whenever at any such conference matters relating to mental health are to be discussed, the mental health authorities of the respective States shall be invited to attend.

July 1, 1944, c. 373, Title III, § 312, 58 Stat. 693; July 3, 1946, c. 538, § 8, 60 Stat. 424; Dec. 5, 1967, Pub.L. 90–174, § 12(b), 81 Stat. 541; and amended Oct. 30, 1970, Pub.L. 91–515, Title II, §§ 282, 84 Stat. 1308.

§ 244a. Birth and death statistics; annual collection; compensation for transcription

There shall be a collection of the statistics of the births and deaths in registration areas annually, the data for which shall be obtained only from and restricted to such registration records of such States and municipalities as in the discretion of the Secretary of Health, Education, and Welfare possess records affording satisfactory data in necessary detail, the compensation for the transcription of which shall not exceed 4 cents for each birth or death

reported; or a minimum compensation of $25 may be allowed in the discretion of the Secretary of Health, Education, and Welfare, in States or cities registering less than five hundred deaths or five hundred births during the preceding year.

July 1, 1944, c. 373, Title III, § 312a, as added Aug. 31, 1954, c. 1158, § 2, 68 Stat. 1025.

§ 245. Collection of vital statistics

To secure uniformity in the registration of mortality, morbidity, and vital statistics the Secretary shall prepare and distribute suitable and necessary forms for the collection and compilation of such statistics which shall be published as a part of the health reports published by the Secretary.

July 1, 1944, c. 373, Title III, § 313, 58 Stat. 693; and amended Oct. 30, 1970, Pub.L. 91–515, Title II, § 282, 84 Stat. 1308.

§ 246. Grants and services to States—Comprehensive health planning and services

(a) (1) In order to assist the States in comprehensive and continuing planning for their current and future health needs, the Secretary is authorized during the period beginning July 1, 1966, and ending June 30, 1973, to make grants to States which have submitted, and had approved by the Secretary, State plans for comprehensive State health planning. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated $2,500,000 for the fiscal year ending June 30, 1967, $7,000,000 for the fiscal year ending June 30, 1968, $10,000,000 for the fiscal year ending June 30, 1969, $15,000,000 for the fiscal year ending June 30, 1970, $15,000,000 for the fiscal year ending June 30, 1971, $17,000,000 for the fiscal year ending June 30, 1972, and $20,000,000 for the fiscal year ending June 30, 1973.

(2) In order to be approved for purposes of this subsection, a State plan for comprehensive State health planning must—

(A) designate, or provide for the establishment of, a single State agency, which may be an interdepartmental agency, as the sole agency for administering or supervising the administration of the State's health planning functions under the plan;

(B) provide for the establishment of a State health planning council, which shall include representatives of Federal,

State, and local agencies (including as an ex-officio member, if there is located in such State one or more hospitals or other health care facilities of the Veterans' Administration, the individual whom the Administrator of Veterans' Affairs shall have designated to serve on such council as the representative of the hospitals or other health care facilities of such Administration which are located in such State) and nongovernmental organizations and groups concerned with health, (including representation of the regional medical program or programs included in whole or in part within the State) and of consumers of health services, to advise such State agency in carrying out its functions under the plan, and a majority of the membership of such council shall consist of representatives of consumers of health services;

(C) set forth policies and procedures for the expenditure of funds under the plan, which, in the judgment of the Secretary are designed to provide for comprehensive State planning for health services (both public and private) and including home health care, including the facilities and persons required for the provision of such services, to meet the health needs of the people of the State and including environmental considerations as they relate to public health;

(D) provide for encouraging cooperative efforts among governmental or nongovernmental agencies, organizations and groups concerned with health services, facilities, or manpower, and for cooperative efforts between such agencies, organizations, and groups and similar agencies, organizations, and groups in the fields of education, welfare, and rehabilitation;

(E) contain or be supported by assurances satisfactory to the Secretary that the funds paid under this subsection will be used to supplement and, to the extent practicable, to increase the level of funds that would otherwise be made available by the State for the purpose of comprehensive health planning and not to supplant such non-Federal funds;

(F) provide such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(G) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of such reports;

(H) provide that the State agency will from time to time, but not less often than annually, review its State plan approved under this subsection and submit to the Secretary appropriate modifications thereof;

(I) effective July 1, 1968, (i) provide for assisting each health care facili'y in the State to develop a program for capital expenditures for replacement, modernization, and expansion which is consistent with an overall State plan developed in accordance with criteria established by the Secretary after consultation with the State which will meet the needs of the State for health care facilities, equipment, and services without duplication and otherwise in the most efficient and economical manner, and (ii) provide that the State agency furnishing such assistance will periodically review the program (developed pursuant to clause (i) of each health care facility in the State and recommend appropriate modification thereof;

(J) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for funds paid to the State under this subsection; and

(K) contain such additional information and assurances as the Secretary may find necessary to carry out the purposes of this subsection.

(3) (A) From the sums appropriated for such purpose for each fiscal year, the several States shall be entitled to allotments determined, in accordance with regulations, on the basis of the population and the per capita capital income of the respective States; except that no such allotment to any State for any fiscal year shall be less than 1 per centum of the sum appropriated for such fiscal year pursuant to paragraph (1). Any such allotment to a State for a fiscal year shall remain available for obligation by the State, in accordance with the provisions of this subsection and the State's plan approved thereunder, until the close of the succeeding fiscal year.

(B) The amount of any allotment to a State under subparagraph (A) for any fiscal year which the Secretary determines will

not be required by the State, during the period for which it is available, for the purposes for which allotted shall be available for reallotment by the Secretary from time to time, on such date or dates as he may fix, to other States with respect to which such a determination has not been made, in proportion to the original allotments to such States under subparagraph (A) for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount so reallotted to a State from funds appropriated pursuant to this subsection for a fiscal year shall be deemed part of its allotment under subparagraph (A) for such fiscal year.

(4) From each State's allotment for a fiscal year under this subsection, the State shall from time to time be paid the Federal share of the expenditures incurred during that year or the succeeding year pursuant to its State plan approved under this subsection. Such payments shall be made on the basis of estimates by the Secretary of the sums the State will need in order to perform the planning under its approved State plan under this subsection, but with such adjustments as may be necessary to take account of previously made underpayments or overpayments. The "Federal share" for any State for purposes of this subsection shall be all, or such part as the Secretary may determine, of the cost of such planning, except that in the case of the allotments for the fiscal year ending June 30, 1970, it shall not exceed 75 per centum of such cost.

Project grants for areawide health planning; authorization of appropriations; prerequisites for grants; application; contents

(b) (1) (A) The Secretary is authorized, during the period beginning July 1, 1966, and ending June 30, 1973, to make, with the approval of the State agency administering or supervising the administration of the State plan approved under subsection (a) of this section, project grants to any other public or nonprofit private agency or organization (but with appropriate representation of the interests of local government where the recipient of the grant is not a local government or combination thereof or an agency of such government or combination) to cover not to exceed 75 per centum of the cost of projects for developing (and from time to time revising) comprehensive regional, metropolitan area, or other local area plans for coordination of existing and planned

health services, including the facilities and persons required for provision of such services; and including the provision of such services through home health care except that in the case of project grants made in any State prior to July 1, 1968, approval of such State agency shall be required only if such State has such a State plan in effect at the time of such grants. No grant may be made under this subsection after June 30, 1970, to any agency or organization to develop or revise health plans for an area unless the Secretary determines that such agency or organization provides means for appropriate representation of the interests of the hospitals, other health care facilities, and practicing physicians serving such area, and the general public. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1967, $7,500,000 for the fiscal year ending June 30, 1968, $10,000,000 for the fiscal year ending June 30, 1969, $15,000,000 for the fiscal year ending June 30, 1970, $20,000,000 for the fiscal year ending June 30, 1971, $30,000,000 for the fiscal year ending June 30, 1972, and $40,000,000 for the fiscal year ending June 30, 1973.

(B) Project grants may be made by the Secretary under subparagraph (A) to the State agency administering or supervising the administration of the State plan approved under subsection (a) of this section with respect to a particular region or area, but only if (i) no application for such a grant with respect to such region or area has been filed by any other agency or organization qualified to receive such a grant, and (ii) such State agency certifies, and the Secretary finds, that ample opportunity has been afforded to qualified agencies and organizations to file application for such a grant with respect to such region or area and that it is improbable that, in the foreseeable future, any agency or organization which is qualified for such a grant will file application therefor.

(2) (A) In order to be approved under this subsection, an application for a grant under this subsection must contain or be supported by reasonable assurances that there has been or will be established, in or for the area with respect to which such grant is sought, an areawide health planning council. The membership of such council shall include representatives of public, voluntary, and nonprofit private agencies, institutions, and organizations concerned with health (including representatives of the interests of local government, of the regional medical program for such area, and of consumers of health services). A majority of the members

of such council shall consist of representatives of consumers of health services.

(B) In addition, an application for a grant under this subsection must contain or be supported by reasonable assurances that the areawide health planning agency has made provision for assisting health care facilities in its area to develop a program for capital expenditures for replacement, modernization, and expansion which is consistent with an overall State plan which will meet the needs of the State and the area for health care facilities, equipment, and services without duplication and otherwise in the most efficient and economical manner.

Project grants for training, studies, and demonstration; authorization of appropriations

(c) The Secretary is also authorized, during the period beginning July 1, 1966, and ending June 30, 1973, to make grants to any public or nonprofit private agency, institution, or other organization to cover all or any part of the cost of projects for training, studies, or demonstrations looking toward the development of improved or more effective comprehensive health planning throughout the Nation. For the purposes of carrying out this subsection, there are hereby authorized to be appropriated $1,500,000 for the fiscal year ending June 30, 1967, $2,500,000 for the fiscal year ending June 30, 1968, $5,000,000 for the fiscal year ending June 30, 1969, $7,500,000 for the fiscal year ending June 30, 1970, $8,000,000 for the fiscal year ending June 30, 1971, $10,000,000 for the fiscal year ending June 30, 1972, and $12,000,000 for the fiscal year ending June 30, 1973.

Grants for comprehensive public health services; authorization of appropriations; State plans; allotments; payments to States; Federal share; allocation of funds

(d) (1) There are authorized to be appropriated $70,000,000 for the fiscal year ending June 30, 1968, $90,000,000 for the fiscal year ending June 30, 1969, $100,000,000 for the fiscal year ending June 30, 1970, $130,000,000 for the fiscal year ending June 30, 1971, $145,000,000 for the fiscal year ending June 30, 1972, and $165,000,000 for the fiscal year ending June 30, 1973, to enable the Secretary to make grants to State health or mental health authorities to assist the States in establishing and maintaining adequate public health services, including the training of personnel for State and local health work. The sums so appropriated shall be used for making payments to States which have submitted, and

had approved by the Secretary, State plans for provision of public health services, except that, for any fiscal year ending after June 30, 1968, such portion of such sums as the Secretary may determine, but not exceeding 1 per centum thereof, shall be available to the Secretary for evaluation (directly or by grants or contracts) of the program authorized by this subsection and the amount available for allotments hereunder shall be reduced accordingly.

(2) In order to be approved under this subsection, a State plan for provision for public health services must—

(A) provide for administration or supervision of administration by the State health authority or, with respect to mental health services, the State mental health authority;

(B) set forth the policies and procedures to be followed in the expenditure of the funds paid under this subsection;

(C) contain or be supported by assurances satisfactory to the Secretary that (i) the funds paid to the State under this subsection will be used to make a significant contribution toward providing and strengthening public health services in the various political subdivisions in order to improve the health of the people; (ii) such funds will be made available to other public or nonprofit private agencies, institutions, and organizations, in accordance with criteria which the Secretary determines are designed to secure maximum participation of local, regional, or metropolitan agencies and groups in the provision of such services; (iii) such funds will be used to supplement and, to the extent practical, to increase the level of funds that would otherwise be made available for the purposes for which the Federal funds are provided and not to supplant such non-Federal funds; and (iv) the plan is compatible with the total health program of the State;

(D) provide for the furnishing of public health services under the State plan in accordance with such plans as have been developed pursuant to subsection (a) of this section;

(E) provide that public health services furnished under the plan will be in accordance with standards prescribed by regulations, including standards as to the scope and quality of such services;

(F) provide such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed

in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(G) provide that the State health authority or, with respect to mental health services, the State mental health authority, will from time to time, but not less often than annually, review and evaluate its State plan approved under this subsection and submit to the Secretary appropriate modifications thereof;

(H) provide that the State health authority or, with respect to mental health services, the State mental health authority, will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of such reports;

(I) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the State under this subsection;

(J) contain such additional information and assurances as the Secretary may find necessary to carry out the purposes of this subsection;

(K) provide for services for the prevention and treatment of drug abuse and drug dependence, commensurate with the extent of the problem; and

(L) provide for services for the prevention and treatment of alcohol abuse and alcoholism, commensurate with the extent of the problem.

(3) From the sums appropriated to carry out the provisions of this subsection the several States shall be entitled for each fiscal year to allotments determined, in accordance with regulations, on the basis of the population and financial need of the respective States, except that no State's allotment shall be less for any year than the total amounts allotted to such State under formula grants for cancer control, plus other allotments under this section, for the fiscal year ending June 30, 1967.

(4) (A) From each State's allotment under this subsection for a fiscal year, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under this subsection. Such payments shall be made from time to time in advance on the basis of estimates by the Secretary of the sums the State will expend on the basis of estimates by the Secre-

tary of the sums the State will expend under the State plan, except that such adjustments as may be necessary shall be made on account of previously made underpayments or overpayments under this subsection.

(B) For the purpose of determining the Federal share for any State, expenditures by nonprofit private agencies, organizations, and groups shall, subject to such limitations and conditions as may be prescribed by regulations, be regarded as expenditures by such State or a political subdivision thereof.

(5) The "Federal share" for any State for purposes of this subsection shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States; except that in no case shall such percentage be less than 33⅓ per centum or more than 66⅔ per centum, and except that the Federal share for the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands shall be 66⅔ per centum.

(6) The Federal shares shall be determined by the Secretary between July 1 and September 1 of each year, on the basis of the average per capita incomes of each of the States and of the United States for the most recent year for which satisfactory data are available from the Department of Commerce, and such determination shall be conclusive for the fiscal year beginning on next July 1. The populations of the several States shall be determined on the basis of the latest figures for the population of the several States available from the Department of Commerce.

(7) At least 15 per centum of a State's allotment under this subsection shall be available only to the State mental health authority for the provision under the State plan of mental health services. Effective with respect to allotments under this subsection for fiscal years ending after June 30, 1968, at least 70 per centum of such amount reserved for mental health services and at least 70 per centum of the remainder of a State's allotment under this subsection shall be available only for the provision under the State plan of services in communities of the State.

Project grants for health services and related training; authorization of appropriations; review of application by appropriate areawide health planning agency

(e) There are authorized to be appropriated $90,000,000 for the fiscal year ending June 30, 1968, $95,000,000 for the fiscal year ending June 30, 1969, $80,000,000 for the fiscal year ending June

30, 1970, $109,500,000 for the fiscal year ending June 30, 1971, $135,000,000 for the fiscal year ending June 30, 1972, and $157,000,000 for the fiscal year ending June 30, 1973, for grants to any public or nonprofit private agency, institution, or organization to cover part of the cost (including equity requirements and amortization of loans on facilities acquired from the Office of Economic Opportunity or construction in connection with any program or project transferred from the Office of Economic Opportunity) of (1) providing services (including related training) to meet health needs of limited geographic scope or of specialized regional or national significance, or (2) developing and supporting for an initial period new programs of health services (including related training). Any grant made under this subsection may be made only if the application for such grant has been referred for review and comment to the appropriate area-wide health planning agency or agencies (or, if there is no such agency in the area, then to such other public or nonprofit private agency or organization (if any) which performs similar functions) and only if the services assisted under such grant will be provided in accordance with such plans as have been developed pursuant to subsection (a) of this section.

Repeal

Subsec. (f) of this section repealed (less applicability to commissioned officers of the Public Health Service) by Pub.L. 91–648, Title IV, §§ 403, 404, Jan. 5, 1971, 84 Stat. 1925, effective sixty days after Jan. 5, 1971.

Interchange of personnel with States

(f) (1) For the purposes of this subsection, the term "State" means a State or a political subdivision of a State, or any agency of either of the foregoing engaged in any activities related to health or designated or established pursuant to subparagraph (A) of paragraph (2) of subsection (a) of this section; the term "Secretary" means (except when used in paragraph (3) (D) the Secretary of Health, Education, and Welfare; and the term "Department" means the Department of Health, Education, and Welfare.

(2) The Secretary is authorized, through agreements or otherwise, to arrange for assignment of officers and employees of States to the Department and assignment to States of officers and employees in the Department engaged in work related to health, for work which the Secretary determines will aid the Department in

more effective discharge of its responsibilities in the field of health as authorized by law, including cooperation with States and the provision of technical or other assistance. The period of assignment of any officer or employee under an arrangment shall not exceed two years.

(3) (A) Officers and employees in the Department assigned to any State pursuant to this subsection shall be considered, during such assignment, to be (i) on detail to a regular work assignment in the Department, or (ii) on leave without pay from their positions in the Department.

(B) Persons considered to be so detailed shall remain as officers or employees, as the case may be, in the Department for all purposes, except that the supervision of their duties during the period of detail may be governed by agreement between the Department and the State involved.

(C) In the case of persons so assigned and on leave without pay—

(i) if the rate of compensation (including allowances) for their employment by the State is less than the rate of compensation (including allowances) they would be receiving had they continued in their regular assignment in the Dpartment, they may receive supplemental salary payments from the Department in the amount considered by the Secretary to be justified, but not at a rate in excess of the difference between the State rate and the Department rate; and

(ii) they may be granted annual leave and sick leave to the extent authorized by law, but only in circumstances considered by the Secretary to justify approval of such leave.

Such officers and employees on leave without pay shall, notwithstanding any other provision of law, be entitled—

(iii) to continuation of their insurance under the Federal Employees' Group Life Insurance Act of 1954, and coverage under the Federal Employees Health Benefits Act of 1959, so long as the Department continues to collect the employee's contribution from the officer or employee involved and to transmit for timely deposit into the funds created under such Acts the amount of the employee's contributions and the Government's contribution from appropriations of the Department; and

(iv) (I) in the case of commissioned officers of the Service, to have their service during their assignment treated as provided in section 215(d) of this title for such officers on leave without pay, or (II) in the case of other officers and employees

in the Department, to credit the period of their assignment under the arrangement under this subsection toward periodic or longevity step increases and for retention and leave accrual purposes, and, upon payment into the civil service retirement and disability fund of the percentage of their State salary, and of their supplemental salary payments, if any, which would have been deducted from a like Federal salary for the period of such assignment and payment by the Secretary into such fund of the amount which would have been payable by him during the period of such assignment with respect to a like Federal salary, to treat (notwithstanding the provisions of the Independent Offices Appropriation Act, 1959, under the head "Civil Service Retirement and Disability Fund") their service during such period, as service within the meaning of the Civil Service Retirement Act;

except that no officer or employee or his beneficiary may receive any benefits under the Civil Service Retirement Act, the Federal Employees Health Benefits Act of 1959, or the Federal Employees' Group Life Insurance Act of 1954, based on service during an assignment hereunder for which the officer or employee or (if he dies without making such election) his beneficiary elects to receive benefits, under any State retirement or insurance law or program, which the Civil Service Commission determines to be similar. The Department shall deposit currently in the funds created under the Federal Employees' Group Life Insurance Act of 1954, the Federal Employees Health Benefits Act of 1959, and the civil service retirement and disability fund, respectively, the amount of the Government's contribution under these Acts on account of service with respect to which employee contributions are collected as provided in subparagraph (iii) and the amount of the Government's contribution under the Civil Service Retirement Act on account of service with respect to which payments (of the amount which would have been deducted under that Act) referred to in subparagraph (iv) are made to such civil service retirement and disability fund.

(D) Any such officer or employee on leave without pay (other than a commissioned officer of the Service) who suffers disability or death as a result of personal injury sustained while in the performance of his duty during an assignment hereunder, shall be treated, for the purposes of the Federal Employees' Compensation Act, as though he were an employee, as defined in such Act, who had sustained such injury in the performance of duty. When such person (or his dependents, in case of death) entitled by reason of

injury or death to benefits under that Act is also entitled to benefits from a State for the same injury or death, he (or his dependents in case of death) shall elect which benefits he will receive. Such election shall be made within one year after the injury or death, or such further time as the Secretary of Labor may for good cause allow, and when made shall be irrevocable unless otherwise provided by law.

(4) Assignment of any officer or employee in the Department to a State under this subsection may be made with or without reimbursement by the State for the compensation (or supplementary compensation), travel and transportation expenses (to or from the place of assignment), and allowances, or any part thereof, of such officer or employee during the period of assignment, and any such reimbursement shall be credited to the appropriation utilized for paying such compensation, travel or transportation expenses, or allowances.

(5) Appropriations to the Department shall be available, in accordance with the standardized Government travel regulations or, with respect to commissioned officers of the Service, the joint travel regulations, for the expenses of travel of officers and employees assigned to States under an arrangement under this subsection, on either a detail or leave-without-pay basis and, in accordance with applicable law, orders, and regulations, for expenses of transportation of their immediate families and expenses of transportation of their household goods and personal effects, in connection with the travel of such officers and employees to the location of their posts of assignment and their return to their official stations.

(6) Officers and employees of States who are assigned to the Department under an arrangement under this subsection may (A) be given appointments in the Department covering the periods of such assignments, or (B) be considered to be on detail to the Department. Appointments of persons so assigned may be made without regard to the civil service laws. Persons so appointed in the Department shall be paid at rates of compensation determined in accordance with the Classification Act of 1949, and shall not be considered to be officers or employees of the Department for the purposes of (A) the Civil Service Retirement Act, (B) the Federal Employees' Group Life Insurance Act of 1954, or (C) unless their appointments result in the loss of coverage in a group health benefits plan whose premium has been paid in whole or in part by a State contribution, the Federal Employees Health Benefits Act of 1959. State officers and employees who are assigned to the

Department without appointment shall not be considered to be officers or employees of the Department, except as provided in subsection (7), nor shall they be paid a salary or wage by the Department during the period of their assignment. The supervision of the duties of such persons during the assignment may be governed by agreement between the Secretary and the State involved.

(7) (A) Any State officer or employee who is assigned to the Department without appointment shall nevertheless be subject to the provisions of sections 203, 205, 207, 208, and 209 of Title 18.

(B) Any State officer or employee who is given an appointment while assigned to the Department, or who is assigned to the Department without appointment, under an arrangement under this subsection, and who suffers disability or death as a result of personal injury sustained while in the performance of his duty during such assignment shall be treated, for the purpose of the Federal Employees' Compensation Act, as though he were an employee, as defined in such Act, who had sustained such injury in the performance of duty. When such person (or his dependents, in case of death) entitled by reason of injury or death to benefits under that Act is also entitled to benefits from a State for the same injury or death, he (or his dependents, in case of death) shall elect which benefits he will receive. Such election shall be made within one year after the injury or death, or such further time as the Secretary of Labor may for good cause allow, and when made shall be irrevocable unless otherwise provided by law.

(8) The appropriations to the Department shall be available, in accordance with the standardized Government travel regulations, during the period of assignment and in the case of travel to and from their places of assignment or appointment, for the payment of expenses of travel of persons assigned to, or given appointments by, the Department under an arrangement under this subsection.

(9) All arrangements under this subsection for assignment of officers or employees in the Department to States or for assignment of officers or employees of States to the Department shall be made in accordance with regulations of the Secretary.

Consultation with State authorities; failure to comply with statute or rules and regulations; definitions

(g) (1) All regulations and amendments thereto with respect to grants to States under subsection (a) of this section shall be made after consultation with a conference of the State health planning

agencies designated or established pursuant to subparagraph (A) of paragraph (2) of subsection (a) of this section. All regulations and amendments thereto with respect to grants to States under subsection (d) of this section shall be made after consultation with a conference of State health authorities and, in the case of regulations and amendments which relate to or in any way affect grants for services or other activities in the field of mental health, the State mental health authorities. Insofar as practicable, the Secretary shall obtain the agreement, prior to the issuance of such regulations or amendments, of the State authorities or agencies with whom such consultation is required.

(2) The Secretary, at the request of any recipient of a grant under this section, may reduce the payments to such recipient by the fair market value of any equipment or supplies furnished to such recipient 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 recipient when such furnishing or such detail, as the case may be, is for the convenience of and at the request of such recipient and for the purpose of carrying out the State plan or the project with respect to which the grant under this section is made. 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 Federal share under subsection (a) or (d) of this section, be deemed to have been paid to the State.

(3) Whenever the Secretary, after reasonable notice and opportunity for hearing to the health authority or, where appropriate, the mental health authority of a State or a State health planning agency designated or established pursuant to subparagraph (A) of paragraph (2) of subsection (a) of this section, finds that, with respect to money paid to the State out of appropriations under subsection (a) or (d) of this section, there is a failure to comply substantially with either—

(A) the applicable provisions of this section;

(B) the State plan submitted under such subsection; or

(C) applicable regulations under this section;

the Secretary shall notify such State health authority, mental health authority, or health planning agency, as the case may be, that further payments will not be made to the State from appropriations under such subsection (or in his discretion that further payments will not be made to the State from such appropriations for activities in which there is such failure), until he is satisfied

that there will no longer be such failure. Until he is so satisfied, the Secretary shall make no payment to such State from appropriations under such subsection, or shall limit payment to activities in which there is no such failure.

(4) For the purposes of this section—

(A) The term "nonprofit" as applied to any private agency, institution, or organization means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

(B) The term "State" includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust of Territory of the Pacific Islands, the Virgin Islands, and the District of Columbia and the term "United States" means the fifty States and the District of Columbia.

July 1, 1944, c. 373, Title III, § 314, 58 Stat. 693; July 3, 1946, c. 538, § 9, 60 Stat. 424; June 16, 1948, c. 481, § 5, 62 Stat. 468; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, c. 852, § 18, 70 Stat. 910; July 22, 1958, Pub.L. 85–544, § 1, 72 Stat. 400; Oct. 5, 1961, Pub.L. 87–395, § 2(a)–(d), 75 Stat. 824; Sept. 25, 1962, Pub.L. 87–688, § 4(a)–(1), 76 Stat. 587; Aug. 5, 1965, Pub.L. 89–109, § 4, 79 Stat. 436; Nov. 3, 1966, Pub.L. 89–749, § 3, 80 Stat. 1181; Dec. 5, 1967, Pub.L. 90–174, §§ 2(a)–(f), 3(b) (2), 8(a), (b), 12 (d), 81 Stat. 533–535, 540, 541; June 30, 1970, Pub.L. 91–296, Title I, § 114(b), Title IV, § 401(b) (1) (C), (D), 84 Stat. 340, 352; Oct. 27, 1970, Pub.L. 91–513, Title I, § 3(b), 84 Stat. 1241; Oct. 30, 1970, Pub.L. 91–515, Title II, §§ 220, 230, 240, 250, 260(a), (b), (c) (1), 282, 84 Stat. 1304–1306, 1308; and amended Dec. 31, 1970, Pub.L. 91–616, Title III, § 331, 84 Stat. 1853.

§ 247. Publication of health educational information

From time to time the Secretary shall issue information related to public health, in the form of publications or otherwise, for the use of the public, and shall publish weekly reports of health conditions in the United States and other countries and other pertinent health information for the use of persons and institutions engaged in work related to the functions of the Service.

July 1, 1944, c. 373, Title III, § 315, 58 Stat. 695, amended Oct. 30, 1970, Pub.L. 91–515, Title II, § 282, 84 Stat. 1308.

Part G.—Quarantine and Inspection

§ 264. Regulations to control communicable diseases; apprehension, detention, and release of certain persons from particular places

(a) The Surgeon General, with the approval of the Secretary, is authorized to make and enforce such regulations as in his judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases for foreign countries into the States, or possessions, or from one State or possession into any other State or possession. For purposes of carrying out and enforcing such regulations, the Surgeon General may provide for such inspection, fumigation, disinfection, sanitation, pest extermination, destruction of animals or articles found to be so infected or contaminated as to be sources of dangerous infection to human beings, and other measures, as in his judgment may be necessary.

(b) Regulations prescribed under this section shall not provide for the apprehension, detention, or conditional release of individuals except for the purpose of preventing the introduction, transmission, or spread of such communicable diseases as may be specified from time to time in Executive orders of the President upon the recommendation of the National Advisory Health Council and the Surgeon General.

(c) Except as provided in subsection (d) of this section, regulations prescribed under this section, insofar as they provide for the apprehension, detention, examination, or conditional release of individuals, shall be applicable only to individuals coming into a State or possession from a foreign country or a possession.

(d) On recommendation of the National Advisory Health Council, regulations prescribed under this section may provide for the apprehension and examination of any individual reasonably believed to be infected with a communicable disease in a communicable stage and (1) to be moving or about to move from a State to another State; or (2) to be a probable source of infection to individuals who, while infected with such disease in a communicable stage, will be moving from a State to another State. Such regulations may provide that if upon examination any such individual is found to be infected, he may be detained for such time and in such manner as may be reasonably necessary.

July 1, 1944, c. 373, Title III, § 361, 58 Stat. 703; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; July 12, 1960, Pub.L. 86–624, § 29 (c), 74 Stat. 419.

1.12a THE PUBLIC HEALTH SERVICE ACT

July 1, 1944, P.L. 78–410, Title II, §§ 202, 214, Title III, §§ 301, 304, 305, 306, 311, 312, 313, 314, 315, 361, 58 Stat. 683, 690, 693, 695, 703

COMMISSIONED CORPS

SEC. 203. There shall be in the Service a commissioned Regular Corps and, for the purpose of securing a reserve for duty in the Service in time of national emergency, a Reserve Corps. All commissioned officers shall be citizens and shall be appointed without

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regard to the civil-service laws and compensated without regard to the Classification Act of 1923, as amended. Commissioned officers of the Reserve Corps shall be appointed by the President and commissioned officers of the Regular Corps shall be appointed by him by and with the advice and consent of the Senate. Commissioned officers of the Reserve Corps shall at all times be subject to call to active duty by the Surgeon General, including active duty for the purpose of training and active duty for the purpose of determining their fitness for appointment in the Regular Corps. All active service in the Reserve Corps, as well as service in the Regular Corps, shall be credited for the purpose of promotion in the Regular Corps.

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REGULATIONS

SEC. 215. (a) The President shall from time to time prescribe regulations with respect to the appointment, promotion, retirement, termination of commission, titles, pay, uniforms, allowances (including increased allowances for foreign service), and discipline of the commissioned corps of the Service.

(b) The Surgeon General, with the approval of the Administrator, unless specifically otherwise provided, shall promulgate all other regulations necessary to the administration of the Service, including regulations with respect to travel, transportation of household goods and effects, and uniforms for employees, and regulations with respect to the custody, use, and preservation of the records, papers, and property of the Service.

(c) No regulation relating to qualifications for appointment of medical officers or employees shall give preference to any school of medicine.

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TITLE III—GENERAL POWERS AND DUTIES OF PUBLIC HEALTH SERVICE

PART A—RESEARCH AND INVESTIGATIONS

IN GENERAL

SEC. 301. The Surgeon General shall conduct in the Service, and encourage, cooperate with, and render assistance to other appro-
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priate public authorities, scientific institutions, and scientists in the conduct of, and promote the coordination of, research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man, including water purification, sewage treatment, and pollution of lakes and streams. In carrying out the foregoing the Surgeon General is authorized to—

(a) Collect and make available through publications and other appropriate means, information as to, and the practical application of, such research and other activities;

(b) Make available research facilities of the Service to appropriate public authorities, and to health officials and scientists engaged in special study;

(c) Establish and maintain research fellowships in the Service with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most brilliant and promising research fellows from the United States and abroad;

(d) Make grants in aid to universities, hospitals, laboratories, and other public or private institutions, and to individuals for such research projects as are recommended by the National Advisory Health Council, or, with respect to cancer, recommended by the National Advisory Cancer Council;

(e) Secure from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants from the United States or abroad;

(f) For purposes of study, admit and treat at institutions, hospitals, and stations of the Service, persons not otherwise eligible for such treatment; and

(g) Adopt, upon recommendation of the National Advisory Health Council, or, with respect to cancer, upon recommenda-

tion of the National Advisory Cancer Council, such additional means as he deems necessary or appropriate to carry out the purposes of this section.

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PART B—FEDERAL-STATE COOPERATION

IN GENERAL

SEC. 311. The Surgeon General is authorized to accept from State and local authorities any assistance in the enforcement of quarantine regulations made pursuant to this Act which such authorities may be able and willing to provide. The Surgeon General shall also assist States and their political subdivisions in the prevention and suppression of communicable diseases, shall cooperate with and aid State and local authorities in the enforcement of their quarantine and other health regulations and in carrying out the purposes specified in section 314, and shall advise the several States on matters relating to the preservation and improvement of the public health.

HEALTH CONFERENCES

SEC. 312. A conference of the health authorities of the several States shall be called annually by the Surgeon General. Whenever in his opinion the interests of the public health would be promoted by a conference, the Surgeon General may invite as many of such health authorities to confer as he deems necessary or proper. Upon the application of health authorities of five or more States it shall be the duty of the Surgeon General to call a conference of all State and Territorial health authorities joining in the request. Each State represented at any conference shall be entitled to a single vote.

COLLECTION OF VITAL STATISTICS

SEC. 313. To secure uniformity in the registration of mortality, morbidity, and vital statistics the Surgeon General shall prepare and distribute suitable and necessary forms for the collection and compilation of such statistics which shall be published as a part of the health reports published by the Surgeon General.

GRANTS AND SERVICES TO STATES

SEC. 314. (a) To enable the Surgeon General to carry out the purposes of section 301 with respect to developing more effective

measures for the prevention, treatment, and control of venereal diseases, and to assist, through grants and as otherwise provided in this section, States, counties, health districts, and other political subdivisions of the States in establishing and maintaining adequate measures for the prevention, treatment, and control of such diseases, including the training of personnel for State and local health work, and to enable him to prevent and control the spread of the venereal diseases in interstate traffic, and to meet the cost of pay, allowances, and traveling expenses of commissioned officers and other personnel of the Service detailed to assist in carrying out the purposes of this section with respect to the venereal diseases, and to administer this section with respect to such diseases, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subsection.

(b) To enable the Surgeon General to carry out the purposes of section 301 with respect to developing more effective measures for the prevention, treatment, and control of tuberculosis, and to assist, through grants and as otherwise provided in this section, States, counties, health districts, and other political subdivisions of the States in establishing and maintaining adequate measures for the prevention, treatment, and control of such disease, including the provision of appropriate facilities for care and treatment

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and including the training of personnel for State and local health work, and to enable him to prevent and control the spread of tuberculosis in interstate traffic, and to meet the cost of pay, allowances, and traveling expenses of commissioned officers and other personnel of the Service detailed to assist in carrying out the purposes of this section with respect to tuberculosis, and to administer this section with respect to such disease, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1945, the sum of $10,000,000, and for each fiscal year thereafter a sum sufficient to carry out the purposes of this subsection.

(c) To enable the Surgeon General to assist, through grants and as otherwise provided in this section, States, counties, health districts, and other political subdivisions of the States in establishing and maintaining adequate public health services, including grants for demonstrations and for the training of personnel for State and local health work, there is hereby authorized to be appropriated for each fiscal year a sum not to exceed $20,000,000. Of the sum appropriated for each fiscal year pursuant to this subsection there

shall be available an amount, not to exceed $2,000,000, to enable the Surgeon General to provide demonstrations and to train personnel for State and local health work and to meet the cost of pay, allowances, and traveling expenses of commissioned officers and other personnel of the Service detailed to assist States in carrying out the purposes of this subsection.

(d) For each fiscal year, the Surgeon General, with the approval of the Administrator, shall determine the total sum from the appropriation under subsection (a), the total sum from the appropriation under subsection (b), and, within the limits specified in subsection (c), the total sum from the appropriation under that subsection which shall be available for allotment among the several States. He shall, in accordance with regulations, from time to time make allotments from such sums to the several States on the basis of (1) the population, (2) the size of the venereal-disease problem, the size of the tuberculosis problem, and the size of other special health problems, respectively, and (3) the financial need of the respective States. Upon making such allotments the Surgeon General shall notify the Secretary of the Treasury of the amounts thereof.

(e) The Surgeon General, with the approval of the Administrator, shall from time to time determine the amounts to be paid to each State from the allotments to such State, and shall certify to the Secretary of the Treasury, the amounts so determined, reduced or increased, as the case may be, by the amounts by which he finds that estimates of required expenditures with respect to any prior period were greater or less than the actual expenditures for such period. Upon receipt of such certification, the Secretary of the Treasury shall, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay in accordance with such certification.

(f) The moneys so paid to any State shall be expended solely in carrying out the purposes specified in subsection (a), or subsection (b), or subsection (c) of this section, as the case may be, and in accordance with plans presented by the health authority of such State and approved by the Surgeon General.

(g) Money so paid shall be paid upon the condition that there shall be spent in such State for the same general purpose from funds of such State and its political subdivisions an amount determined in accordance with regulations.

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(h) Whenever the Surgeon General, after reasonable notice and opportunity for hearing to the health authority of the State, finds that, with respect to money paid to the State out of appropriations under subsection (a), or subsection (b), or subsection (c), as the case may be, there is a failure to comply substantially with either—

(1) the provisions of this section;

(2) the plan submitted under subsection (f); or

(3) the regulations;

the Surgeon General shall notify such State health authority either that further payments will not be made to the State from appropriations under such subsection (or in his discretion that further payments will not be made to the State from such appropriations for activities in which there is such failure), until he is satisfied that there will no longer be any such failure. Until he is so satisfied the Surgeon General shall make no further certification for payment to such State from appropriations under such subsection, or shall limit payment to activities in which there is no such failure.

(i) All regulations and amendments thereto with respect to grants to States under this section shall be made after consultation with a conference of the State health authorities. Insofar as practicable, the Surgeon General shall obtain the agreement of the State health authorities prior to the issuance of any such regulations or amendments.

(j) Funds appropriated under subsection (a) and funds appropriated under subsection (b), in addition to being available for payments to States, shall also be available for expenditure by the Surgeon General in otherwise carrying out the respective subsections, including expenditures for printing and binding of the findings of investigations, and for pay and allowances and traveling expenses of personnel of the Service engaged in activities authorized by the respective subsections.

HEALTH EDUCATION AND INFORMATION

SEC. 315. From time to time the Surgeon General shall issue information related to public health, in the form of publications or otherwise, for the use of the public, and shall publish weekly reports of health conditions in the United States and other countries and other pertinent health information for the use of persons and institutions engaged in work related to the functions of the Service.

PART G—QUARANTINE AND INSPECTION

CONTROL OF COMMUNICABLE DISEASES

SEC. 361. (a) The Surgeon General, with the approval of the Administrator, is authorized to make and enforce such regulations as in his judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession. For purposes of carrying out and enforcing such regulations, the Surgeon General may provide for such inspection, fumigation, disinfection, sanitation, pest extermination, destruction of animals or articles found to be so infected or contaminated as to be sources of dangerous infection to human beings, and other measures, as in his judgment may be necessary.

(b) Regulations prescribed under this section shall not provide for the apprehension, detention, or conditional release of individuals except for the purpose of preventing the introduction, transmission, or spread of such communicable diseases as may be specified from time to time in Executive orders of the President upon the recommendation of the National Advisory Health Council and the Surgeon General.

(c) Except as provided in subsection (d), regulations prescribed under this section, insofar as they provide for the apprehension, detention, examination, or conditional release of individuals, shall be applicable only to individuals coming into a State or possession from a foreign country, the Territory of Hawaii, or a possession.

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(d) On recommendation of the National Advisory Health Council, regulations prescribed under this section may provide for the apprehension and examination of any individual reasonably believed to be infected with a communicable disease in a communicable stage and (1) to be moving or about to move from a State to another State; or (2) to be a probable source of infection to individuals who, while infected with such disease in a communicable stage, will be moving from a State to another State. Such regulations may provide that if upon examination any such individual is found to be infected, he may be detained for such time and in such manner as may be reasonably necessary.

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1.12a(1) HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

H.R. REP. No. 1364, 78th Cong., 2d Sess. (1944)

CONSOLIDATION AND REVISION OF LAWS RELATING TO THE PUBLIC HEALTH SERVICE

APRIL 20, 1944.—Ordered to be printed

Mr. BULWINKLE, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H.R. 4624]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 4624) to consolidate and revise the laws relating to the Public Health Service, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

The bill for the most part is merely a restatement of the laws relating to the Public Health Service.

It proposes to bring together, in a compact and orderly arrangement, substantially all existing law on the subject except obsolete provisions; to repeal obsolete laws; to resolve certain ambiguities in existing law; and to make a number of revisions which operating experience has shown to be necessary or desirable.

At the present time the laws applicable to the Public Health Service are the result of the accumulation, over a century and a half, of a great number of separate enactments. Since 1878, when the codification accomplished by the Revised Statutes was completed, there have been many further enactments, often consisting of isolated provisions in appropriation acts, bearing on the functions of the Public Health Service. Passed at different times, these provisions of law have generally neither expressly repealed nor expressly amended their predecessors, but have simply superimposed new duties and authorities on those already existing. Couched in different terms, frequently providing different proce-

dures, they have led to serious inconsistencies and ambiguities, as well as to gaps and duplications in substantive authority, to such
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an extent as to impede the efficient discharge by the Service of its responsibilities. The number and volume of these enactments is indicated by the fact that the repealing section occupies over 14 pages of the present bill.

At the time of its consideration last year of the bill which became the Public Health Service Act of 1943 (Public Law 184, 78th Cong.), the Committee recognized the unsatisfactory state of the law regarding the Public Health Service. The need for prompt action on that measure, in order to enable the Service better to meet its wartime responsibilities, precluded any substantial revision of existing law in connection with that bill. At the instance of the committee, however, work was begun upon a comprehensive bill which would substitute for the existing mass of uncorrelated legislation a compact and logically arranged law governing the Public Health Service. In October 1943, H. R. 3379 was introduced to accomplish this purpose. Hearings on that bill were commenced on March 1 and concluded on March 14, 1944. As a result of further study since the introduction of the bill, of suggestions made at the hearing, and especially of the enactment in November of the Public Health Service Act of 1943, many changes in the bill were found to be necessary. The present bill, H. R. 4624, incorporates these changes.

Enactment of the bill is recommended by the Federal Security Agency and by the president of the Association of State and Territorial Health Officers. No witness at the hearing opposed it, or urged more than minor amendments.

The bill consists of six titles. The first contains the short title and definitions, and the second deals with the organization, administration, and personnel of the Public Health Service. The third title contains the basic operating authority of the Service, and is subdivided into seven parts, dealing, respectively, with research and investigations, Federal-State cooperation, hospitals and medical examinations and medical care, lepers, narcotic addicts, biological products, and quarantine and inspection. The fourth title continues the existence and functions of the National Cancer Institute. Title V contains miscellaneous provisions of a permanent nature, while title VI, which would not be a part of the Public Health Service Act, contains certain temporary provisions and

amendments of certain other statutes, as well as the repeal of the existing provisions of law relating to the Public Health Service.

Large portions of the bill consist merely of reenactment of existing legislation with minor textual changes proposed in the interest of clarity and consistency. In some fields, however, the inadequacies of present law have necessitated a complete rewriting. In the process of clarification some doubtful authorities would be confirmed, and in a few instances, where administrative experience has shown the need for it, wholly new authority would be conferred.

The bill does not include the subject matter of the so-called Nurse Training Act (Public Law 74, 78th Cong., as amended), because that act will by its own terms expire with the termination of hostilities in the present war. As it is a separate and self-contained enactment there is no need to incorporate it in even the temporary provisions of the bill.

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PRINCIPAL ADDITIONS TO AND CHANGES IN EXISTING LAW

The section by section explanation of the bill which is appended indicates the additions to and changes in substantive law which would be effected by the bill. The most important are these:

The President would be authorized to create special temporary positions in the Public Health Service for important work in time of war or emergency (sec. 207 (a)). The classes of persons eligible for appointment to the regular corps of the Service would be enlarged to include scientists in such fields as biology and zoology (sec. 208 (a)). The authority to employ special consultants, now conferred by the National Cancer Institute Act, would be broadened to apply to all branches of the work of the Service (sec. 208 (c)). Provision is included for allowances to female commissioned officers on account of their actual dependents (sec. 209 (d)). The provisions governing retirement of commissioned officers, now contained in regulations, would be written into law, but without any major changes (sec. 211). The regulatory authority would be divided, more clearly and logically than at present, between the President, on the one hand, and the Surgeon General and the Federal Security Administrator, on the other (sec. 215).

The authority to make grants, in aid of research work, to public or private institutions, now contained in the National Cancer Institute Act, would be expanded to include all fields of research re-

lated to the public health (sec. 301 (d)). Appropriations for grants to the States for general public health work would be authorized in the sum of $20,000,000 annually, of which up to $2,000,000 would be available, in the discretion of the Surgeon General, for direct Federal expenditure for purposes related to such grants (sec. 314 (b)). The present limitation is $11,000,000 for such grants, with an additional authorization for the Federal expenditures. From the grants to the States, both for general health work and for venereal-disease control, the bill would permit allotments and payments to be made from time to time (sec. 314 (c) and (d)). At present allotments are made at the beginning of the fiscal year, and payments are made quarterly. Provisions relating to State matching of funds granted and to withdrawal of funds if they have been misapplied by a State, now contained in regulations issued with the approval of the State health authorities, would be incorporated in law (sec. 314 (f) and (g)).

Groups entitled to medical care and hospitalization by the Service would include enrollees of the United States Maritime Service and members of the Merchant Marine Cadet Corps (sec. 322 (a) (6)). At present these persons are cared for by the Service, through an arrangement under the Economy Act. In cases of emergency, treatment at Service hospitals of persons not otherwise eligible would be authorized (sec. 322 (d)). Federal prisoners who are narcotic addicts would be entitled to commutation of sentence for work in prison industries, as are other Federal prisoners, but could not be released under this provision before they are cured (sec. 343 (b)).

Destruction of infected animals or contaminated articles would be permitted as a part of interstate or foreign quarantine proce-

dures, where such animals or articles are likely to infect human beings with a dangerous disease and no disposition other than destruction can safely be made (sec. 361 (a)). Persons subject to quarantine detention upon entering the country might be released on condition of reporting subsequently to health authorities (sec. 361 (b) and (c)). Under regulations recommended by the National Advisory Health Council, individuals reasonably believed to be infected with certain diseases and to be likely to infect others, might be isolated and examined (secs. 361 (d) and 363). This authority would be limited to the prevention of interstate spread of disease, and the protection in time of war of the military forces

and war workers. Persons so isolated would be entitled to treatment by the Service (sec. 322 (c)). Quarantine laws and regulations could, by regulation, be made applicable to civil air navigation and civil aircraft (sec. 367). The penalties for violation of quarantine laws and regulations would be made uniform (sec. 368).

Money collected from some classes of pay patients is now covered into the Treasury as miscellaneous receipts and that collected from others is credited to the applicable appropriation. Under the bill such collections would in all cases be credited to the applicable appropriation (sec. 503). A penalty would be provided for unauthorized wearing of the Public Health Service uniform (sec. 510).

EXPLANATION OF THE BILL BY TITLES AND SECTIONS

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SECTION 214

Subsection (a) of section 214, which authorizes details of officers or employees to Federal agencies and prescribes the procedure for paying salaries and allowances of personnel detailed, modifies existing law (42 U. S. C. 17a) only slightly. In order to remove any doubt of the propriety of such details, particularly to the Army, Navy, and Coast Guard, for the purpose of rendering medical services to personnel, the present statutory limitation of details to only those agencies which are carrying on a public-health activity is omitted. The subsection also allows more flexibility in financial arrangements regarding such details than is now permitted under the statute cited above, and in this respect is drawn from the Economy Act (31 U. S. C. 686) with regard to interdepartmental details of personnel. Officers detailed to the armed forces would be subject to the laws governing the service to which detailed. Present law (42 U. S. C. 20) so provides, but only in time of war.

Subsection (b) relates to the detail of personnel to States and is substantially the same as 42 U. S. C. 803. It modifies existing law only to the extent of using slightly broader language in describing the purposes for which such details may be made and making it clear.

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PART A—RESEARCH AND INVESTIGATIONS

SECTION 301

Part A of this title would consolidate and restate the basic authority of the Public Health Service in the whole field of research, so as to grant, in clear and unmistakable terms, broad authority to carry on investigations through its own personnel, and to cooperate and assist in the investigation by others, of all problems bearing on the physical and mental health of our people.

Under present law the research authority of the Public Health Service is no less broad, but is scattered through a number of statutes. By the act of August 14, 1912 (42 U. S. C. 7) the Service was authorized to "study and investigate the diseases of man and conditions influencing the propagation and spread thereof." Section 603 of the Social Security Act (42 U. S. C. 803) conferred a general authority for "investigation of disease and problems of sanitation." In addition, the Service has specific authorization for research work in the fields of the venereal diseases (42 U. S. C. 25), cancer (42 U. S. C. 137), and narcotics (21 U. S. C. 196). Finally, gifts may be accepted "for study, investigation, and research in the fundamental problems of the diseases of man and matters pertaining thereto" (42 U. S. C. 23b). The first sentence of section 301 would replace all of these provisions of present law by a comprehensive grant of authority.

The grant, like present law on the subject, includes certain matters which lie also within the province of other Federal agencies. With respect to research activities precise jurisdictional limitations are neither practicable nor desirable. Just as wise administration must determine in other respects what lines of research are sufficiently promising to warrant pursuit, so it must be relied upon to avoid improper duplication of effort.

For historical reasons the bill specifically includes, as matters for study, water purification, sewage treatment, and the pollution of lakes and streams. The act of 1912, after the general language quoted above, contains a specific mention of these items; and though the general language of section 301 of the bill undoubtedly embraces them, failure to list them separately might cause misunderstanding. By the specification of these subjects it is not intended to limit the scope of the general grant of authority. No similar occasion is presented for reference to other particular research functions of the Service, except with respect to narcotics, dealt with in section 302 of the bill. Under sections 301 and 302

the Service will be enabled to engage in all fields of research in which it has heretofore engaged or been authorized to engage.

The seven subsections of this section amplify, and in certain respects make more specific, the general provisions relating to research. They would grant, in the main, no new authority, although they would generalize the authority to make grants for research purposes and to secure the services of consultants, now contained only in the National Cancer Institute Act.

Subsection (a), authorizing the collection and dissemination of the results of public health research work, is taken from the last clause of 42 U. S. C. 7. The words "and other appropriate means" are added, in order to make clear that such informational media as moving pictures may be used.

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Subsection (b) would permit research facilities of the Service to be made available to non-Federal public and private investigators. It is a composite of sections 8 (a) and 23 (e) of 42 U. S. C.

Subsections (c), (d), and (e), relating, respectively, to fellowships, to grants for research work, and to employing consultants, are drawn from sections 23c, 137a (e), 137d (c), 137d (d), and 137d (e) of 42 U. S. C. As stated above, the authority to make grants and to employ consultants is broadened, experience under the National Cancer Institute Act having demonstrated the value of these procedures.

Subsection (f) would permit the admission to Service hospitals of patients for study. It is derived from 24 U. S. C. 13, omitting a numerical limitation.

Subsection (g) authorizes the use of other means to carry out the purposes of the section, and is like a provision in the National Cancer Institute Act (42 U. S. C. 137d (f)).

PART B—FEDERAL-STATE COOPERATION

SECTION 311

Section 311 is a general direction to the Surgeon General to assist and cooperate with State and local authorities in public health work, and an authorization to accept their assistance in the enforcement of Federal quarantine regulations. This section clarifies and makes more explicit the existing law contained in 42 U. S. C. 92, 92a, and 803.

SECTION 312

Section 312, providing for conferences of State health authorities annually or upon call, is the same in substance as 42 U. S. C. 29. By reason of the definition of "State" in section 2, specific mention of the District of Columbia and the Territories is no longer necessary.

SECTION 313

Section 313, dealing with collection of vital statistics, involves no changes of substance from 42 U. S. C. 30.

SECTION 314

Section 314 combines, with certain changes, the provisions of title VI of the Social Security Act (42 U. S. C. 801–803) relating to grants to the States for general public-health purposes and the provisions for grants under the Venereal Disease Control Act of 1918 (42 U. S. C. 25a–25e). These two related statutes differ in many respects, in most of them without apparent reason. A few of the major differences are preserved, but others have been eliminated.

Subsection (a) contains substantially the same authority as 42 U. S. C. 25a, which is the basic authorizing section in the Venereal

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Disease Control Act. Like present law, it contains an unlimited authorization to appropriate funds for this purpose.

Subsection (b) would authorize appropriations for grants for general public-health work. In lieu of a present authorization of $11,000,000 in title VI of the Social Security Act, and a separate authorization for the pay of personnel to be detailed to assist State health authorities, this subsection would establish an over-all limitation of $20,000,000, of which up to $2,000,000 would be made available for such details of personnel. A spokesman for the State health authorities, as well as the Surgeon General of the Public Health Service, testified that present appropriations are inadequate; and it is manifest that these grants provide almost effective means of bringing public-health services to the people of the country.

One other change in the effect of subsection (b) results from the inclusion of the Virgin Islands in the definition of "State" in section 2. At present grants are made to those islands under the

venereal-disease program but not under title VI of the Social Security Act.

The remaining subsections in this section provide the machinery for handling these grants.

Subsection (c) follows the Venereal Disease Act in directing the Surgeon General, with the approval of the Federal Security Administrator, to determine what part of the appropriations should be allotted to the States; but in the case of the general public-health grants under subsection (b) this discretion would be limited to the $2,000,000 available for direct Federal expenditure. The basis of allotment among the States is not changed from present law, and involves consideration of population, the extent of the health problems, and the financial need of the States. Present regulations define financial need in relation to per capita income in the respective States during the preceding 5-year period. Subsection (c) would permit allotments to the States to be made "from time to time," instead of annually as under present law. The change will make for more efficient use of the funds when, for instance, a State finds in the course of a fiscal year that it cannot utilize all the money allotted to it. A similar change has been made in subsection (d) relating to payments to the States.

Subsection (e), requiring the granted funds to be expended for the stated purposes and in accordance with approved State plans, involves no change from existing law (42 U. S. C. 25 (c), 802 (d)).

Subsections (f) and (g) are not contained in either of the present statutes, but have been taken from regulations. They provide, respectively, for State matching of Federal grants, on a basis to be determined by regulations; and for withdrawal of grants if, after hearing, a State is found to have violated the law or regulations or to have misused the money. Subsection (g) is more explicit than the regulations have been in providing for an administrative hearing prior to withholding funds, and also in authorizing a partial as well as a complete withholding. The State health authorities have approved the regulations in the past and have offered no objection to incorporation of these provisions into the statute.

Subsection (h) requires consultation with State health authorities prior to the issuance of regulations, and is substantially the same as present law (42 U. S. C. 25d, 802c), except that a direction to obtain agreement from the State authorities whenever practicable has been added at their instance.

Subsection (i) is an amplification of subsection (a), and picks up some details of the present law concerning expenditures (42 U. S. C. 25a) that are omitted from that subsection.

SECTION 315

Section 315 provides for the issuance of information relating to the public health, "in the form of publications or otherwise," for the use of the public. It would replace certain parts of two provisions of present law (42 U. S. C. 7, 93), eliminating unnecessary detail. One omitted provision, relating to reports by consular officers, is included in section 365 (a) of the bill. The use of the words "or otherwise" in section 315 should be read with the words "and other appropriate means" in section 301 (a), referred to above.

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SECTIONS 361 AND 363

The basic authority to make regulations to prevent the spread of disease into this country or between the States is contained in section 361 (a), unencumbered by the confusing limitations found in the act of February 15, 1893 (42 U. S. C. 92). These limitations have ceased to serve any useful purpose. So, too, the act of March 27, 1890 (42 U. S. C. 95) authorizing special regulations to control cholera, yellow fever, smallpox, or plague no longer conforms to modern quarantine procedure. Section 361 (a) would also expressly sanction the use of conventional public-health enforcement methods, heretofore practiced under authority of regulations based upon implication rather than upon explicit authority (see, e. g., 42 U. S. C. 87, 94, 105). In addition, it would authorize destruction of contaminated articles or infected animals which are dangerous to man, in those cases where no other disposition is safely possible.

A provision of present law (42 U. S. C. 87) for charging vessels with the cost of fumigation and inspection would be omitted. These services are rendered only when deemed necessary to protect the public health, and are in no substantial sense services to the shipowner.

Subsection (b) would provide that those diseases which are to be the basis for quarantine of persons must be specified in Executive orders of the President upon recommendation of the National Advisory Health Council and the Surgeon General. At present

such diseases, except for a few specifically listed in statutes (see 42 U. S. C. 95, 105), are prescribed by regulation.

Subsection (c) would continue the authority, long exercised under the Quarantine Act of 1893 (42 U. S. C. 92), to apprehend, detain, and examine persons entering the country from abroad.

Subsections (b) and (c) would permit persons who are subject to detention under the foreign quarantine provisions to be released on condition; for example, on condition that they report to public-health authorities for subsequent examination. This authority is important because the speed of air travel makes it possible for persons who may have contracted disease in foreign countries to arrive in the United States before the disease has become detectable.

Subsection (d) would confer an authority, in a limited group of cases in which interstate spread of disease is particularly likely, to isolate infected persons for the purpose of interstate rather than foreign quarantine. The authority, which would be similar to the familiar quarantine power of State and local health officers, may already exist in the Public Health Service under the act of 1893 (see also, 42 U. S. C. 25). The bill would also confer, in section 363, a like authority in time of war, which does not now exist, for the protection of members of the armed forces and civilian war workers. Persons detained under either of these provisions would be entitled to medical treatment, in accordance with section 322 (c).

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SUMMARY OF STATUTES REPEALED

On account of the difficulties involved in literally complying with the requirements of paragraph 2a of rule XIII of the Rules of the House of Representatives, and because of the printing expense which would be involved in attempting to set forth the exact text of the many provisions of law the repeal of which is proposed by the bill, the committee is of the opinion that the only practicable method of informing the House regarding these repealed provisions is to include in the report a summary of such provisions. Such a summary is set forth below. In the left-hand column reference is made to the basic law being repealed, in the center column the repealed provision is summarized, and in the right-hand column there is indicated the section or sections of the bill dealing with the subject matter of the repealed provision. It will be noted

that in the case of obsolete provisions, the substance of which has not been incorporated in the bill, no section reference appears in the right-hand column.

* * * * * * *

Citations of provisions to be repealed	Subject matter of provisions to be repealed	Sections of H. R. 4624 dealing with the subject matter
* * * * *	* * * * *	* * * * *
Ch. 66, 20 Stat. 37	* * * * *	* * * * *
* * * * *	* * * * *	* * * * *
	Sec. 4: Surgeon General to notify Federal, State, and local authorities of information received under sec. 2.	315.
	Sec. 5: Officers and agents of State or local quarantine system authorized to act as officers or agents of national quarantine system, without Federal compensation. At ports where there is no such State or local system, officers or agents of the Service shall perform duties assigned by the Surgeon General in connection with national quarantine regulations, but without interference with any State quarantine laws and regulations.	311.
	Sec. 6: Inconsistent statutes repealed.	
Ch. 202, 20 Stat. 484	* * * * *	* * * * *
	Sec. 2 Board to obtain information and advise the Government, the States, and the District of Columbia on the preservation and improvement of the public health.	301(a); 315.
* * * * *	* * * * *	* * * * *

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Ch. 541, 26 Stat. 908, 923	Last sentence of paragraph headed "Office of Supervising Surgeon General, Marine Hospital Service:" Detail authorized of 2 surgeons and 2 passed assistant surgeons to the Bureau.	214(a).
* * * * *	* * * * *	* * * * *
Ch. 114, 27 Stat. 449	* * * * *	* * * * *
	Sec. 3: Supervising Surgeon General of Marine Hospital Service shall cooperate with State and municipal boards of health to enforce their regulations and Treasury regulations in regard to spread of disease; Secretary of the Treasury may issue additional regulations where local regulations are inadequate.	361(a); 311.
	Sec. 4: Weekly sanitary reports to be made by consuls to Secretary of the Treasury, who shall publish and distribute the information to designated authorities.	365(a); 315.
* * * * *	* * * * *	* * * * *
Ch. 174, 28 Stat. 162, 179	Last sentence of paragraph headed "Office of Supervising Surgeon General, Marine Hospital Service:" Supervising Surgeon General authorized to detail additional medical officer and 1 hospital steward for duty in the Bureau.	214(a).
* * * * *	* * * * *	* * * * *
Ch. 177, 28 Stat. 764, 780	Last sentence of paragraph headed "Office of the Supervising Surgeon General, Marine Hospital Service:" Supervising Surgeon General authorized to detail 2 hospital attendants from port of New York for duty in the laboratory of the Bureau.	214(a).
Ch. 349, 30 Stat. 976	Supervising Surgeon General to appoint commission of medical officers of Service to investigate origin and prevalence of leprosy.	301.
* * * * *	* * * * *	* * * * *

Citations of provisions to be repealed	Subject matter of provisions to be repealed	Sections of H.R. 4624 dealing with the subject matter
Sec. 84, Ch. 1369, 32 Stat. 691, 711	Part of third paragraph: Public health and quarantine laws shall apply to vessels entering a United States port from the Philippine Islands.	361(a).
Ch. 1370, 32 Stat. 712	* * * * *	* * * * *
	Sec. 7: Surgeon General may call conference of State health and quarantine officers, in interests of public health, and shall call an annual conference.	312.
	Sec. 8: *Surgeon General to distribute forms for collection* of vital statistics after the annual conference.	313.
* * * * *	* * * * *	* * * * *
		[p. 35]
	* * * * *	
Ch. 288, 37 Stat. 309	Sec. 1: Changes name of Public Health and Marine Hospital Service to Public Health Service: authorizes investigation of diseases of man and conditions influencing their propagation and spread, including sanitation, sewage and the pollution of navigable streams and lakes, and the publication of information.	301, 315.
* * * * *	* * * * *	* * * * *
		[p. 36]
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1.12a(2) SENATE COMMITTEE ON EDUCATION AND LABOR

S. REP. No. 1027, 78th Cong., 2d Sess. (1944)

CONSOLIDATION AND REVISION OF LAWS RELATING TO THE PUBLIC HEALTH SERVICE

JUNE 21 (legislative day, MAY 9), 1944.—Ordered to be printed

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Mr. THOMAS of Utah, from the Committee on Education and Labor, submitted the following

REPORT

[To accompany H. R. 4624]

The Committee on Education and Labor, to whom was referred the bill (H. R. 4624) to consolidate and revise the laws relating to the Public Health Service, and for other purposes, having consid-

ered the same, report favorably thereon with amendments and, as amended, recommend that the bill do pass.

The bill for the most part is merely a restatement of the laws relating to the Public Health Service.

It proposes to bring together, in a compact and orderly arrangement, substantially all existing law on the subject except obsolete provisions; to repeal obsolete laws; to resolve certain ambiguities in existing law; and to make a number of revisions which operating experience has shown to be necessary or desirable.

At the present time the laws applicable to the Public Health Service are the result of the accumulation, over a century and a half, of a great number of separate enactments. Since 1878, when the codification accomplished by the Revised Statutes was completed, there have been many further enactments, often consisting of isolated provisions in appropriation acts, bearing on the functions of the Public Health Service. Passed at different times, these provisions of law have generally neither expressly repealed nor expressly amended their predecessors, but have simply superimposed new duties and authorities on those already existing. Couched in different terms, frequently providing different procedures, they have led to serious inconsistencies and ambiguities, as well as to gaps and duplications in substantive authority to such an extent as to impede the efficient discharge by the Service of its responsibilities. The number and volume of these enactments is indicated by the fact that the repealing section occupies over 14 pages of the present bill.

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At the time of its consideration last year of the bill which became the Public Health Service Act of 1943 (Public Law 184, 78th Cong.), the committee recognized the unsatisfactory state of the law regarding the Public Health Service. The need for prompt action on that measure, in order to enable the Service better to meet its wartime responsibilities, precluded any substantial revision of existing law in connection with that bill. At the instance of the committee, however, work was begun upon a comprehensive bill which would substitute for the existing mass of uncorrelated legislation a compact and logically arranged law governing the Public Health Service. In October 1943, H. R. 3379 was introduced to accomplish this purpose. Hearings on that bill were commenced on March 1 and concluded on March 14, 1944. As a result of further study, since the introduction of the bill, of suggestions made at the hearing, and especially of the enactment in November of the Public Health Service Act of 1943, many changes in the bill were found to be necessary. The present bill (H. R. 4624) incorporates these changes.

Enactment of the bill is recommended by the Federal Security Agency and by the president of the Association of State and Territorial Health Officers. No witness at the hearing opposed it, or urged more than minor amendments.

The bill consists of six titles. The first contains the short title and definitions, and the second deals with the organization, administration, and personnel of the Public Health Service. The third title contains the basic operating authority of the Service, and is subdivided into seven parts, dealing, respectively, with research and investigations, Federal-State cooperation, hospitals and medical examinations and medical care, lepers, narcotic addicts, biological products, and quarantine and inspection. The fourth title continues the

existence and functions of the National Cancer Institute. Title V contains miscellaneous provisions of a permanent nature, while title VI, which would not be a part of the Public Health Service Act, contains certain temporary provisions and amendments of certain other statutes, as well as the repeal of the existing provisions of law relating to the Public Health Service.

Large portions of the bill consist merely of reenactment of existing legislation with minor textual changes proposed in the interest of clarity and consistency. In some fields, however, the inadequacies of present law have necessitated a complete rewriting. In the process of clarification some doubtful authorities would be confirmed, and in a few instances, where administrative experience has shown the need for it, wholly new authority would be conferred.

The bill does not include the subject matter of the so-called Nurse Training Act (Public Law 74, 78th Cong., as amended), because that act will by its own terms expire with the termination of hostilities in the present war. As it is a separate and self-contained enactment there is no need to incorporate it in even the temporary provisions of the bill.

The report of the Committee on Interstate and Foreign Commerce of the House of Representatives (Rept. No. 1364) contains the full explanation of the provisions of the bill as it was reported by that committee, and also a detailed statement of those changes in existing law which are effected in the process of consolidation.

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1.12a(3) CONGRESSIONAL RECORD, VOL. 90 (1944)

1.12a(3)(a) May 22: Amended and passed House, pp. 4794–4797, 4811

CONSOLIDATION AND REVISION OF LAWS RELATING TO THE PUBLIC HEALTH SERVICE

Mr. SABATH. Mr. Speaker, I call up House Resolution 555, for immediate consideration.

The Clerk read as follows:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 4624) to consolidate and revise the laws relating to the Public Health Service, and for other purposes. That after general debate, which shall be confined to the bill and shall continue not to exceed 2 hours to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. SABATH. Mr. Speaker, later I shall yield 30 minutes to the gentleman from Ohio [Mr. BROWN]. I make this statement now so he will understand I am not going to try to deprive him of the usual time.

Mr. Speaker, this rule makes in order H. R. 4624, a very important bill coming from the Committee on Interstate and Foreign Commerce under the leadership of the gentleman from North Carolina [Mr. BULWINKLE]. The gentleman from North Carolina and members of his subcommittee have given months and months of study to this restatement of the laws relating to the Public Health Service. The full committee has unanimously reported this bill.

The bill would bring together in a compact and orderly arrangement substantially all existing law on the subject except obsolete laws and resolve certain ambiguities in existing law and make a number of revisions which operating experience has shown to be necessary or desirable in connection with the Public Health Service. Little or nothing has been done on this line since 1878.

I want to congratulate the gentleman from North Carolina and his subcommittee upon the splendid work they have done. Nearly everybody I have contacted about the bill states that it is in the right direction, that he endorses the bill and urges early and favorable consideration, and this I hope it will receive.

The committee has filed a comprehensive report. I want to compliment the gentleman from North Carolina upon complying so completely with the Ramseyer rule, for the report gives full and complete information as to the various changes and modifications that are embodied in this bill. There are a few changes in present law. Some of the acts were passed over a hundred years ago and need modification and clarification. The committee has done this and has liberalized many of the provisions.

The bill contains one provision which I feel it important to call to your attention and that is the authorization of $20,000,000 as against the former $11,000,000 as grants to the States for general public health work. These grants to various States will be made in accordance with the demonstrated needs and the justifications made. In view of the splendid work that has been rendered the country by the Federal Government in connection with public health, and especially in view of the great interest of this administration, particularly the President, in safeguarding the health of our people, which is near and dear to the President's heart. I believe that authorization also should be approved and the bill should be passed.

I do not wish to detain the House because the chairman of the subcommittee and the gentlemen who drafted the bill are here and ready to make further and fuller explanation of the provisions of this rather long—it contains 94 pages—bill. In view of that I shall yield to the gentleman from North Carolina [Mr. BULWINKLE] such of the time remaining to me as he desires after first yielding 30 minutes to the gentleman from Ohio [Mr. BROWN].

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

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Mr. Speaker, I ask unanimous consent to revise and extend the remarks I made earlier in the day.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. BROWN of Ohio. Mr. Speaker, as the able chairman of the Committee on Rules has explained, House Resolution 555 makes in order the bill H. R. 4624, to consolidate and revise the laws relating to the Public Health Service, and for other purposes.

It also waives certain provisions of the Ramseyer rule made necessary because of the fact H. R. 4624 repeals a number of obsolete sections of the statutes and because it would be confusing and costly to attempt to print in the original text of this bill all of the various sections that have been repealed.

For some time there has been evidence of a great need for the consolidation of the public-health laws into one act so that there may be one central authority for the functioning of the Public Health Service. This bill has been carefully considered by the Interstate and Foreign Commerce Committee of the House and by a subcommittee thereof and has the unanimous support and endorsement of every agency of the Government interested in public-health matters. It has also the support and recommendation of all the various State agencies of the United States interested in public-health affairs.

We had before us the representatives of the various medical and other public-health associations, as well as

representatives of various Government agencies, and I am firmly convinced that both the subcommittee and the full Committee on Interstate and Foreign Commerce of the House have done an excellent piece of work in preparing this legislation for the consideration of the House.

Mr. JENKINS. Will the gentleman yield for a question?

Mr. BROWN of Ohio. I yield to the gentleman from Ohio.

Mr. JENKINS. The gentleman knows very well that there is a natural fear among the medical profession of the Nation in reference to the Government's encroachment upon the province of the medical men. Has there been any opposition interposed anywhere by medical men to this bill?

Mr. BROWN of Ohio. No; with the exception that the committee membership just a day or so ago received a communication from a representative of the dental association. However, that matter has been or will easily be cleared up because of the fact that while a change has been made in one section of the law the bill also makes a change in another section and that leaves dentists in exactly the same position they were prior to the passage of this act, or perhaps even in a better position.

Mr. JENKINS. I have had some little experience with the Public Health Service, especially in connection with floods and certain calamities. I have found that it has been a great organization, it has done a great work, but also everyone owes an allegiance to the medical profession of this country, and we should not impose upon them any unnecessary restrictions that will invade their profession or rights.

Mr. BROWN of Ohio. Let me say to the gentleman from Ohio that in considering this legislation both the officials of the Public Health Service and the membership of the subcommittee, and I happen to be a member of that subcommittee as well as a member of the Rules Committee, were very careful to make certain that we in no way invaded the field of private medical practice. We did, in this measure, content ourselves only with a service as far as public health is concerned that can be called a real public service. In other words, we have not extended the activities or the range of authority of the Public Health Service further than now pertains except in one or two instances where there have been new developments. For instance, we have given them authority over some new alkaloids and some new drugs that have been discovered that are habit-forming, and which were not mentioned in the old law. We have given them some additional authority, for instance, in employing consultants who are not citizens of this country. Those consultants are being employed and used in foreign ports and in foreign stations where, because of the war, the Public Health Service must today function; and we have given them, by that particular section, the right and authority to go anywhere in the world and get as aids, or assistants and consultants, anyone who may have special knowledge of some tropical disease, let us say, that we in America have had no experience with whatsoever; yet, in order to save American lives it is necessary that we get the benefit of the knowledge that these men in foreign countries may have.

Mr. DONDERO. Will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Michigan.

Mr. DONDERO. Does this come with a unanimous report to the House?

Mr. BROWN of Ohio. It is a unanimous report.

Mr. DONDERO. Was the medical profession called in and consulted in the preparation of this legislation?

Mr. BROWN of Ohio. The medical

profession and different representatives and groups appeared or had an opportunity to be heard. I want to be entirely fair in reference to this. As I mentioned a moment ago, the Dental Association was invited and, as I understand it, did not appear, but later wrote a letter pointing out that in one section of the redrafted bill, or the clean bill, as we call it, the dental profession as a profession had been deleted or stricken out of the law. However, we pointed out to that association that in another section the same authority that they now have and the same rights that they now enjoy have been protected.

Mr. ROBSION of Kentucky. Will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Kentucky.

Mr. ROBSION of Kentucky. Did the committee have representatives of the American Medical Association before it?

Mr. BROWN of Ohio. Yes; we extended an opportunity to be heard to the representatives of all the different branches of medicine.

Mr. ROBSION of Kentucky. They approved it?

Mr. BROWN of Ohio. Yes; as I understand it, they did. May I ask the chairman of the subcommittee to answer that?

Mr. BULWINKLE. The chairman of the legislative committee of the Public Health Association appeared. There was no opposition at all from anyone in the medical profession.

Mr. ROBSION of Kentucky. Did anyone representing the American Medical Association appear?

Mr. BULWINKLE. They had notice of it. May I say to the gentleman from Kentucky that this is not a curative bill. The Public Health Service is organized to prevent the spread of contagious and other diseases in the United States. It does not, as the gentleman from Ohio said, take one thing away from the medical profession which it now has.

Mr. BROWN of Ohio. This is not for the regulation of the private practice of medicine in any way. As I understood it, Dr. Riley and these other gentlemen who appeared are officers of the American Medical Association, and they are satisfied.

Mr. ROBSION of Kentucky. The bill does not infringe on private practice?

Mr. BULWINKLE. Not in the least.

Mr. ROBSION of Kentucky. How about the hospitals? Is there any report on that? Did anybody appear?

Mr. BULWINKLE. Yes.

Mr. ROBISON of Kentucky. Did anyone representing the hospitals express any opposition?

Mr. BULWINKLE. No; not in the least.

Mr. JENSEN. Will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Iowa.

Mr. JENSEN. Does this bill seek to change any present laws relative to the veterans or their wives or dependents?

Mr. BROWN of Ohio. Oh, no, it does not touch veterans' legislation or veterans' hospitals except that there is a provision, and I wish to be corrected if I am wrong, that in foreign ports, where there are hospital facilities of the Public Health Service, a veteran is entitled to emergency service at those hospitals where he cannot get to a veterans' hospital quickly.

Mr. JENSEN. The gentleman thinks that is the only place?

Mr. BROWN of Ohio. Yes; there is no infringement on the administration of veterans law in any way. Let me say there is only an added help provided for veterans at any time they call on the Public Health Service.

Mr. SMITH of Ohio. Will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Ohio.

Mr. SMITH of Ohio. Referring to page 28 and the grants and services to States. I read section 314 very carefully and it seems to me this is

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a rather heavy encroachment by the Federal Government up to the States.

Mr. BROWN of Ohio. Of course, that is simply a reenactment of the present law.

Mr. SMITH of Ohio. I understand the present law. There is, for example, the control of venereal disease. Is that a State function or a Federal function? I think it is a State function.

Mr. BROWN of Ohio. I can agree with the gentleman very quickly that it is a State function, primarily; but this does not attempt, if the gentleman will read the section carefully, to control venereal disease within a State. It is only for the purpose of developing more effective measures for the prevention, treatment, and control of venereal disease, and not to carry out the actual cure thereof. It is only to experiment, conduct research, furnish information, and give help as may be called for by the States.

Mr. SMITH of Ohio. We all know what it means when the Federal Government says those things. It means the Federal Government is going in and take charge.

Mr. BROWN of Ohio. Let me say that all of the State health departments and the various local health officials of the different States of the Union have a different viewpoint than that expressed by the gentleman from Ohio, Dr. SMITH, because each and every one of them has approved this bill. They call upon the Federal Health Service only in the case of epidemics, and for information on research and experimentation conducted in the central hospitals or facilities of the Public Health Service.

Mr. SMITH of Ohio. Would not the gentleman expect those health officers to approve this measure? But what I want to know is where the individual physician or the individual citizen stands on this proposition.

Mr. BROWN of Ohio. Of course, I cannot answer for what the gentleman may have in his mind. Let me say again that this provision is simply an extension of the present law. We have codified only this particular provision of the present law on that subject, and your discourse goes back to whether or not the original law should have been enacted, not as to whether it should be recodified. In other words, if this bill is defeated, the law on this particular subject will remain just the same as it is today, or, if it is passed, the present law will not be changed.

Mr. SMITH of Ohio. But there might be this difference. In this instance certainly more funds are going to be granted.

Mr. BROWN of Ohio. Slightly more because of the feeling that there will be a greater health problem during the next few years as we reconvert millions of men from the Army and the Navy back to civilian life; many of them coming back with malaria, or other tropical disease so there will be more help needed by the local health boards and communities than in the past. Federal expenditures are still under the control of the Congress, and appropriations must be made by the Congress for any amounts that are used for Public Health Service purposes.

Mr. SMITH of Ohio. The one point I would like to make is that it costs the State much less money to control venereal diseases than it does the Federal Government.

Mr. BROWN of Ohio. The Federal Government does not attempt to control venereal diseases, except as it makes ready for use of the private physician, and of the State and local

health authorities, such information as it may obtain through its research and other work in the field of venereal diseases.

Mr. SMITH of Ohio. This says, in so many words, to enable the Surgeon General to carry out the purposes of section 301 with respect to developing more effective measures for the prevention, treatment, and control of venereal diseases.

Mr. BROWN of Ohio. With respect to developing more effective measures for the prevention thereof, certainly. They find some new way to control the disease, and they pass that information on.

Mr. SMITH of Ohio. Will the gentleman admit that there is now a tendency on the part of the Federal Government to encroach upon the States?

Mr. BROWN of Ohio. Certainly; and there has been no man in this House who has been more zealous in protecting the rights of the States and the local communities against encroachment from the Federal Government than I, with the possible exception of the gentleman who addresses me, Dr. SMITH of Ohio.

Mr. AUGUST H. ANDRESEN. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Minnesota.

Mr. AUGUST H. ANDRESEN. As I understand it, in this bill you have written existing law. I would like to ask the gentleman this question: Is there anything in this bill that might authorize the socialization of medicine?

Mr. BROWN of Ohio. No; just directly the opposite, in my opinion.

Mr. SABATH. Mr. Speaker, I yield to the gentleman from North Carolina [Mr. BULWINKLE] 10 minutes.

Mr. BULWINKLE. Mr. Speaker, as was so well stated by the gentleman from Ohio and the chairman of the Committee on Rules, this is a bill to revise and consolidate the public-health laws. The public-health laws date back originally to the old maritime laws, which provided maritime hospitalization in 1792. There really has not been a consolidation or codification of the public-health laws since 1875. A great many laws have been enacted by amendments to appropriation bills.

Several years ago a subcommittee of the Committee on Interstate and Foreign Commerce introduced a bill, but we found that in some particulars it merely overlapped what was already in existing law. In order to have the law before us, and in order to do away with and repeal all these obsolete laws, the committee then started to work, with the aid of the legislative counsel of the House and of the Federal Security Administration, to revise all the laws relating to public health.

I may say that there are no great changes in existing law. The only change that has been made, as I said, is the repeal of the obsolete sections and rationalizing inconsistent provisions, resolving doubts and ambiguities in existing law and making certain revisions that are found necessary by long administrative experience.

So I say that the entire bill was carefully gone over. I have never seen any men more conscientious than the gentleman from Ohio [Mr. BROWN], the gentleman from Tennessee [Mr. REECE], the gentleman from Pennsylvania [Mr. SCOTT], the gentleman from Tennessee [Mr. PRIEST], and the gentleman from Pennsylvania [Mr. MYERS], who were present practically all the time at the hearings when we went over this matter.

The first bill was introduced in October. When the hearings were held, notice was sent to everyone. I am saying this because I want to call to your attention that in two particulars the committee will introduce committee amendments, one of which I feel—

and I know the gentleman from Ohio feels the same way—should be enacted. We had practically stated that one amendment would be put in the bill, as applied to the shipping on the Great Lakes, and that is the word "primarily."

The other is on page 14, line 12, to insert the word "pharmacist" after the words "sanitary engineering officers."

If there is any question that any Member wishes to ask, if I am able to do so, I will be glad to answer.

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

Mr. BULWINKLE. I yield to the gentleman from Wisconsin.

Mr. KEEFE. Will the gentleman explain those two amendments again?

Mr. BULWINKLE. The first amendment that will be offered is on page 2, line 19, in the definition of "seamen." The definition of "seamen" as now construed is with the word "primarily" omitted. After some hearings we decided or thought we had better place that in there, on account of the fact that in some instances there are men on board vessels who are not seamen, who would come under the provisions of this act, and who only had a temporary position on board. The shipping people on the Great Lakes said that this would affect them. Mr. BROWN and I practically told them we would agree to take it out, but we overlooked it, and for that reason I am asking, when the time comes, that we be permitted to do that. There was no objection at all at the time of the hearings. The State health authorities were all present, and the Members of the Congress spoke to me, as did the gentleman from Wisconsin, about amendments which we saw fit to place in the bill.

The second amendment was the pharmacist field on page 14, line 11, "commissioned officers other than medical, dental, and sanitary engineering officers shall be promoted in accordance with regulations of the President." We felt that they should be classed with these others. It does not make any material difference, and so

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we agreed to put them in.

Mr. KEEFE. As I understand, the second amendment relates to the inclusion of a pharmacist.

Mr. BULWINKLE. Yes.

Mr. KEEFE. In the provision to be found in paragraph 4, on page 14.

Mr. BULWINKLE. Yes.

[p. 4797]

Mr. BULWINKLE. Mr. Speaker, I sent two amendments to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. BULWINKLE: On page 2, line 19, strike out the word "primarily."

The amendment was agreed to.

The Clerk read as follows:

Amendment offered by Mr. BULWINKLE: Page 14, line 12, strike out the words "sanitary engineering" and insert "sanitary engineering and pharmacist."

The amendment was agreed to.

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

[p. 4811]

1.12a(3)(b) June 22: Debated, amended, and passed Senate, pp. 6486–6487, 6498–6500

REVISION OF LAWS RELATING TO PUBLIC HEALTH SERVICE

The bill (H. R. 4624) to consolidate and revise the laws relating to the Public Health Service, and for other purposes, was announced as next in order.

Mr. REVERCOMB. I ask that the bill be passed over.

The ACTING PRESIDENT pro tempore. The bill will be passed over.

Mr. THOMAS of Utah. Mr. President, I trust the Senator from West Virginia will not ask that the bill go over. I should like to make an explanation of it, if he wishes. It is a bill which is needed about as badly as any measure we can think of. It is a bill which has been worked upon for at least 2 years by a committee of the House of Representatives, and it passed the House of Representatives unanimously. It was reported from the Senate Committee on Education and Labor unanimously. It does not in any way, with the exception of the provision with respect to tuberculosis, add to the expenses of the Government. The tuberculosis section was adopted by the House of Representatives unanimously, and has been reported favorably by the Committee on Education and Labor of the Senate. There was not a single person who appeared against it in the hearings held in the House of Representatives or the hearing held in the Senate.

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

Mr. THOMAS of Utah. I am glad to yield.

Mr. REVERCOMB. I may say that I do not know what the bill contains. There is no print of it on my desk. I have not been able to find it. My docket and my book of printed bills ends with Calendar No. 1043. The title of the bill which is being discussed by the able Senator from Utah is "An act to consolidate and revise the laws relating to the Public Health Service." I certainly should want to have an opportunity to see the bill and to learn what is in it before we pass it on the Consent Calendar.

Mr. THOMAS of Utah. Of course, Mr. President, no one can object to what the Senator from West Virginia has just stated. However, the bill has been printed, it has been available, it has been studied, but the new printing, with the amendments which were added, has not been sent to the Printing Office for some reason. I do not know what the reason is.

If the Senator will look at the report, he will find that every change is noted by page and by line in the most minute detail. That was done, because there has been the closest cooperation between the Senate committee and the House committee, and every amendment submitted to our committee received the informal approval of the House committee before we considered it and before it was put into the bill.

This bill is a codification of laws which have been in existence since before the Constitution of the United States, as public-health legislation started in the Continental Congress. We now find ourselves in the war emergency, and discover conditions as they are, and realize, for example, that there has not been adequate inspection of a single boat during wartime, that our boys are coming home from all parts of the world, and we can appreciate that the risks to our country are so great that to delay action at this time is deemed hazardous by the public-health authorities.

The bill was given careful consideration by both the House committee and the Senate committee. It

was carefully studied. It does not add to the law of the land, nor does it take away from the law of the land, but merely brings the law up to date, in such a way that one of the most vital and most necessary agencies of our Government may operate unhampered, at a time when our country is really imperiled. The tuberculosis provision alone shows that, and there are coming back to our country from all parts of the world men afflicted with malaria and other sicknesses.

Mr. REVERCOMB. Will the Senator yield further?

Mr. THOMAS of Utah. I yield.

Mr. REVERCOMB. I am not doubting for a moment that the able Senator has the views he expresses about the bill. I do not know what is in the bill. The print is not here. I do not think any other Senators know what is contained in the bill, and I do not wish to agree to the passage of a measure without adequate consideration by the Senate, and when we do not even have a print before us.

Let me say to the Senator that there is no one in this Chamber more interested than I in looking after the public health and the welfare of the citizens of this country, and particularly those engaged in the armed service, but I must ask that the bill go over during the consideration of measures on the Consent Calendar, until I at least have an opportunity to discuss it with the Senator from Utah. That is my feeling about this subject, as it would be about any other subject of legislation.

Mr. THOMAS of Utah. I am wondering whether the Senator from West Virginia would be willing to have the bill taken up tomorrow under special order, or would consent to some arrangement. If I were not so sure that the Senator from West Virginia could find no objection, and will find no objection, I would not press it, but never has a bill been more carefully examined than has this bill by the Committee on Interstate and Foreign Commerce of the House of Representatives. I know of that study because it has been going on for over 2 years, and I introduced a companion bill, and the Senate committee has been studying it at the same time.

Mr REVERCOMB. If the Senator will yield further, I wish to point out, from the report, that we are dealing with the codification of laws applicable to the Public Health Service which are the result of the accumulation over a century and a half of a great number of enactments. However meritorious the bill may be from the viewpoint of the Senator from Utah, for whose opinion I have great respect, I care not how meritorious it may be from the viewpoint of those who are managing the bill on the floor, we should have opportunity to consider it, and we should not let it pass without consideration. That is why at this time I ask that the bill go over. I wish to discuss it with the Senator from Utah or with someone else interested in the bill.

Mr. GEORGE. Mr. President, this bill is voluminous, as a document. When the bill passed the House and came to the Senate, there was some question of the committee jurisdiction, and perhaps the fact that a similar or identical bill had been introduced by the distinguished Senator from Utah was overlooked. At any rate, some question arose with the Presiding Officer of the Senate as to whether the bill should go to the Finance Committee, because it dealt with customs, or should go to the Committee on Commerce, because it was considered by the Committee on Interstate and Foreign Commerce in the House.

I looked into the bill, made some examination of it, and gave it some scrutiny to see whether it was a

mere codification or clarification, and was intended to be that only, without adding new laws. I reached the conclusion that it was, just as the Senator from Utah has stated. I suggested to the Presiding Officer that the bill be referred to the Committee on Commerce, thinking that the committee

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was the only other committee which perhaps would have jurisdiction.

Subsequently, on the motion of the Committee on Commerce, the bill was referred to the Committee on Education and Labor, and the chairman of the Committee on Commerce brought the matter to my attention. So I have looked into the bill from time to time, and I believe the Senator from West Virginia might very well satisfy himself by tomorrow of the contents of the bill, and might conclude that it is a highly desirable piece of legislation. I hope very much the Senator can do so by tomorrow. I am sure the Senator from Utah will be very glad to enter into conference with the Senator from West Virginia.

Mr. HILL. Mr. President, I concur in what the Senator from Georgia has stated. I happen to be the chairman of the subcommittee of the Committee on Education and Labor which held hearings on the bill. What the Senator from Georgia has said is absolutely correct. This is a codification of existing law, without new matter, except the tuberculosis provision to which the Senator from Utah has called attention. The provision with reference to tuberculosis has already passed the House of Representatives in a separate bill.

As the Senator from Utah has said, the bill has been most carefully considered. The subcommittee of the House Committee on Interstate and Foreign Commerce, of which Representative BULWINKLE is chairman, gave the bill long and careful consideration, and the minority was ably represented by the distinguished Representative from Ohio, Mr. BROWN.

I know that both Representative BROWN and Representative BULWINKLE have worked for a long time on this bill. The subcommittee of the Senate committee, in giving it consideration, have kept in touch with both Representative BULWINKLE and Representative BROWN. The subcommittee of the House committee reported the bill unanimously to the full committee, the full committee reported the bill unanimously to the House, and the House passed the bill by unanimous vote.

Mr. REED. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. REED. Are we proceeding under the 5-minute rule?

Mr. HILL. Mr. President, I would not expect my friend the Senator from Kansas to ask that question. There might be some Senators whom I could expect to ask such a question, but not my friend the Senator from Kansas. If he will withhold his inquiry for a moment, I wish to urge the Senator from West Virginia to give the bill his prompt consideration, and let us see if we cannot pass the bill so it will become law before the Senate recesses. There are many impelling reasons why the measure should be passed quickly.

Mr. REVERCOMB. Mr. President, I shall insist that the bill go over, but at the same time I will give it my consideration, and will discuss it with the Senator from Utah or any other Senators interested in the passage of the proposed legislation, today if possible.

Mr. THOMAS of Utah. Mr. President, I shall request that the bill be considered tomorrow. I give notice that I will call it up tomorrow, because it is a matter on which action

is necessary immediately, and I feel we are justified in requesting consideration of the measure tomorrow.

* * * * *

[p. 6487]

CONSOLIDATION AND REVISION OF LAWS RELATING TO THE PUBLIC HEALTH SERVICE

Mr. THOMAS of Utah. Mr. President, when the calendar was called House bill 4624, Calendar No. 1045, was reached. That is the last bill on the calendar. Objection was made to consideration of the bill at the time by the Senator from West Virginia [Mr. REVERCOMB]. We have discussed the matter with the Senator from West Virginia and other Senators, and an agreement has been reached that if one of the Senate committee amendments shall be disagreed to there will be no other objections raised to the bill.

Mr. President, since the bill is one which will need House approval, and since we have worked in harmony with the House committee with respect to it, I ask unanimous consent for immediate consideration of the bill.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (H. R. 4624) to consolidate and revise the laws relating to the Public Health

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Service, and for other purposes, which had been reported from the Committee on Education and Labor with amendments.

Mr. REVERCOMB. Mr. President, I understand it is agreed that the committee amendment on page 64 of the bill, section 371, under the heading "Training of Nurses," shall be disagreed to.

Mr. THOMAS of Utah. That is correct, Mr. President.

The PRESIDING OFFICER. The clerk will state the amendments of the committee.

The first amendment of the Committee on Education and Labor was, in section 210, on page 14, line 13, after the word "promotion," to strike out "after not more than 2 years of service" and insert "in accordance with regulations of the President."

The amendment was agreed to.

The next amendment was, in section 215, on page 22, line 12, after the word "effects", to strike out "allotments from their pay by commissioned officers."

The amendment was agreed to.

The next amendment was in section 314, on page 30, after line 4, to insert the following paragraph:

(b) To enable the Surgeon General to carry out the purposes of section 301 with respect to developing more effective measures for the prevention, treatment, and control of tuberculosis, and to assist, through grants and as otherwise provided in this section, States, counties, health districts, and other political subdivisions of the States in establishing and maintaining adequate measures for the prevention, treatment, and control of such disease, including the provision of appropriate facilities for care and treatment and including the training of personnel for State and local health work, and to enable him to prevent and control the spread of tuberculosis in interstate traffic, and to meet the cost of pay, allowances, and traveling expenses of commissioned officers and other personnel of the Service detailed to assist in carrying out the purpose of this section with respect to tuberculosis, and to administer this section with respect to such disease, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1945, the sum of $10,000,000, and for each fiscal year thereafter a sum sufficient to carry out the purposes of this subsection.

The amendment was agreed to.

The next amendment was, on the same page, in line 25, to change the paragraph designation from "(b)" to "(c)."

The amendment was agreed to.

The next amendment was, on page 31, line 16, to change the paragraph designation from "(c)" to "(d)"; in line 18, after "subsection (a)", to strike out the word "and"; in line 19, after "subsection (b)", to insert "and, within the limits specified in subsection (c), the total sum from the appropriation under that subsection"; and on page 32, line 1, after the word "problem", to insert "the size of the tuberculosis problem."

The amendment was agreed to.

The next amendment was, on page 32, line 6, to change the paragraph designation from "(d)" to "(e)."

The amendment was agreed to.

The next amendment was, on the same page, line 18, to change the paragraph designation from "(e)" to "(f)", and in line 20, after the word "subsection", to strike out "(a)" and insert "(a)," and in the same line, after "(b)", to insert "or subsection (c)."

The amendment was agreed to.

The next amendment was, on the same page, line 24, to change the paragraph designation from "(f)" to "(g)."

The amendment was agreed to.

The next amendment was, on page 33, line 3, to change the paragraph designation from "(g)" to "(h)"; in line 6, after the word "subsection", to strike out "(a)" and insert "(a),"; in line 7, after "subsection (b)", to insert "or subsection (c)"; and in line 10, after the word "subsection", to strike out "(e)" and insert "(f)."

The amendment was agreed to.

The next amendment was, on page 33, in line 22, to change the paragraph designation from (h) to (i).

The amendment was agreed to.

The next amendment was, on page 34, in line 4, to change the paragraph designation from (i) to (j); in the same line, after "subsection (a)", to strike out "of this section" and insert "and funds appropriated under subsection (b)"; in line 8, after the word "out", to strike out "such subsection" and insert "the respective subsections", and in line 12, after the word "by", to strike out "such subsection" and insert "the respective subsections."

The amendment was agreed to.

The next amendment was, in section 321, on page 35, after line 4, to insert the following: "and from time to time, with the approval of the President, select suitable sites for and establish such additional institutions, hospitals, and stations in the States and possessions of the United States as in his judgment are necessary to enable the Service to discharge its functions and duties."

The amendment was agreed to.

The next amendment was, in section 326, on page 41, after line 2, to strike out:

Such cost shall be at such uniform rate as may be prescribed in such regulations of the President.

And insert:

Such cost shall be at such uniform rate as may be prescribed from time to time by the President for the hospitalization of dependents of naval and Marine Corps personnel at any naval hospital, pursuant to section 2 of the act of May 10, 1943 (57 Stat. 80).

The amendment was agreed to.

The next amendment was, in section 343, on page 46, line 2, after the word "transfers", to insert:

When sentence is pronounced against any person whom the prosecuting officer believes to be an addict, such officer shall report to the authority vested with the power to designate the place of confinement, the name of such person, the reasons for his belief, all pertinent facts bearing on such addiction, and the nature of the offense committed.

The amendment was agreed to.

The next amendment was, in section 344, on page 49, line 22, to change the paragraph designation from (d) to (c) and on page 50, line 5, to change the paragraph designation from "(c)" to "(d)."

The amendment was agreed to.

The next amendment was, in section 351, on page 53, line 12, after the word "purity", to insert "and", and after the word "potency" to strike out "and efficaciousness."

The amendment was agreed to.

The next amendment was, in the same section, on page 54, line 10, after the paragraph designation "(g)", to strike out "the persons and the products to which this section is applicable shall be subject also to the provisions of the" and to insert "Nothing contained in this act shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of the", and in line 14, after the word "Act", to strike out the comma and the following: "except that section 505 of such act shall not apply in the case of any virus, serum, toxin, antitoxin, or other product propagated, manufactured, or prepared pursuant to an unsuspended and unrevoked license issued under this section" and insert "(U.S.C., 1940 ed., title 21, ch. 9)."

The amendment was agreed to.

The next amendment was, in section 366, on page 59, line 19, after "(a)", to strike out "Any" and insert "Except as otherwise prescribed in regulations, any."

The amendment was agreed to.

The next amendment was, in the same section, on page 61, line 13, after the word "treaty", to strike out "or may be designated by regulation; nor, to the extent prescribed by regulations, to such of the other vessels referred to in subsection (a) hereof as may be designated in such regulations."

The amendment was agreed to.

The next amendment was, in the same section, on page 62, line 1, after the word "vessel", to insert:

The certificate required by this subsection shall be procurable from the quarantine officer, upon arrival of the vessel at the quarantine station and satisfactory inspection thereof, at any time within which quarantine services are performed at such station.

The amendment was agreed to.

The next amendment was, in section 367, on page 62, line 8, after the words "application to", to strike out "civil", and in line 9, before the word "aircraft", to strike out "civil."

The amendment was agreed to.

The next amendment was, in section 368, page 62, line 24, after the word "section", to strike out "364 or section"; in line 25, after the word "regulations", to strike out "thereunder," and insert "thereunder"; on page 63, after the word "section", to strike out "367" and insert "364."

The amendment was agreed to.

The next amendment was, on page 64, line 1, to insert the following:

PART H—TRAINING

TRAINING OF NURSES

SEC. 371. The Surgeon General is authorized to provide for training and instruction of persons in nursing and related subjects, in educational and other training institutions which have been approved by the Surgeon General as meeting standards prescribed by regulations of the President; payment for such training and instruction, and for tuition, fees and subsistence, to be made through certification from time to time by the Surgeon General, in accordance with regulations of

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the President, to the Secretary of the Treasury of the name of the approved institution and the amount to be paid; and the Secretary shall make payment in accordance with such certification prior to audit or settlement by the General Accounting Office.

Mr. THOMAS of Utah. Mr. President, I ask that the amendment on page 64 be rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment beginning on page 64, line 1.

The amendment was rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment beginning on page 64, line 1.

The next amendment was in section 406, on page 69, line 9, after the word "limiting" to strike out "(1)" and in-

sert "(a)", and in line 13, after the word "or" to strike "(2)" and insert "(b)."

The amendment was agreed to.

The next amendment was in section 501, page 71, after line 24 to insert the following:

(e) Donations of $50,000 or over in aid of research may be acknowledged by the establishment within the National Institute of Health of suitable memorials to the donors.

The amendment was agreed to.

The next amendment was, in section 610, on page 82, after line 11 to strike out the following:

(b) Subject to regulations of the President, lightkeepers and assistant lightkeepers (who during their active service were entitled to medical relief at hospitals and other stations of the Public Health Service), and officers and crews of vessels of the former Lighthouse Service, who have been or who may hereafter be retired under the provisions of section 6 of the Act of June 20, 1918, as amended (U. S. C., 1940 edition, title 33, sec. 763), shall be entitled to medical, surgical, and dental treatment and hospitalization by the Public Health Service.

And to insert:

(b) Subject to regulations of the President, lightkeepers, assistant lightkeepers, and officers and crews of vessels of the former Lighthouse Service, including any such persons who subsequent to June 30, 1939, have involuntarily been assigned to other civilian duty in the Coast Guard, who were entitled to medical relief at hospitals and other stations of the Public Health Service prior to enactment of this act, and who are now or hereafter on active duty or who have been or may hereafter be retired under the provisions of section 6 of the act of June 20, 1918, as amended (U. S. C., 1940 ed., title 33, sec.. 763), shall be entitled to medical, surgical, and dental treatment and hospitalization at hospitals and other stations of the Public Health Service: *Provided*, That such persons while on active duty shall also be entitled to care and treatment in accordance with the provisions of section 322 (e) of this act.

(c) For the duration of the present war and for 6 months thereafter, seamen employed on foreign-flag vessels which are owned or operated by citizens of the United States or by corporations incorporated under the law of the United States or of any State shall be entitled to the same benefits as are provided by section 322 (a) (1) for seamen employed on vessels of the United States.

The amendment was agreed to.

The next amendment was in section 611, after line 22, to insert:

The two paragraphs under the subheading "Marine—hospital establishment (customs:)" under the heading "Under the Treasury Department" in section 3689 in title XLI of the Revised Statutes of the United States;

The amendment was agreed to.

The next amendment was on page 84, line 3, to strike out "Section 3689 in title XLI, and sections" and insert "Sections."

The amendment was agreed to.

The next amendment was, on page 94, line 25, after the words "public health", to strike out "wherever they appear."

The amendment was agreed to.

The next amendment was, on page 95, at the beginning of line 1, to strike out "the second sentence of."

The amendment was agreed to.

The next amendment was, on page 95, line 16, after the numerals "228", to insert "chapter 725, 49 Statutes at Large 1827, at page 1839;".

The amendment was agreed to.

The next amendment was, on page 97, line 8, after the numerals "547", to insert "at page 548."

The amendment was agreed to.

The next amendment was, on page 98, line 7, after the word "Congress", to strike out the comma and the words "at page 4."

The amendment was agreed to.

The PRESIDING OFFICER. That completes the committee amendments.

The bill is before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H. R. 4624) was read the third time and passed.

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1.12a(3)(c) June 23: House concurs in Senate amendments, pp. 6663–6664

[No Relevant Discussion on Pertinent Sections]

1.12b NATIONAL MENTAL HEALTH ACT

July 3, 1946, P.L. 79–487, §§ 6, 7(a, b), 9, 60 Stat. 423, 424

DETAIL OF PERSONNEL

SEC. 6. Subsection (b) of section 214 of the Public Health Service Act [24] is amended to read as follows:

"(b) Upon the request of any State health authority or, in the case of work relating to mental health, any State mental health authority, personnel of the Service may be detailed by the Surgeon General for the purpose of assisting such State or a political subdivision thereof in work related to the functions of the Service."

RESEARCH, INVESTIGATIONS, AND TRAINING

SEC. 7. (a) Paragraph (d) of section 301 of the Public Health Service Act [25] is amended to read as follows:

"(d) Make grants in aid to universities, hospitals, laboratories, and other public or private institutions, and to individuals for such research projects as are recommended by the National Advisory Health Council, or, with respect to cancer, recommended by the National Advisory Cancer Council, or, with respect to mental health, recommended by the National Advisory Mental Health Council;".

(b) Paragraph (g) of such section is amended to read as follows:

"(g) Adopt, upon recommendation of the National Advisory Health Council, or, with respect to cancer, upon recommendation of the National Advisory Cancer Council, or, with respect to mental health, upon recommendation of the National Advisory Mental Health Council, such additional means as he deems necessary or appropriate to carry out the purposes of this section."

(c) Part A of title III of the Public Health Service Act [26] is further amended by adding at the end thereof the following new section:

GRANTS TO STATES

SEC. 9. (a) Subsection (c) of section 314 of the Public Health Service Act is amended to read as follows:

"(c) To enable the Surgeon General to assist, through grants and as otherwise provided in this section, States, counties, health districts, and other political subdivisions of the States in establishing and maintaining adequate public health services, including grants for demonstrations and for the training of personnel for State and local health work, there is hereby authorized to be appropriated for each fiscal year a sum not to exceed $30,000,000. Of the sum appropriated for each fiscal year pursuant to this subsection there shall be available an amount, not to exceed $3,000,000, to enable the Surgeon General to provide demonstrations and to train personnel for State and local health work and to meet the cost of pay, allowances, and traveling expenses of commissioned officers and other personnel of the Service detailed to assist States in carrying out the purposes of this subsection."

(b) Subsection (d) of such section is amended to read as follows:

"(d) For each fiscal year, the Surgeon General, with the approval of the Administrator, shall determine the total sum from the appropriation under subsection (a), the total sum from the appropriation under subsection (b), and, within the limits specified in subsection (c), the total sum from the appropriation under that subsection which shall be available for allotment among the several States. He shall, in accordance with regulations, from time to time make allotments from such sums to the several States on the basis of (1) the population, (2) the extent of the venereal-disease problem, the extent of the tuberculosis problem, and the extent of the mental health problem and other special health problems, respectively, and (3) the financial need of the respective States. Upon making such allotments the Surgeon General shall notify the Secretary of the Treasury of the amounts thereof."

(c) Subsection (f) of such section is amended to read as follows:

"(f) The moneys so paid to any State shall be expended solely in carrying out the purposes specified in subsection (a), or subsection (b), or subsection (c) of this section, as the case may be, and in accordance with plans, approved by the Surgeon General, which have been presented by the health authority of such State and, to the extent any such plan contains provisions relating to mental health, by the mental health authority of such State."

(d) Subsection (h) of such section is amended to read as follows:

"(h) Whenever the Surgeon General, after reasonable notice and opportunity for hearing to the health authority or, where appropriate, the mental health authority of the State, finds that, with respect to money paid to the State out of appropriations under subsection (a), or subsection (b), or subsection (c), as the case may be, there is a failure to comply substantially with either—

"(1) the provisions of this section;

"(2) the plan submitted under subsection (f); or

"(3) the regulations;

the Surgeon General shall notify such State health authority or mental health authority either that further payments will not be made to the State from appropriations under such subsection (or in his discretion that further payments will not be made to the State from such appropriations for activities in which there is such failure), until he is satisfied that there will no longer be any such failure. Until he is so satisfied the Surgeon General shall make no further certification for payment to such State from appropriations under such subsection, or shall limit payment to activities in which there is no such failure."

(e) Subsection (i) of such section is amended to read as follows:

"(i) All regulations and amendments thereto with respect to grants to States under this section shall be made after consultation with a conference of the State health authorities and, in the case of regulations or amendments which relate to or in any way affect grants under subsection (c) for work in the field of mental health, the State mental health authorities. Insofar as practicable, the Surgeon General shall obtain the agreement, prior to the issuance of any such regulations or amendments, of the State health authorities and, in the case of regulations or amendments which relate to or in any way affect grants under subsection (c) for work in the field of mental health, the State mental health authorities."

1.12b(1) HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

H.R. REP. No. 1445, 79th Cong., 1st Sess. (1945)

NATIONAL MENTAL HEALTH ACT

DECEMBER 14, 1945.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. PRIEST, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H. R. 4512]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 4512) to amend the Public Health Service Act to provide for research relating to psychiatric disorders and to aid in the development of more effective methods of prevention, diagnosis, and treatment of such disorders, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

1. Page 4, strike out all of line 5 after the letter "(d)" and insert in lieu thereof "The National Advisory Mental Health Council".

2. Page 7, line 20, insert "receiving such training and instruction" after "persons".

3. Page 8, line 2, strike out "clinc" and insert in lieu thereof "clinic".

4. Page 8, line 19, strike out "mental-" and insert in lieu thereof "mental".

5. Page 10, line 3, insert "and" and after the second comma; and in line 4, strike out "problem, and the extent of" and insert in lieu thereof "problem and".

The first, third, and fourth amendments are proposed solely for the purpose of correcting obvious typographical errors.

The second amendment is for the purpose of making it clear that the Advisory Council is to fix the number of persons receiving training and instruction.

Fifth amendment: Section 314 (d) of the Public Health Service Act contains the formula for the making of allotments among the States of funds made available for public health services. The intention of the bill is to modify this formula so as to make specific reference to the mental health problem, without, however, placing that

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PRINCIPAL FEATURES OF THE BILL

The bill projects into the field of mental health the authority which the Congress has in the past bestowed upon the Public Health Service—and which was revised and consolidated last year in the Public Health Service Act—with regard to research, grants-in-aid and fellowships, aid to the States, and cooperation with the States in the solution of their public health problems. The authority conferred by the bill would be specifically addressed to the mental health problem, and would, together with authority given the Public Health Service under existing law, permit the establishment of an effective program in this field of public health activity.

The bill establishes a National Advisory Mental Health Council to assist the Surgeon General in the planning and development of a national mental health program, including recommendations to the Surgeon General as to grants-in-aid for research projects. It authorizes the Service to provide training, instruction, and demonstrations in the field of mental health and to make grants to the States for this purpose. The bill would also provide for giving special emphasis to the mental health problem in making grants to the States for general public health services. Finally, the bill would authorize construction of buildings and facilities to be known as the National Institute of Mental Health to serve as a focal point for research, experimentation, and advanced or specialized training, and as a clearinghouse for the collection and dissemination of information concerning advances in the prevention, diagnosis, and treatment of psychiatric disorders.

Your committee believes, and it was the consensus of the witnesses at the public hearings, that the legislation here recommended will provide the leadership, stimulus, and financial resources necessary to develop a national mental health program, and that such a program is of immediate and vital importance to the Nation.

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SECTION 6

Subsections (a) and (b) of this section amend paragraphs (d) and (g) of section 301 of the Public Health Service Act by designating the new National Advisory Mental Health Council as the body to make recommendations to the Surgeon General on the awarding of grants-in-aid for research projects and on additional means for carrying out the purposes of section 301.

Subsection (c) of section 6 of the bill adds a new section, section 303, to part A of title III of the Public Health Service Act. Under paragraph (a) of the new section 303 the Surgeon General is authorized, for purposes of study, to admit and treat at the new National Institute of Mental Health (established under sec. 10 of the bill) voluntary patients, whether or not they are otherwise eligible for treatment by the Service. This authorization is patterned after similar authority granted to the Surgeon General with respect to the institutions, hospitals, and stations of the Service under paragraph (f) of section 301 of the Public Health Service Act. Paragraph (a) of the new section 303 would also authorize the transfer to the new Institute, for purposes of study, of patients from St. Elizabeths Hospital; such transfers to be

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1.12b(2) SENATE COMMITTEE ON EDUCATION AND LABOR

S. REP. No. 1353, 79th Cong., 2d Sess. (1946)

NATIONAL MENTAL HEALTH ACT

MAY 16 (legislative day, MARCH 5), 1946.—Ordered to be printed

Mr. PEPPER, from the Committee on Education and Labor, submitted the following

REPORT

[To accompany H. R. 4512]

The Committee on Education and Labor to whom was referred the bill (H. R. 4512) to amend the Public Health Service Act to provide for research relating to psychiatric disorders and to aid in the development of more effective methods of prevention, diagnosis, and treatment of such disorders, and for other purposes, hav-

ing held hearings and given consideration thereto, reports the same (with amendments) and recommends that the bill as amended do pass.

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PRINCIPAL FEATURES OF THE BILL

The authority which Congress has bestowed upon the Public Health Service in the consolidated Public Health Service Act, Public Law 410, Seventy-eighth Congress, with regard to research, grants-in-aid, fellowships, aid to the States, and cooperation with the States in the solution of their public health problems, is extended to the field of mental health. The bill would cover the mental health problem specifically and would, together with the authority given the Public Health Service under existing law, permit the establishment of an effective program in this field of public health.

The bill establishes a National Advisory Mental Health Council to assist the Surgeon General in the planning and development of a mental health program, including recommendations to the Surgeon General as to grants-in-aid for research projects. It grants authority to the Public Health Service to provide training, instruction, and demonstrations in the field of mental health and to make grants to public and other nonprofit institutions for this purpose. The bill also provides for recognition of the mental health problem in making grants to the States for general public health services. Finally, the bill authorizes the Surgeon General to provide for the construction of buildings and facilities to be known as the National Institute of

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SECTION 6

This section amends subsection (b) of section 214 of the Public Health Service Act. Under the existing provisions the Surgeon General may detail personnel of the Public Health Service for the purpose of assisting any State in work related to the functions of the Service, upon the request of the State health authority. The amendment provides that the request shall come from the State mental health authority, where that differs from the general health authority, in the case of work relating to mental health.

SECTION 7

Subsections (a) and (b) of this section amend paragraphs (d) and (g) of section 301 of the Public Health Service Act by designating the new National Advisory Mental Health Council as the

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body to make recommendations to the Surgeon General on the awarding of grants-in-aid for research projects and on additional means for carrying out the purposes of section 301.

Subsection (c) of section 7 of the bill adds a new section, section 303, to part A of title III of the Public Health Service Act. Under paragraph (a) of the new section 303 the Surgeon General is authorized, for purposes of study, to admit and treat at the new National Institute of Mental Health (established under sec. 11 of the bill) voluntary patients, whether or not they are otherwise eligible for treatment by the Service. This authorization is patterned after similar authority granted to the Surgeon General with respect to the institutions, hospitals, and stations of the Service under paragraph (f) of section 301 of the Public Health Service Act. Paragraph (a) of the new section 303 would also authorize the transfer to the new Institute, for purposes of study, of patients from St. Elizabeths Hospital; such transfers to be made pursuant to arrangements, approved by the Federal Security Administrator, between the superintendent of the hospital and the Surgeon General.

As the bill passed the House the new paragraph (a) contained a proviso requiring the consent of a legal guardian to be obtained before the transfer of a patient from St. Elizabeths Hospital to the National Institute of Mental Health for treatment for purposes of study. Because your committee believed this proviso would cause difficulties in administration not warranted by any advantages which might accrue to the patients, the proviso has been removed. In many cases there may be no legal guardian whose consent can be obtained for the transfer since many of the commitments to St. Elizabeths Hospital are made by the judiciary without the intervention of a legal guardian. In other cases, if there does happen to be a legal guardian, he or she may be in some far off place, such as in Alaska, or on the west coast.

Clause (1) of paragraph (b) of the new section 303 would authorize the Surgeon General to provide training and instruction in matters relating to mental health to persons found by him to have proper qualifications and also to pay a per diem allowance to

those of the persons selected by him for such training, and instruction as he might designate. The number of persons receiving such training during any period or periods, however, could not exceed the number specified by the National Advisory Mental Health Council. The provisions of this clause are patterned after the provisions of paragraph (c) of section 402 and the provisions of paragraph (2) of subsection (a) of section 403 of the Public Health Service Act which give similar authority to the Surgeon General, but without any numerical limitation, in the case of cancer work.

Clause (2) of subsection (b) of the new section 303 would authorize the Surgeon General to provide the training and instruction, and demonstrations, in the field of mental health through grants to public and other nonprofit institutions, but only upon recommendation of the National Advisory Mental Health Council. Such grants could also be made under the bill as reported out by your committee, although not under the bill as passed by the House, for the construction, acquisition, or leasing of facilities which may be necessary in order to provide the training and instruction. As pointed out in the earlier part of this report, one of the primary purposes of the bill is to provide a means of

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remedying the great lack of trained psychiatrists and other personnel needed to operate mental health facilities. While the National Institute of Mental Health will serve as a focal point for research, experimentation, and advanced or specialized training in the field of mental health work it is contemplated that the bulk of the training will be done by public and private schools and institutions. However, the hearings on the bill made it abundantly clear that the schools and institutions would need considerable assistance in expanding not only their staffs, but their facilities as well, if this important objective of the bill is to be accomplished. Clause (2) of paragraph (b), as amended by your committee, is intended to give the Surgeon General authority to make grants for these purposes, as well as to make grants for the purpose of enabling the States to conduct demonstrations.

SECTION 9

This section amends the various provisions of section 314 of the Public Health Service Act relating to grants to the States for the establishment and maintenance of adequate public health services. Section 314 now provides for grants to the States for three pri-

mary purposes—for work in the field of venereal diseases, for work in the field of tuberculosis, and for work in the field of general public health. S. 1160 would have established a fourth category by providing for grants for work in the field of mental health separate from those already authorized for general public health work. Subsection (c) of section 314, which relates to grants for the establishment and maintenance of adequate public health services, is broad enough to permit funds granted under its provisions to be used for work in the field of mental health. Consequently, H. R. 4512, as passed by the House and as reported out by your committee, in lieu of establishing a fourth grant-in-aid program, amends the provisions of section 314 relating to grants for the establishment and maintenance of adequate public health services so as to provide that special consideration be given in making those grants to the mental-health problem. Your committee believes this will be adequate to permit accomplishment of the objectives of S. 1160 in the matter of grants to States while at the same time preserving the basic principles of section 314 of the Public Health Service Act.

Since H. R. 4512 contemplates increased grants to States for general public health work to take care of the expansion of mental health work, it seemed necessary to change the present limitation in subsection (c) of section 314 on the amount which may be appropriated for grants to the States for general public health work from $20,000,000 to $30,000,000. Similarly, it was thought necessary to raise from $2,000,000 to $3,000,000 the ceiling on the amount which may be used under that subsection for the provision of demonstrations and personnel to assist the States and for the

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training of personnel by the Public Health Service for State and local health work. The raising of these two limitations is the only change the bill would make in subsection (c) of section 314 of the Public Health Service Act.

Subsection (b) of section 9 of the bill amends subsection (d) of section 314 of the Public Health Service Act which sets forth the method for determining the amount to be allotted to each State for work in the field of venereal diseases, tuberculosis, and general public health, respectively. The amendment provides that in determining the amount to be allotted to each State for general public health work the Surgeon General shall give special consideration to the extent of the mental health problem, as well as the other special health problems, in the respective States.

Subsections (c), (d), and (e) of section 9 of the bill amend subsections (f), (h), and (i), respectively, of section 314 of the Public Health Service Act so as to provide that, in matters relating to work in the field of mental health, the Surgeon General shall deal with the State mental health authorities where they differ from the general health authorities.

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1.12b(3) COMMITTEE OF CONFERENCE

H.R. REP. No. 2350, 79th Cong., 2d Sess. (1946)

NATIONAL MENTAL HEALTH ACT

CONFERENCE REPORT

[To accompany H. R. 4512]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 4512) to amend the Public Health Service Act to provide for research relating to psychiatric disorders and to aid in the development of more effective methods of prevention, diagnosis, and treatment of such disorders, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 2.

That the House recede from its disagreement to the amendments of the Senate numbered 1 and 4, and agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "but only to the extent necessary for the purposes of such training and instruction"; and the Senate agree to the same.

J. PERCY PRIEST,
ALFRED L. BULWINKLE,
VIRGIL CHAPMAN,
CLARENCE J. BROWN,
THOMAS D. WINTER,
Managers on the Part of the House.

CLAUDE PEPPER,
JAMES E. MURRAY,
LISTER HILL,
ROBERT A. TAFT,
GEORGE D. AIKEN,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 4512) to amend the Public Health Service Act to provide for research relating to psychiatric disorders and to aid in the development of more effective methods of prevention, diagnosis, and treatment of such disorders, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Amendment No. 1: In the provisions of the bill relating to the National Advisory Mental Health Coun-

cil it is provided that six appointed members shall be selected from leading medical or scientific authorities who are outstanding in the study, diagnosis, or treatment of psychiatric disorders. The bill as it passed the House contained a sentence providing that three of the appointed members shall be selected from a panel of six such authorities to be submitted to the Surgeon General by the deans of the approved medical colleges and schools in the United States. This amendment of the Senate struck out this sentence. The House recedes.

Amendment No. 2: The bill in the proposed new section 303 of the Public Health Service Act authorizes the Surgeon General, in carrying out the purposes of section 301 with respect to mental health, to admit and treat, at the National Institute of Mental Health, patients of St. Elizabeths Hospital transferred from the hospital pursuant to the arrangements made by the Surgeon General and the Superintendent of the hospital with the approval of the Federal Security Administrator. In the bill as it passed the House this provision contained a proviso that the consent of a legal guardian shall be obtained before the transfer of any patient from St. Elizabeths Hospital for such treatment. This Senate amendment struck out the proviso contained in the bill as it passed the House. The Senate recedes.

Amendment No. 3: In the new section 303 of the Public Health Service Act, in the bill as it passed the House, the Surgeon General is authorized by clause (1) of subsection (b) to provide training and instruction, in matters relating to psychiatric disorders, to persons found by him to have proper qualifications, and, by clause (2), to provide such training and instruction, and demonstrations, through grants, upon recommendation of the National Advisory Mental Health Council, to public and other nonprofit institutions. By this amendment the Senate added a provision to clause (2) providing that such grants could include grants to such institutions "for the construction, acquisition, and leasing of hospital, clinic, laboratory, and related facilities, but only to the extent necessary for the purposes of such training and instruction." The House recedes with an amendment which eliminates that part of the Senate language which would authorize grants to such institutions for the construction, acquisition, and leasing of hospital, clinic, laboratory, and related facilities, but retains the other language of the Senate amendment so that clause (2) will read as follows: "(2) to provide such training and instruction, and demonstrations, through grants, upon recommendation of the National Advisory Mental Health Council, to public and other nonprofit institutions, but only to the extent necessary for the purposes of such training and instruction."

Amendment No. 4: Section 11 of the bill as it passed the House authorized the appropriation of not to exceed $4,500,000 for the erection and equipment, for the use of the Public Health Service in the carrying out of the provisions of this legislation, of suitable and adequate hospital buildings and facilities, including necessary living quarters for personnel, and of suitable and adequate laboratory buildings and facilities, such buildings and facilities to be known as the National Institute of Mental Health. This Senate amendment struck out "$4,500,000" and inserted "$7,500,000." The House recedes.

J. PERCY PRIEST,
ALFERD L. BULWINKLE,
VIRGIL CHAPMAN,
CLARENCE J. BROWN,
THOMAS D. WINTER,
Managers on the Part of the House.

1.12b(4) CONGRESSIONAL RECORD (VOL. 92 (1946)

1.12b(4)(a) March 14, 15: Amended and passed House, pp. 2283, 2284–2286, 2291, 2292, 2293, 2294, 2295

Mr. SABATH.

* * * * *

This bill should have the unanimous support of the House, Mr. Speaker. I am sure that not even those gentlemen who customarily rise to object to all measures which seem to put the Federal Government into a position of helping the States and local units can find grounds for opposing this humanitarian measures which will enrich medical and psychological knowledge. The bill is skillfully designed to give the utmost responsibility to the local governments. The bureaucrats cannot be charged with wanting to extend their power here. It provides help and guidance for all the States, even for those States that contribute the least, and on a basis of equity and fairness. The gentlemen who love to criticize will find little in this bill to object to.

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[p. 2283]

Mr. ROBSION of Kentucky. This does not border on or take on anything of the features of socialized medicine, does it?

Mr. BROWN of Ohio. Absolutely not. I checked very carefully, and other members of the committee also checked just as carefully, to be certain we did not step across the line I mentioned a moment ago and go into the field of socialized medicine or into endeavors which properly belong to the States or the local communities. This is purely for research, it is purely for instruction, to render a service that the States and local communities cannot render for themselves except at an expense which would be unbearable.

Mr. ROBSION of Kentucky. It brings together and makes available to the States and the hospitals of the States the latest information of the whole Nation?

Mr. BROWN of Ohio. That is correct.

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

Mr. BROWN of Ohio. I yield to the gentleman from New Jersey.

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Mr. EATON. I feel, of course, as the gentleman does, that the need for this service in this country is tremendous at the present time. I am only anxious to be assured that these grants by the Federal Government will not further intrude upon the sovereignty of the States.

Mr. BROWN of Ohio. We took out of this bill every line and every word that we believed would in any way intrude upon the sovereignty of the States, would lead toward socialized medicine, or would in any way interfere with the normal functioning of local hospitals, and understood that the work of the Federal Government in this respect will be confined purely to research, to instruction, to training, to tests, to examinations, to experiments, and so forth.

Mr. EATON. Has the gentleman any hope that this research in the mental condition of America will discover why a majority of our people have kept the New Deal in power for 14 years?

Mr. BROWN of Ohio. I do not believe I want to discuss that at this time. I am hoping that this bill will be passed.

Mrs. BOLTON. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentlewoman from Ohio.

Mrs. BOLTON. As I understand, this research at Bethesda will in no way interfere with any research that is now going on in the States in private or in public institutions?

Mr. BROWN of Ohio. Oh, no. I would like to say to the gentlewoman, and I believe I should have explained it to the House, that all of the research which will be done will be in conjunction with research in other institutions, and will bring to this Federal research institution here the latest discoveries, and methods worked out in other research institutions. There will actually be much more money spent in these private research institutions than will be spent here in the Federal Government institution. Not only that, but representatives of every State public health administration, every State welfare department, and every hospital which has anything to do with mental diseases, are behind this bill. They have all approved it. They have all requested it. There was no opposition to this bill. Instead, there was general approval of the measure, and I hope that this rule will be adopted so that we may consider this bill.

Mr. BROWN of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. BRUMBAUGH].

CANCER IS THE SCOURGE OF MANKIND

Mr. BRUMBAUGH. Mr. Speaker, this rule making in order H.R. 4512 now under consideration, and which I sincerely hope will receive unanimous approval, provides funds for research relating to psychiatric disorders and to aid in the development of more effective methods of prevention, diagnosis, and treatment of such disorders and for other purposes. It is noteworthy that this legislation, which amends the Public Health Service Act, includes cancer among the diseases that will be the subject of study and research under the provisions of this important bill.

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Mr. COCHRAN. Mr. Speaker, I can very easily go along with the committee so far as setting up this National Institute of Mental Health is concerned and having the Public Health Service make a study of mental disorders. But why the committee provides again for grants to the States, and nonprofit institutions I do not understand. We have just had a lecture, you might say another lecture, for we have had many of them from the gentleman from Texas [Mr. SUMNERS] who tells us about the centralization of power and the bureaucracy in the Federal Government. He is going to retire from service in this House. I have known the gentleman ever since he has been here, as it happens that the gentleman from Texas [Mr. SUMNERS] is one of five Members of the House today who were Members when I came here to work as a secretary to a Congressman 34 years ago. If he wants to stop the centralization of power and reduce bureaucracy that you hear him talk so much about, the way for him to do it is to stop these grants to States and to stop Federal aid to the States. You can make up your mind that every time you provide for a grant to the States or Federal aid to the States, the Federal Government is going to police the money. They are going to go out to the States and see that the money is spent for the purposes for which it was appropriated and allocated; and in so doing, they wil police the activities of the States. If you think they are not going to do it in connection with this legislation, let me invite your attention to paragraph (h) of section 8, where it is provided that they shall go into the States to see that this money which is going to be allocated is being used properly. They will go not only to States but to hos-

pitals, universities, and so forth. Section 8, paragraph (h), provides that they will not spend any money until they see that the regulations are followed. Read it, do not take my word.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. COCHRAN. I yield.

Mr. BROWN of Ohio. I would like to impress upon the gentleman that this section to which the gentleman refers is in substance in the present law and it has been for a long, long time. The only thing that is done here is to make it applicable also to mental health.

Mr. COCHRAN. I understand, but the gentleman from Ohio cannot deny that you are spending $10,000,000 additional.

Mr. BROWN of Ohio. No.

Mr. COCHRAN. Oh, yes.

Mr. BROWN of Ohio. That $10,000,000 is not an aid to the States at all.

Mr. COCHRAN. You are raising the $20,000,000 to $30,000,000. Look at your report.

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

Mr. COCHRAN. I yield.

Mr. PRIEST. As a matter of fact, and I am sure the gentleman from Ohio will agree with me, that the amounts that go to the States are rather negligible and the bulk of the $10,000,000 will be spent in a training and research experimental program by the Institute. There will be here and there some minor grants-in-aid. For instance, if a hospital connected with a university in the State of the gentleman from Missouri has some special study under way and they need some help, there will be a small grant made but the amount going to the State is negligible.

Mr. COCHRAN. Where are you going to get the money that is going to be distributed? Nowhere but from the taxpayers of the States.

Mr. BROWN of Ohio. The money can be gotten from the same place that we got the billions of dollars that the gentleman from Missouri has voted away in the past 20 years.

Mr. COCHRAN. The State of Ohio from which the gentleman comes is known as one of the taxpaying States of the Union, just as my State of Missouri is. But there are many States in the Union who get out of the Federal Treasury more money than they put in. This matter of making Federal grants and providing Federal aid, if it is continued, is going to make it absolutely impossible to balance your normal budget.

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

Mr. SABATH. Mr. Speaker, I yield two additional minutes to the gentleman from Missouri.

Mr. COCHRAN. Every time we make one of these Federal grants or provide Federal aid, you know it will stay on the statute books. On Monday we passed a bill absolutely full of Federal aid and Federal grants to the States, the Agricultural Department appropriation bill.

Try to repeal one of them. You do not find any one of these gentlemen who have been talking about centralization of power offering amendments to strike from that Agricultural Department appropriation bill any of these items that are hand-outs to the States. The thought comes to me we had better be a little careful and stop this distribution of Federal money if you want to balance the budget.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. COCHRAN. Yes; I yield.

Mr. BROWN of Ohio. If the gentleman will just take time, when he retires from the well of the House, to read section 8, which he has been discussing, he will see that a limitation is placed in this section of $3,000,000, to be used not only as an aid but for the training of personnel.

Mr. COCHRAN. True, but the bill

also provides for an increase from $20,000,000 to $30,000,000. It also, aside from that, provides for money to set up this institute. The gentleman cannot deny that. Set up the institute and stop there and I will go along with you.

Mr. BROWN of Ohio. No one denies anything, but I am attempting to explain to the gentleman, and it seems impossible for him to understand what is in this bill.

Mr. COCHRAN. I know what is in the bill.

Mr. BROWN of Ohio. I hope the gentleman will read it again, and if he will read it carefully, he will ascertain that the limit that can possibly be spent, including the training of personnel, is $3,000,000 a year.

Mr. COCHRAN. If the gentleman will look at the report under the Ramseyer rule, and read it, he will see that it shows the existing law is changed from $20,000,000 to $30,000,000. Here is what the report says:

(c) To enable the Surgeon General to assist, through grants and as otherwise provided in this section, States, counties, health districts, and other political subdivisions of the States in establishing and maintaining adequate public health services, including grants for demonstrations and for the training of personnel for State and local health work, there is hereby authorized to be appropriated for each fiscal year a sum not to exceed |$20,000,000| *$30,000,000*. Of the sum appropriated for each fiscal year pursuant to this subsection there shall be available an amount, not to exceed |$2,000,000| *$3,000,000*, to enable the Surgeon General to provide demonstrations and to train personnel for State and local health work and to meet the cost of pay, allowances, and traveling expenses of commissioned officers and other personnel of the Service detailed to assist States in carrying out the purposes of this subsection.

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

Mr. COCHRAN. I yield.

Mr. HOFFMAN. As I understand, the gentleman is against this bill because it carries an appropriation of millions of dollars?

Mr. COCHRAN. I said I could go along with them with reference to the institute you want to set up, but I am warning you that you are handing out additional grants to the States, so don't be complaining about centralization of power and bureaucracy in Washington when you make the grants.

Look at section 303, page 8, and see what you are going to do with the money. I quote: "to provide such training and instruction, and demonstrations, through grants, upon recommendation of the National Advisory Mental Health Council, to public and other nonprofit institutions, including grants to such institutions for the construction, acquisition, or leasing of hospital, clinic, and related facilities necessary for the purposes of such training and instruction."

Here you are not only going to spend the money for research, but you are also going to use it for construction, acquisition, or leasing of hospitals, and so forth.

Mr. HOFFMAN. The gentleman is trying to convert the Republicans to an economy program; is that it?

[p. 2286]

Mr. PRIEST. Since the statement was made by the gentleman from Michigan at the time he made the point of order that a quorum was not present that this particular bill authorize the appropriation of $30,000,000 a year, I would like to explain that point again. The gentleman from Ohio [Mr. BROWN] has explained it once.

There is now authority in existing law for the appropriation of $20,000,000 a year to the Public Health Service to be spent for the purposes contained in the National Institute of Health Act, the Tuberculosis Act, the Cancer Institute and venereal disease control programs. In order to make this bill a part of the public health code, we simply amended the code and raised the ceiling to $30,000,000. This

bill, H.R. 4512, now before us, provides for an additional expenditure of only $10,000,000 a year. Of that amount the greater portion of it will be spent largely in the matter of research and investigation by the National Mental Health Institute. There will be available some funds that may be spent for grants-in-aid to States or private institutions, or to political subdivisions, if certain requirements are met and if the application for such grant-in-aid is approved. It might develop, as I mentioned a short time ago, that some hospital in the gentleman's district, some hospital connected perhaps with a university, will be carrying on a special research experiment in this field of mental health, and it might become necessary or advisable to lease some particular building or clinic to further develop that project. It would be possible under such a condition, and provided the request for such a grant were recommended by the National Advisory Mental Health Council and approved by the Surgeon General as well as by the Federal Security Administrator, for a grant-in-aid to be made in cooperation with the National Mental Health Institute to carry out such a program.

[p. 2291]

Mr. PRIEST. In paying part of the cost; no. This is not a matching fund proposition. May I say to the gentleman that it follows almost word for word, insofar as its provisions are concerned, the Cancer Institute Act, the tuberculosis, and other programs of that nature. It is not a matching fund proposition. There is only $10,000,000 additional money made available. That is a rather small beginning, in a way, in this great fertile field for investigation and research. There is no provision for State participation on a matching-fund basis. The big thought, the big purpose, the great objective of the bill is to begin to train personnel, to begin to conduct more adequate research and coordinate all of the activities in this field, and to furnish an impetus for State and other subdivisions to do what the gentleman from Missouri has just said was being done in his State; to devote more attention to getting mental patients out of hospitals rather than locking the doors on them and keeping them there the rest of their lives.

Mr. KNUTSON. The national debt is now approaching the saturation point. There is not a State treasury but what is infinitely better situated than the Federal Government. Is seems to me that the time has come when we should begin drawing on the States.

[p. 2292]

Mr. GWYNNE of Iowa. Mr. Chairman, I doubt the advisability of this legislation at this time. It seems to me the conduct of this Congress in constantly adding to the national debt and in constantly building up bureaucracy is driving more people crazy than this bill will ever cure.

This is another grant-in-aid bill. In other words, this Congress could not legislate in this field if it did not buy the right from the States and pay the States for giving that right, with their own money. This is a grant-in-aid bill, although matching is not required. I will say that.

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[p. 2293]

Mr. BROWN of Ohio. Mr. Chairman, I yield myself the balance of the time on this side.

Mr. Chairman, it is rather depressing to sit here today and realize how much misinformation or lack of information obtains on this particular piece of legislation. I have great fondness and respect for my colleague from Ohio, Dr. SMITH, who is a very able medical man—one who has devoted a portion of his life in visiting the great research medical centers of

America and across the seas to study and to learn the latest in the field of medical science. Evidently Dr. SMITH appreciated the value of those great research centers or he would not have attended them. I know, too, that the doctor is a great defender of State rights and that he is a great believer in economy. Yet at times I am fearful my old friend and colleague, in looking at the forest, cannot see it for the few trees that are directly in front of him. I am fearful that at times, in his desire to economize, he actually brings about greater expenditure of public moneys because of his failure or refusal to spend a little at the proper time.

The doctor is opposed to socialized medicine. Certainly, too, I am opposed to socialized medicine; and I say to you that this bill is designed and is brought here for the purpose of preventing the enactment of legislation which would actually socialize medicine. Unless we have the good judgment and the common sense to enact legislation that will permit private medicine and private and local institutions to render the service the people demand in the medical field, then we may find ourselves drifting into socialized medicine. I do not want that to occur.

The gentleman from Iowa [Mr. GWYNNE] is another fine Member. I have high respect for his judgment, and certainly there is no man in this body who is a more profound, capable, or able student of the law and of the Constitution than is he. However, he made the statement that the various States are already rendering this mental-research service through their public-welfare departments and their State hospitals. I am not certain where the gentleman obtained his information. Certainly not from the record, because the record before us proves exactly the contrary—directly opposite, if you please. Every State welfare department in the Nation—every State department of health—came on asking for this bill, either directly or through their chosen representatives, saying to this committee, which spent days and days on hearings, that this legislation is necessary and that this legislation, if enacted into law, and if this Medical Health Center is established and the research work provided therein is carried on as intended and expected, many millions of dollars will be annually saved by the States in the future.

* * * * *

Every organization, medical and otherwise, interested in the problems of mental health in the United States, has come here and told us that the only way we can have the mental-disease research that is so badly needed in this country, the only way we can obtain and disseminate to the various State and local hospitals, information and knowledge, on the new methods, and the new means to combat and solve the present mental health problems that confront this Nation, is through the enactment of legislation such as this.

As I said in the beginning, when I discussed the rule, I do not want the Federal Government in the field of private medicine, but I do believe the Federal Government belongs in the field of medical research. There are certain things which Government can do that belong primarily to the Federal Government. There is another field into which the Federal Government should never enter. This bill provides for one of the things that can and should be done by the Federal Government.

* * * * *

[p. 2294]

Mr. KEEFE.

* * * * *

I am pleased that the committee has seen fit to bring before this Congress this authorizing legislation that will

permit the Government, acting through this Congress, to authorize appropriations up to $30,000,000, to be allocated to the States, in accordance with the formula herein set forth.

* * * * *

Mr. KEEFE. And in that institution to conduct the research that may be spread out and disseminated to the State institutions, to enable them to more vigorously and more effectively deal with this evergrowing menace of mental illness.

[p. 2295]

1.12b(4)(b) June 15: Amended and passed Senate, p. 6995

AMENDMENT OF PUBLIC HEALTH SERVICE ACT

Mr. TAFT. Mr. President, yesterday the Senate passed Calendar No. 1378, House bill 4512, a bill to amend the Public Health Service Act to provide for research relating to psychiatric disorders and to aid in the development of more effective methods of prevention, diagnosis, and treatment of such disorders, and for other purposes. The bill was passed in such haste that no consideration was given to the committee amendments. I move that the vote by which the bill was passed be reconsidered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Ohio.

The motion was agreed to.

Mr. AIKEN. Mr. President, does the Senator intend to have the bill taken up now?

Mr. TAFT. The bill was passed yesterday, and, unfortunately, without amendments being agreed to which had been proposed by the committee.

Mr. BARKLEY. I may say, Mr. President, that the fact that the committee amendments were not acted upon was a mere oversight, and the Senator from Ohio has moved that the Senate reconsider the vote by which the bill was passed.

Mr. TAFT. Yes. It has been proposed to amend one of the committee amendments.

The ACTING PRESIDENT pro tempore. The bill will be read by its title.

The LEGISLATIVE CLERK. A bill (H.R. 4512) to amend the Public Health Service Act to provide for research relating to psychiatric disorders and to aid in the development of more effective methods of prevention, diagnosis, and treatment of such disorders and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Education and Labor with amendments.

The first amendment was, on page 5, in line 10, to strike out:

> Three of the appointed members shall be selected from a panel of six such authorities to be submitted to the Surgeon General by the deans of the approved medical colleges and schools in the United States.

The amendment was agreed to.

The next amendment was, on page 8, in line 14, after the word "Administrator", to strike out "*Provided*, That consent of a legal guardian shall be obtained before the transfer of any patient from Saint Elizabeths Hospital for such treatment."

The amendment was agreed to.

The next amendment was, on page 9, in line 3 after the word "institutions", to insert "including grants to such institutions for the construction, acquisition, and leasing of hospital,

clinic, laboratory, and related facilities, but only to the extent necessary for the purposes of such training and instruction."

The amendment was agreed to.

The next amendment was, on page 13, in line 21, after the word "exceed", to strike out "$4,500,000" and insert "$10,000,000."

Mr. TAFT. Mr. President, on page 13, in line 21, I move that "$10,000,000" be stricken out and in lieu thereof "$7,500,000" be substituted. That was the condition upon which the objections to consideration of the bill were withdrawn yesterday.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Ohio to the committee amendment on page 13, in line 21.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The ACTING PRESIDENT pro tempore. That concludes the committee amendments.

The bill is before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

[p. 6995]

1.12b(4)(c) June 26: Senate agrees to conference report, p. 7584

AMENDMENTS OF PUBLIC HEALTH SERVICE ACT RELATING TO PSYCHIATRIC DISORDERS—CONFERENCE REPORT

Mr. PEPPER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 4512) to amend the Public Health Service Act to provide for research relating to psychiatric disorders and to aid in the development of more effective methods of prevention, diagnosis, and treatment of such disorders, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 2.

That the House recede from its disagreement to the amendments of the Senate numbered 1 and 4 and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: ", but only to the extent necessary for the purposes of such training and instruction"; and the Senate agree to the same.

CLAUDE PEPPER,
JAMES E. MURRAY,
LISTER HILL,
ROBERT A. TAFT,
GEORGE D. AIKEN,
Managers on the Part of the Senate.

J. PERCY PRIEST,
ALFERD L. BULWINKLE,
VIRGIL CHAPMAN,
CLARENCE J. BROWN,
THOMAS D. WINTER,
Managers on the Part of the House.

Mr. PEPPER. Mr. President, I ask unanimous consent for the present consideration of the report.

Mr. WHITE. Mr. President, let me inquire of the Senator from Florida whether the report represents the unanimous action on the part of the Senate conferees.

Mr. PEPPER. It is unanimous. The Senator from Ohio [Mr. TAFT] was one of the conferees, and he is on the floor at this time.

Mr. TAFT. Mr. President, if the Senator from Florida will yield to me, let me say that the Senator from Vermont [Mr. AIKEN] and I took part in the conference, and I think the report is entirely satisfactory. The House conferees yielded in regard to the amount involved for the construction of the buildings, and the conferees on the part of the Senate yielded on one or two minor amendments.

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the report was considered and agreed to.

[p. 7584]

1.12b(4)(d) June 28: House agrees to conference report, p. 7926

Mr. PRIEST. Mr. Speaker, this is a unanimous report from the committee on conference.

There were four amendments to the bill as it passed the House. The Senate receded on two, the House receded on one, and an agreement with an amendment was worked out on the other. It is a unanimous report.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Speaker, as the gentleman from Tennessee has said, this is a unanimous report of the conference committee. The House yielded, in fact, on only one amendment, and that was a slight increase in the amount set up in the bill for the construction of the research center at Bethesda and was necessary because of the fact that the original estimated cost had been made in 1939 or early 1940 before the present increase in construction costs had come about. The increase allowed is simply enough to cover the increased costs of construction.

Mr. MARTIN of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield.

Mr. MARTIN of Massachusetts. I should like to know what the gentleman considers a slight increase these days.

Mr. BROWN of Ohio. This increase happens to be from $4,500,000 to $7,500,000—a $3,000,000 increase. It does not accurately reflect the cost which has come about under the hold-the-line order of the administration of the gentleman from Tennessee, but we held it down to as close a percentage as we could. If we had provided for the actual increase, we should probably have had to double the amount. In fact, they figure that the total increase would bring the cost to something like $11,500,000, but the House committee as usual stood for economy and was able to hold it to $7,500,000.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

[p. 7926]

1.12c NATIONAL HEART ACT

June 16, 1948, P.L. 80–655, §§ 4 (e,f), 5, 6, 62 Stat. 467

NATIONAL ADVISORY HEART COUNCIL

SEC. 4. (a) Section 217 of such Act is amended by adding at the end thereof the following new subsection:

* * * * * * *

(e) Paragraph (d) of section 301 of such Act is amended to read as follows:

"(d) Make grants-in-aid to universities, hospitals, laboratories, and other public or private institutions, and to individuals for such research projects as are recommended by the National Advisory Health Council, or, with respect to cancer, recommended by
[p. 467]

the National Advisory Cancer Council, or, with respect to mental health, recommended by the National Advisory Mental Health Council, or, with respect to heart diseases, recommended by the National Advisory Heart Council;".

(f) Paragraph (g) of such section 301 is amended to read as follows:

"(g) Adopt, upon recommendation of the National Advisory Health Council, or, with respect to cancer, upon recommendation of the National Advisory Cancer Council, or, with respect to mental health, upon recommendation of the National Advisory Mental Health Council, or, with respect to heart diseases, upon recommendation of the National Advisory Heart Council, such additional means as he deems necessary or appropriate to carry out the purposes of this section."

CONTROL GRANTS

SEC. 5. (a) Section 314 of such Act is amended by redesignating subsections (e) to (j), inclusive, as subsections (f), (g), (h), (i), (j), and (k), respectively, and by inserting after subsection (d) the following new subsection:

"(e) To enable the Surgeon General to carry out the purposes of part B of title IV and to assist, through grants, States, counties, health districts, and other political subdivisions of the State, and public and nonprofit agencies, institutions, and other organizations, in establishing and maintaining organized community programs of heart disease control, including grants for demonstrations and the training of personnel, there is hereby authorized to be appropriated for each fiscal year such sums as may be necessary for such purposes. For each fiscal year, the Surgeon General, with the approval of the Administrator, shall determine the total sum from the appropriation under this subsection which shall be available for allotment among the several States, and shall, in accordance with regulations, from time to time make allotments from such sum to the several States on the basis of (1) the population and (2) the financial need of the respective States. Upon making such allotments the Surgeon General shall notify the Secretary of the Treasury of the amounts thereof."

(b) The subsection of such section 314 herein redesignated as subsection (f) is amended by striking out the period at the end of the first sentence of such subsection and inserting in lieu thereof the following: ": *Provided,* That in the case of amounts to be paid from allotments to any State under subsection (e), the Surgeon General may determine and certify to the Secretary of the Treasury amounts to be paid to a county, health district, other political subdivision of the State or to any public or nonprofit agency, institution, or other organization in the State, if he finds that payment to such subdivision or other organization has been recommended by the State health authority of the State, and (1) that the State health authority has not, prior to August 1 of the fiscal year for which the allotment is made, presented and had approved a plan in accordance with subsection (g), or (2) that the State health authority is not authorized by law to make payments to such other organization."

(c) The subsection of such section 314 herein redesignated as subsection (g) is amended to read as follows:

"(g) The moneys so paid to any State, or to any political subdivision or other organization, shall be expended solely in carrying out the purposes specified in subsection (a), or subsection (b), or subsection (c), or subsection (e), as the case may be, and in accordance with plans, approved by the Surgeon General, which have been presented by the health authority of such State, or, under the circumstances specified in subsection (f) (1), by the political subdivision, or the agency, institution or other organiza-

[p. 468]

tion to whom the payment is made, and, to the extent that any such plan contains provisions relating to mental health, by the mental health authority of such State."

(d) The subsection of such section 314 herein redesignated as subsection (h) is amended to read as follows:

"(h) Money so paid from allotments under subsections (a), (b), (c), and (e), shall be paid upon the condition that there shall be spent in such State for the same general purpose from funds of such State and its political subdivisions (or in the case of payments to a political subdivision or to an agency, institution or other organization under circumstances specified in subsection (f) (1), from funds of such political subdivision or organization), an amount determined in accordance with regulations."

(e) The subsection of such section 314 herein redesignated as subsection (i) is amended to read as follows:

"(i) Whenever the Surgeon General, after reasonable notice and opportunity for hearing to the health authority or, where appropriate, the mental health authority of the State (or, in the case of payments to any political subdivision or any agency, institution, or other organization under the circumstances specified in subsection (f) (1), such subdivision or organization) finds that, with respect to money paid to the State, subdivision, or organization out of appropriations under subsection (a), or subsection (b), or subsection (c), or subsection (e), as the case may be, there is a failure to comply substantially with either—

"(1) the provisions of this section;

"(2) the plan submitted under subsection (g); or

"(3) the regulations;

the Surgeon General shall notify such State health authority or mental health authority, political subdivision, or organization that further payments will not be made to the State subdivision, or organization from appropriations under such subsection (or in his discretion that further payments will not be made to the State, subdivision, or organization from such appropriations for activities in which there is such failure), until he is satisfied that there will no longer be any such failure. Until he is so satisfied the Surgeon General shall make no further certification for payment to such State, subdivision, or organization from appropriations under such subsection, or shall limit payment to activities in which there is no such failure."

GENERAL PROVISIONS

SEC. 6. (a) Section 2 of the Public Health Service Act, as amended, is amended by striking out the word "and" at the end of paragraph (l), by striking out the period at the end of paragraph (m) and inserting in lieu thereof "; and", and by inserting after paragraph (m) the following new paragraph:

"(n) The term 'heart diseases' means diseases of the heart and circulation."

(b) The term "National Institute of Health", wherever appearing in the Public Health Service Act, is hereby changed to "National Institutes of Health".

(c) The word "title", wherever appearing in sections 403, 404, and 406 of the Public Health Service Act, is hereby changed to "part".

Approved June 16, 1948.

1.12c(1) SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE

S. REP. No. 1298. 80th Cong., 2d Sess. (1948)

PROVIDING FOR RESEARCH AND CONTROL RELATING TO DISEASES OF THE HEART AND CIRCULATION

MAY 17 (legislative day, MAY 10), 1948.—Ordered to be printed

Mr. SMITH, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany S. 2215]

The Committee on Labor and Public Welfare, to whom was referred the bill (S. 2215) to provide for research and control relating to diseases of the heart and circulation, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendment recommended by the committee is as follows:

Strike out the preamble and strike out all after the enacting clause and insert the following:

* * * * * * *

[p. 1]

The basic purpose of S. 2215, as amended, is to give proper recognition to the problem and to place more emphasis on cardiovascular research and control activities. More specifically, it is intended to authorize research, training, and control activities in the field of cardiovascular diseases comparable to those already authorized for cancer and mental diseases. Although the Public Health Service Act (Public Law 410, 78th Cong.) now provides rather broad authorization for the conduct of public-health research, including cardiovascular research, it does not provide for the establishment of an advisory council of outstanding experts in the cardiovascular field to head up and coordinate a research program of this type, nor does it contain other comparable authorizations that have been provided for the cancer and mental-health programs.

In recommending passage of S. 2215, as amended, it is the intention of the committee to authorize the United States Public

Health Service, through its National Institute of Health, to operate in the field of cardiovascular diseases in a manner comparable to its present operations in the fields of cancer and mental diseases. Accordingly, S. 2215, as originally introduced, was redrafted as an amendment to the Public Health Service Act, embodying the same applicable provisions that now govern these other fields. The committee is of the opinion that at this time the general authorization should be comparable for each field.

Although the committee is convinced that appropriate emphasis needs to be given to research and control in various diseases, particularly those that are the major causes of death and disability, it does not believe that further, extensive categorization of research, with a compartment for every conceivable disease, would represent sound policy. It is an indisputable fact that discoveries leading to the control of diseases frequently may come from basic scientific research not specifically identified with a particular disease. Accordingly, while approving at this time the principle of placing special emphasis on heart disease, the leading cause of death, the committee does not subscribe to a policy of complete compartmentalization of research for all diseases.

EXPLANATION OF THE BILL BY SECTIONS

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[p. 5]

Section 4: This section provides for the creation of a National Advisory Heart Council, consisting of six members appointed by the Surgeon General, with the approval of the Federal Security Administrator, to be selected from leading medical or scientific authorities who are outstanding in the study, diagnosis, or treatment of heart diseases. The Surgeon General ex officio is the chairman of the council.

This section also provides minor changes in the existing language of specified parts of the Public Health Service Act, simply incorporating appropriate reference to the National Advisory Heart Council.

Section 5: This section merely provides certain typographic changes and general provisions made necessary by this act. This section also amends the title of the bill.

[p. 6]

1.12c(2) HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

H.R. REP. No. 2144 80th Cong., 2d Sess. (1948)

AMENDING THE PUBLIC HEALTH SERVICE ACT TO PROVIDE FOR A NATIONAL HEART INSTITUTE

JUNE 2, 1948.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. WOLVERTON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 2215]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 2215) to amend the Public Health Service Act to support research and training in diseases of the heart and circulation, and to aid the States in the development of community programs for the control of these diseases, and for other purposes having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment strikes out all after the enacting clause of S. 2215 and inserts new matter which is printed in the appendix to this report.

[p. 1]

GENERAL STATEMENTS

* * * * * * *

Another provision of the committee amendment makes a clear-cut authorization for grants-in-aid in support of programs of heart-disease detection, prevention, and related control activities. These control activities, in the committee's opinion, are as vital as are the provisions relating to research. For it is upon these so-called control activities that we must depend to bridge the gap between basic research discoveries and the application of these discoveries to the benefit of victims of heart disease.

[p. 3]

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington 25, D.C., April 7, 1948.

Hon. ROBERT TAFT,
Chairman, Committee on Labor and Public Welfare,
United States Senate, Washington 25, D.C.

MY DEAR SENATOR TAFT: In response to your request of March 1, 1948, for the views of the Bureau of the Budget regarding the provisions of S. 2215, a bill to provide for research and control relating to diseases of the heart and circulation, the following comment is offered.

Much of the basic authority which would be provided in this bill already exists in the Public Health Service Act. Section 301 of that act already gives broad authority, including unlimited appropriation authorization, for financing both intramural and extramural "* * * research, investigation, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man * * *." This section also authorizes the establishment and maintenance of research fellowships. Section 314(c) of the act gives broad authority (within a $30,000,000 annual appropriation limitation) for making grants to States for maintaining adequate public health services, including grants for the training of personnel for State and local public health work.

To aid in planning and administering the Public Health Service research program, consultative and advisory services are provided to the Surgeon General by the National Advisory Health Council and he has authority to secure such experts as may be desired for this purpose. There already has been established by the National Institute of Health of the Service a Cardiovascular Study Section, composed of specialists in heart disease, which is regularly available for consultation and advice with regard to research activities and proposals relating to that field.

Action has already been taken by the Congress upon the President's budget recommendations, making available funds to construct a large clinical research laboratory building at the National Institute of Health, which will stress research in cardiovascular diseases.

Section 2(d) of the bill would authorize grants-in-aid for education, including grants for construction of educational facilities. While there is little doubt that improvement and expansion of medical and related education is needed to provide adequate trained personnel to improve the Nation's health, the advisability of providing for such aid on the basis of each disease category is questioned. It would seem that Federal aid to education, at least in the health field and probably in the total field of higher education, should be approached on an integrated basis.

The bill would establish within the Public Health Service a National Heart Institute and would change the name of the National Institute of Health to the National Institutes of Health. In the medical research field the premium is upon the closest possible interchange of information and ideas, and upon flexibility in the assignment and use of personnel and equipment. To achieve this close working relationship the Congress has authorized the construction of a great new medical research center at Bethesda which is to house in one building scientists and doctors working on a wide variety of medical research problems. Cancer, cardiovascular diseases, and mental health will be three of the principal points of emphasis, but a great many other types of research

will be extensively pursued. When the building is complete it will house three institutes: The National Institute of Health, the National Cancer Institute, and the National Institute of Mental Health. What seems to us to be already needed is not the building of additional organizational walls within this great new institution by the creation of a new institute for each disease, creating greater rigidity and more overhead cost for each institute. Rather, what seems important is the exercise of every effort toward the closest possible organizational relationship of the men and women who are being brought together in the new research center.

Section 7(f) of the bill would authorize the payment of salaries up to $15,000 for the services of specially qualified scientific and professional personnel concerned with research activities in the National Institute of Health, one bureau in the Public Health Service. While the National Institute of Health is the main research bureau of the Service, much valuable research is carried on by other bureaus of the Service. This provision should not be extended to the one bureau, but should be Service-wide.

[p. 18]

The emphasis placed upon and expenditures made by the Public Health Service for research in and control of cardiovascular diseases is progressively increasing. The rate by which these activities can be expanded is limited by the number of qualified persons in the cardiovascular field. Most of the basic authority which enactment of S. 2215 would provide already exists in the Public Health Service Act. Provision for graduated expansion of adequately planned programs under existing law would appear to make for a more integrated and effective attack on cardiovascular diseases. At some early date it would be necessary to increase the $30,000,000 limitation in section 314(c) of the existing law to provide additional grants to States for State and local control activities.

Sincerely yours,

FRANK PACE, Jr.,
Acting Director.

[p. 19]

"NATIONAL ADVISORY HEALTH, CANCER, HEART, AND MENTAL COUNCILS."

* * * * * * *

(c) Paragraph (d) of section 301 of such Act is amended to read as follows:

"(d) Make grants-in-aid to universities, hospitals, laboratories, and other public or private institutions, and to individuals for such research projects as are recommended by the National Advisory Health Council, or with respect to cancer, recommended by the National Advisory Cancer Council, or, with respect to mental health, recommended by the National Advisory Mental Health Council, or, with respect to heart diseases, recommended by the National Advisory Heart Council;".

(f) Paragraph (g) of such section 301 is amended to read as follows:

"(g) Adopt, upon recommendation of the National Advisory Health Council, or, with respect to cancer, upon recommendation of the National Advisory Cancer Council, or, with respect to mental health, upon recommendation of the National Advisory Mental Health Council, or, with respect to heart dis-

eases, upon recommendation of the National Advisory Heart Council, such additional means as he deems necessary or appropriate to carry out the purposes of this section."

[p.28]

CONTROL GRANTS

SEC. 5. (a) Section 314 of such Act is amended by redesignating subsections (e) to (j), inclusive, as subsections (f), (g), (h), (i), (j), and (k), respectively, and by inserting after subsection (d) the following new subsection:

"(e) To enable the Surgeon General to carry out the purposes of part B of title IV and to assist, through grants, States, counties, health districts, and other political subdivisions of the State, and public and nonprofit agencies, institutions, and other organizations, in establishing and maintaining organized community programs of heart disease control, including grants for demonstrations and the training of personnel, there is hereby authorized to be appropriated for each fiscal year such sums as may be necessary for such purposes. For each fiscal year, the Surgeon General, with the approval of the Administrator, shall determine the total sum from the appropriation under this subsection which shall be available for allotment among the several States, and shall, in accordance with regulations, from time to time make allotments from such sum to the several States on the basis of (1) the population and (2) the financial need of the respective States. Upon making such allotments the Surgeon General shall notify the Secretary of the Treasury of the amounts thereof."

(b) The subsection of such section 314 herein redesignated as subsection (f) is amended by striking out the period at the end of the first sentence of such subsection and inserting in lieu thereof the following: ": *Provided*, That in the case of amounts to be paid from allotments to any State under subsection (e), the Surgeon General may determine and certify to the Secretary of the Treasury amounts to be paid to a county, health district, other political subdivision of the State or to any public or nonprofit agency, institution, or other organization in the State, if he finds that payment to such subdivision or other organization has been recommended by the State health authority of the State, and (1) that the State health authority has not, prior to August 1 of the fiscal year for which the allotment is made, presented and had approved a plan in accordance with subsection (g), or (2) that the State health authority is not authorized by law to make payments to such other organization."

(c) The subsection of such section 314 herein redesignated as subsection (g) is amended to read as follows:

"(g) The moneys so paid to any State, or to any political subdivision or other organization, shall be expended solely in carrying out the purposes specified in subsection (a), or subsection (b), or subsection (c), or subsection (e), as the case may be, and in accordance with plans, approved by the Surgeon General, which have been presented by the health authority of such State, or, under the circumstances specified in subsection (f) (1), by the political subdivision, or the agency, institution or other organization to whom the payment is made, and, to the extent that any such plan contains provisions relating to mental health, by the mental health authority of such State."

(d) The subsection of such section 314 herein redesignated as subsection (h) is amended to read as follows:

"(h) Money so paid from allotments under subsections (a), (b), (c), and

(e), shall be paid upon the condition that there shall be spent in such State for the same general purpose from funds of such State and its political subdivisions (or in the case of payments to a political subdivision or to an agency, institution, or other organization under circumstances specified in subsection (f)(1), from funds of such political subdivision or organization), an amount determined in accordance with regulations."

(c) The subsection of such section 314 herein redesignated as subsection (i) is amended to read as follows:

"(i) Whenever the Surgeon General, after reasonable notice and opportunity for hearing to the health authority or, where appropriate, the mental health authority of the State (or, in the case of payments to any political subdivision or any agency, institution, or other organization under the circumstances specified in subsection (f)(1), such subdivision or organization) finds that, with respect to money paid to the State, subdivision, or organization out of appropriations under subsection (a), or subsection (b), or subsection (c), or subsection (e), as the case may be, there is a failure to comply substantially with either—

"(1) the provisions of this section;

"(2) the plan submitted under subsection (g); or

"(3) the regulations;

[p. 29]

the Surgeon General shall notify such State health authority or mental health authority, political subdivision, or organization that further payments will not be made to the State subdivision, or organization from appropriations under such subsection (or in his discretion that further payments will not be made to the State, subdivision, or organization from such appropriations for activities in which there is such failure), until he is satisfied that there will no longer be any such failure. Until he is so satisfied the Surgeon General shall make no further certification for payment to such State, subdivision, or organization from appropriations under such subsection, or shall limit payment to activities in which there is no such failure."

GENERAL PROVISIONS

SEC. 6. (a) Section 2 of the Public Health Service Act, as amended, is amended by striking out the word "and" at the end of paragraph (l), by striking out the period at the end of paragraph (m) and inserting in lieu thereof ":and", and by inserting after paragraph (m) the following new paragraph:

"(n) The term 'heart diseases' means diseases of the heart and circulation."

(b) The term "National Institute of Health", wherever appearing in the Public Health Service Act, is hereby changed to "National Institutes of Health".

(c) The word "title", wherever appearing in sections 403, 404, and 406 of the Public Health Service Act, is hereby changed to "part".

(d) Section 209 of such Act is amended by adding at the end thereof the following new subsection:

"(g) The Administrator is authorized to establish and fix the compensation for, within the Public Health Service, not more than thirty positions, in the professional and scientific service, each such position being established to effectuate those research and development activities of the Public Health Service which require the services of specially qualified scientific or profes-

sional personnel: *Provided*, That the rates of compensation for positions established pursuant to the provisions of this subsection shall not be less than $10,000 per annum nor more than $15,000 per annum, and shall be subject to the approval of the Civil Service Commission. Positions created pursuant to this subsection shall be included in the classified civil service of the United States, but appointments to such positions shall be made without competitive examination upon approval of the proposed appointee's qualifications by the Civil Service Commission or such officers or agents as it may designate for this purpose."

(e) Section 633(b) of the Public Health Service Act is amended by striking out "$25" and by inserting in lieu thereof "$50."

[p. 30]

1.12c(3) CONGRESSIONAL RECORD, VOL. 94 (1948)

1.12c(3)(a) May 24: Amended and passed Senate, pp. 6297, 6298

Mr. SMITH. Mr. President, the committee, after considering the bill, felt that the proper handling of the matter was to establish an institute identical in form with the present institute for research in cancer. Consequently we have offered an amendment containing practically all the provisions as then introduced and providing for handling the question as it is done under provisions of the Public Service Health Act. It is identical in form with the present provisions for research in the field of cancer. The committee reported the bill unanimously, and I sincerely hope that it will be passed.

In answer to the question as to the amount of the appropriation, no amount is fixed. It will be necessary for the institute to request appropriations.

Mr. WHERRY. I am very much in sympathy with the bill, but I felt that it should be pointed out that it is an authorization bill and that appropriations will have to be made upon a showing before the Appropriations Committee.

Mr. SMITH. That is correct. It will be operated on the same basis as the cancer research is handled at the present time, through private agencies as in the case of cancer.

The PRESIDENT pro tempore. The clerk will state the committee amendment.

The amendment was to strike out all after the enacting clause and insert:

That this act may be cited as the "National Heart Act."

PURPOSE

SEC. 2. The purpose of this act is to improve the health of the people of the United States through the conduct of researches, investigations, experiments, and demonstrations relating to the cause, prevention, and methods of diagnosis and treatment of diseases of the heart and circulation; assist and foster such researches and other activities by public and private agencies, and promote the coordination of all such researches and activities and the useful application of their results; provide training in matters relating to heart diseases, including refresher courses for physicians; and develop, and assist States and other agencies in the use of, the most effective methods of prevention, diagnosis, and treatment of heart diseases.

* * * * *

NATIONAL ADVISORY HEART COUNCIL

SEC. 4. (a) Section 217 of such act is amended by adding at the end thereof the following new subsection:

* * * * *

[p. 6297]

(d) Subsection (e) of section 209 of such act is amended to read as follows:

(e) Members of the National Advisory Health Council, members of the National Advisory Mental Health Council, members of the National Advisory Cancer Council, and members of the National Advisory Heart Council, other than ex officio members, while attending conferences or meetings of their respective Councils or while otherwise serving at the request of the Surgeon General, shall be entitled to receive compensation at a rate to be fixed by the Administrator, but not exceeding $25 per diem, and shall also be entitled to receive an allowance for actual and necessary traveling and subsistence expenses while so serving away from their places of residence."

(e) Paragraph (d) of section 301 of such act is amended to read:

"(d) Make grants-in-aid to universities, hospitals, laboratories, and other public or private institutions, and to individuals for such research projects as are recommended by the National Advisory Health Council, or, with respect to cancer, recommended by the National Advisory Cancer Council, or, with respect to mental health, recommended by the National Advisory Mental Health Council, or, with respect to heart diseases, recommended by the National Advisory Heart Council."

(f) Paragraph (g) of such section is amended to read:

"(g) Adopt, upon recommendation of the National Advisory Health Council, or, with respect to cancer, upon recommendation of the National Advisory Cancer Council, or, with respect to mental health, upon recommendation of the National Advisory Mental Health Council, or, with respect to heart diseases, upon recommendation of the National Advisory Heart Council, such additional means as he deems necessary or appropriate to carry out the purposes of this section."

GENERAL PROVISIONS

SEC. 5. (a) Section 2 of the Public Health Service Act is amended by striking out the word "and" at the end of paragraph (l), by striking out the period at the end of paragraph (m) and inserting in lieu thereof "; and", and by inserting after paragraph (m) the following new paragraph:

"(n) The term 'heart diseases' means diseases of the heart and circulation."

(b) The term "National Institute of Health," wherever appearing in the Public Health Service Act, shall be changed to "National Institutes of Health."

(c) The word "title," wherever appearing in section 403, 404, and 406 of the Public Health Service Act, shall be changed to "part."

Mr. MAGNUSON. Mr. President, reserving the right to object, I should like to ask the distinguished Senator from New Jersey if he is satisfied that the bill is not in conflict in any way with the National Science Foundation bill?

Mr. SMITH. Mr. President, it is not in conflict. The scope of the bill is different. It directly authorizes the research to be done. Under the National Science Foundation bill commissions are established to explore the field and to recommend. I feel that there is no conflict between this bill and the National Science Foundation bill.

Mr. MAGNUSON. Is it similar to the Cancer Institute legislation?

Mr. SMITH. It is identical in its language with the Cancer Institute bill.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

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

The title was amended so as to read: "A bill to amend the Public Health Service Act to support research and training in diseases of the heart and circulation, and to aid the States in the development of community programs for the control of these diseases, and for other purposes."

[p. 6298]

1.12c(3)(b) June 8: Amended and passed House, pp. 7405–7406

SPECIFIC PROVISIONS IN H. R. 6729

The provisions of this bill, as reported by the committee are patterned for the most part after the current cancer program of the Public Health Service, with some modifications which experience under that program has indicated to be desirable. In broad outline this bill authorizes a well-balanced program of research, training, and control activities. While the Public Health Service will be the focal point in administering this program, it is by no means limited to intramural activities of the Service. On the contrary, the bill provides for the stimulation and assistance, in the form of grants-in-aid, of research, training, and control programs conducted by non-Federal agencies, including States and their political subdivisions, medical schools, hospitals, laboratories, and other institutions.

The bill, as reported by the committee, while substantially the same as S. 2215, differs from the Senate bill in several respects.

As passed by the Senate the bill provides for a National Advisory Heart Council composed of the Surgeon General, ex officio, and six appointed members, all of whom must be specialists in the field of cardiovascular diseases. The committee proposes to extend this membership to include three adidtional ex officio members (representing the Army, Navy, and Veterans' Administration) and six additional appointed members, who need not have any technical or professional training in cardiovascular diseases or other fields of medical science. After a careful appraisal of testimony on this point, the committee is strongly of the opinion that the inclusion of some lay members on the Council would have a salutory effect on the entire program. Not only would it guard against any tendency toward overemphasis of technical considerations, but it would also bring to the program the fresh viewpoints and complementary talents of men and women who have achieved distinction in other fields of endeavor. The provision of additional ex officio members is designed to promote and facilitate closer coordination among the principal medical research agencies of the Federal Government. The committee also proposes to raise the compensation of members of this and other advisory councils in the Public Health Service from $25 to $50 per diem.

Another provision of the committee amendment makes a clear-cut authorization for grants-in-aid in support of programs of heart-disease detection, prevention, and related control activities. These control activities, in the committee's opinion, are as vital as are the provisions relating to research. For it is upon these so-called control activities that we must depend to bridge the gap between basic research discoveries and the application of these discoveries to the benefit of victims of heart disease.

In the control provisions of this bill the committee has followed the pattern of the current cancer program of the Public Health Service, under which grants are made to States to stimulate and support cancer-detection clinics, prevention and educational programs, and other control activities. As in the case of the present cancer program, heart-disease-control grants may also be made, under certain circumstances, to political subdivisions of States and to hospitals and other nonprofit institutions. In heart disease, as well as the degenerative diseases generally, particular emphasis must be given to the clinical or hospital care of the patient if we are to minimize their toll on

death and disability. Therefore the committee believes that the facilities of private institutions now equipped to conduct such activities must not be overlooked in planning a comprehensive attack on heart disease. S. 2215 provides for traineeships for physicians and research fellowships in the National Heart Institute. The committee has expanded this provision to authorize traineeships and research fellowships in the institute "and elsewhere." So that these opportunities can be made available to other centers of learning thoughout the Nation, the committee has further amended the bill to authorize the making of grants to institutions which in turn offer fellowships for study in the field of cardiovascular diseases.

Finally, the committee recommends a new provision authorizing the Federal Security Administrator to establish within the Public Health Service not more that 30 professional and scientific research positions at rates up to $15,000 per annum with the approval of the Civil Service Commission. The language is similar to that enacted for the Army and Navy last year. It is increasingly clear that the successful conduct of any medical research program, and particularly so with programs which must be clearly expanded such as cardiovascular research, depends upon attracting and holding in key positions those scientists who have the genius for planning, executing, and directing creative research of top national significance. The success of any clinical research program such as is needed to make any real advance in heart disease requires the appointment of a few outstanding clinicians to collaborate closely with medical scientists. Specialists of the caliber necessary to assure success of the program invested by this committee now command incomes well above even a $15,000 ceiling. The leadership of a relatively small number of outstanding men of science will insure more than any other factor the scientific competence of the rest of the professional staff in a research organization.

* * * * *

[p. 7405]

the 9,000,000 others who suffer from the crippling attacks by the heart diseases. While there is no appropriation in the bill, the amount required is clearly dependent on the magnitude of the attack Congress is willing to make. The House approved estimate allows the Public Health Service $2,644,088 for its program in cardiovascular diseases. This is less than the $2,900,000 which the American Heart Association urged be appropriated a year ago.

Recent estimates of the need based on a mass attack using the available manpower trained in this field and the present facilities would be at least $5,000,000 in the first year. It is well known that no scientific or medical program can proceed any faster than the manpower and facilities available to undertake the task. To meet the forward program for a coordinated mass attack in diseases of the heart and circulatory system similar to the present cancer program the sum of $15,000,000 would be required.

Requirements for a National Heart Institute

1.	Control grants to State [1]	$3,000,000
2.	Special trainees in cardiovascular diseases [2]	1,000,000
3.	Research fellowships [2]	1,000,000
4.	Assistance to medical schools for teaching [1]	1,750,000
5.	Construction of research facilities [3]	3,500,000
6.	Research grants [4]	3,750,000
7.	Information center and administration [5]	250,000
8.	National Heart Institute (intramural research) [6b]	550,000
9.	Preparation and distribution of antistreptococcus typing serum [6a]	100,800
10.	Epidemiological studies [6a]	100,000
11.	Demonstrations [6a]	119,110

12. Technical development	57,859
13. Survey of research and clinical facilities [6b]	125,000
Total	15,302,769

[1] Similar to grants under National Cancer Institute.

[2] 200 traineeships at $5,000 per annum; or 100 research fellowships at $5,000 per annum for a minimum period of 2 years.

[3] This sum to be kept available until spent.

[4] $1,875,000 to cover needs for 1 year, but amount is doubled so as to provide for some stability for research grants.

[5] Note that this is less than 2 percent of entire requested appropriation.

[6] Present 1949 allowance in U.S. Public Health Service budget, or the amount needed for 1949. (a) Present allowance. (b) Where additional amounts are requested.

Mr. Speaker, it will be observed from the study of this bill and the program proposed that it is essentially an operating agency designed to actively attack the diseases of the heart and circulatory system.

There is no conflict in this bill with the special commission on heart and cardiovascular disease in the proposed National Science Foundation bill, whose function is to make a comprehensive survey of research, both public and private in the heart field and to recommend an over-all research program in that field. The proposed commission is by its nature an ad hoc study group where public and private interests in the heart field can meet and plan an intelligent forward program for the mass attack on heart diseases. Mr. Speaker, H. R. 6729 would create an operating agency to start at once an active program to combat the ravages of heart disease.

I thank my colleagues for the widespread interest they have indicated in this bill.

Mr. KEEFE. Reserving the right to object, Mr. Speaker, may I say that this piece of legislation is designed to provide a program in connection with the study of the diseases of the circulation and the heart, that will utilize in a constructive manner the very funds we are now appropriating to the Public Health Service, and will bring together at one place under this law the expenditure of the money we are now spending. Bear in mind that the Congress has approved the construction of a great research center at Bethesda that will cost in the aggregate perhaps $40,000,000 to conduct research in the field of heart, cancer, and mental illness. You have taken care of the mental illness by passing the mental health bill. You have taken care of the cancer situation by passing the cancer bill. If we fail to pass this heart bill, and it has the unanimous approval of everyone familiar with the situation in this country, we shall be taking a great step backward and will not be following the people of America who are demanding that this program be put into effect in order to try to cope with this terrible, devastating heart disease that affects so many people in this country.

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

Mr. KEEFE. I yield to the gentleman from Kansas.

Mr. SCRIVNER. Can the gentleman give the House any estimate as to how much this bill will cost us?

Mr. KEEFE. Yes, I can tell you how much this bill will cost.

Mr. SCRIVNER. How much?

Mr. KEEFE. It is going to cost this next year exactly the sum of money you have already appropriated for that purpose.

Mr. SCRIVNER. How much is that?

Mr. KEEFE. The amount we have already appropriated in all of the aspects of the situation is in the neighborhood of $3,500,000.

Mr. SCRIVNER. Does this legislation eradicate all of the objections which were raised by the Army to the previous bill relating to this subject? In the report on page 15 Secretary Royall sets out the objections; namely, that the War Department has been undertaking part of this program and

helping, and they say that the initial appropriation is $5,000,000; and they object to the bill.

Mr. KEEFE. There can be no additional appropriation under this bill unless the Committee on Appropriations brings an appropriation to the Congress and the Congress approves the appropriation.

Mr. SCRIVNER. Let me make another inquiry of the gentleman, since he is conversant with the bill. What is the purpose of this amendment set out here hiking the salaries of these 30 persons, whoever they may be, from $10,000 to $15,000 a year? That has nothing to do with the heart situation.

Mr. KEEFE. Does the gentleman from New York desire to answer that?

Mr. JAVITS. May I just answer both points as to the objections of the Secretary of War?

My previous bill, H.R. 3762, which was the original bill introduced in June 1947 and supported by the American Heart Association, on which the bill before us was drafted, did provide that there should be appropriations, but the gentleman from New Jersey [Mr. WOLVERTON], when he introduced this bill before us now as the committee amendment, eliminated all reference to appropriations. Hence there is no provision for appropriations in this bill, only a provision for establishing an organization and a plan to coordinate and go forward with the job of national heart-disease research.

[p. 7406]

1.12c(3)(c) June 9: Senate concurs in House amendment, p. 7555

[No Relevant Discussion on Pertinent Section]

1.12d NATIONAL DENTAL RESEARCH ACT

June 24, 1948, P.L. 80-755, § 4(e),(f), 62 Stat. 601

(e) Paragraph (d) of section 301 of such Act is amended to read as follows:

"(d) Make grants-in-aid to universities, hospitals, laboratories, and other public or private institutions, and to individuals for such research projects as are recommended by the National Advisory Health Council, or, with respect to cancer, recommended by the National Advisory Cancer Council, or, with respect to mental health, recommended by the National Advisory Mental Health Council, or, with respect to heart diseases, recommended by the National Advisory Heart Council, or, with respect to dental diseases and conditions, recommended by the National Advisory Dental Research Council;".

(f) Paragraph (g) of such section 301 is amended to read as follows:

"(g) Adopt, upon recommendation of the National Advisory

Health Council, or, with respect to cancer, upon recommendation of the National Advisory Cancer Council, or, with respect to mental health, upon recommendation of the National Advisory Mental Health Council, or, with respect to heart diseases, upon recommendation of the National Advisory Heart Council, or, with respect to dental diseases and conditions, upon recommendations of the National Advisory Dental Research Council, such additional means as he deems necessary or appropriate to carry out the purposes of this section."

[p. 601]

1.12d(1) SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE

S. REP. No. 436, 80th Cong., 1st Sess. (1947)

NATIONAL INSTITUTE OF DENTAL RESEARCH ACT

JULY 7, 1947.—Ordered to be printed

Mr. SMITH, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany S. 176]

The Committee on Labor and Public Welfare, to whom was referred the bill (S. 176) to provide for, foster, and aid in coordinating research relating to dental diseases and conditions, to establish the National Institute of Dental Research, and for other purposes, having given consideration thereto, report the same and recommend that the bill do pass.

A subcommittee of the Senate Committee on Education and Labor of the Seventy-ninth Congress held hearings on the original draft of the bill introduced as S. 190 in the Seventy-ninth Congress. Sentiment was reported to be virtually unanimous in favor of the bill at that time.

[p. 1]

Section 4

This section provides that the National Advisory Dental Research Council is authorized to:

* * * * * * *

3. Review applications for grants-in-aid from universities, hospitals, laboratories, or other institutions, both public and private, from individuals, for research projects relating to dental diseases and conditions, and to certify to the Surgeon General its approval of applications of projects which would make valuable contributions to human knowledge with respect to dental research.

4. Recommended to the Surgeon General for acceptance, conditional gifts made under section 6 of the act and to make recommendations to the Surgeon General in carrying out the provisions of the act.

[p. 4]

1.12d(2) HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

H.R. REP. No. 2158, 80th Cong. 2d Sess. (1948)

AMENDING THE PUBLIC HEALTH SERVICE ACT TO PROVIDE FOR A NATIONAL INSTITUTE OF DENTAL RESEARCH

JUNE 2, 1948.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. DOLLIVER, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H.R. 6726]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 6726) to amend the Public Health Service Act to provide for, foster, and aid in coordinating research relating to dental diseases and conditions, and for other

purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

[p. 1]

IN GENERAL

SEC. 301. The Surgeon General shall conduct in the Service, and encourage, cooperate with, and render assistance to other appropriate public authorities, scientific institutions, and scientists in the conduct of, and promote the coordination of, research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man, including water purification, sewage treatment, and pollution of lakes and streams. In carrying out the foregoing the Surgeon General is authorized to—

* * * * * * *

(f) For purposes of study, admit and treat at institutions, hospitals, and stations of the Service, persons not otherwise eligible for such treatment; and

(g) Adopt, upon recommendation of the National Advisory Health Council, or, with respect to cancer, upon recommendation of the National Advisory Cancer Council, or, with respect to mental health, upon recommendation of the National Advisory Mental Health Council, *or, with respect to dental diseases and conditions, upon recommendation of the National Advisory Dental Research Council,* such additional means as he deems necessary or appropriate to carry out the purposes of this section.

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[p. 8]

1.12d(3) CONGRESSIONAL RECORD, VOL. 94 (1948)

1.12d(3)(a) June 8: Amended and passed House, p. 7417

Mr. WOLVERTON.

* * * * *

GENERAL STATEMENT

This bill proposes to amend the Public Health Service Act by establishing in the Public Health Service a National Institute of Dental Research, for the purpose of furthering the purposes of the legislation, to improve the dental health of the people of the United States through the conduct of researches, investigations, experiments, and studies relating to the cause, diagnosis, and treatment of dental diseases and conditions; to assist and foster such researches and other activities by public and private agencies; to provide training in matters relating to dental diseases and conditions; and to promote the coordination of all such researches and activities and the useful application of their results, with a view to the development and prompt widespread use of the most effective methods of prevention, diagnosis, and treatment of dental diseases and conditions.

* * * * *

H. R. 6726 recognizes the need to support training of potential researchers both within the Institute

and in the various institutions where dental research will be conducted. The establishment of a National Institute of Dental Research, coupled with a training program as provided by this bill, would constitute a clear demonstration that dental research was on a sound basis and would encourage qualified candidates to prepare themselves for research.

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[p. 7417]

1.12d(3)(b) June 12: Amended and passed Senate, p. 7934

[No Relevant Discussion on Pertinent Section]

1.12d(3)(c) June 14: House concurs in Senate amendments, p. 8175

Mr. BREHM. No, it does not. It provides for private grants-in-aid. This simply coordinates research and we welcome research from any source, public or private. At the present time schools and colleges do not have adequate facilities to utilize the funds available for research purposes and this bill simply puts it all under one head or rather one roof.

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

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

Mr. BREHM. I yield.

Mr. RIVERS. These are only perfecting amendments.

Mr. BREHM. That is all. I want to assure the gentleman from South Carolina [Mr. RIVERS] and the gentleman from Tennessee [Mr. PRIEST] that both the American Dental Association and I deeply appreciate their assistance in behalf of this legislation.

Mr. SCRIVNER. Mr. Speaker, reserving the right to object, I wish to inquire whether or not the language on page 9 in lines 16, 17, 18, and 19 were in the bill as it passed the House where they provide for $50 per day plus expenses.

Mr. BREHM. That is right.

Mr. SCRIVNER. Was it in the bill as it passed the House?

Mr. BREHM. That is correct. It was.

The SPEAKER. Is there objection to dispensing with further reading of the Senate amendments?

There was no objection.

Is there objection to the request of the gentleman from Ohio to concur in the Senate amendments?

Mr. SCRIVNER. Mr. Speaker, reserving the right to object, if this bill as presented from the Senate includes $2,000,000 for a building, I object to its consideration.

Mr. BREHM. Mr. Speaker, the bill is useless without a building because that is for coordinating the research now being carried on. We cannot conduct dental research out in a pasture field or in a pup tent. As previously stated the twenty-odd schools and colleges engaged in research are handicapped by lack of facilities to do an adequate job. It is foolish to waste funds in this manner. Either research is necessary and essential to benefit mankind in this instance, or it is not necessary. If it is essential as I maintain then let us have a decent building and equipment so that we can do a decent job.

Furthermore, the gentleman from Kansas withdrew his reservation to object just a moment ago when I

answered his question regarding the $50-per-day provision contained in the bill.

The SPEAKER. The Chair will state to the gentleman from Kansas that it is too late to object to the consideration of the bill.

Is there objection to the request of the gentleman from Ohio to concur in the Senate amendments?

There was no objection.

The Senate amendments were agreed to.

A motion to reconsider was laid on the table.

[p. 8175]

1.12e PUBLIC HEALTH SERVICE ACT AMENDMENTS

June 25, 1948, P.L. 80-781, § 1, 62 Stat. 1017

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 301 (d) of the Public Health Service Act, as amended (42 U. S. C. 241 (d)), is amended by changing the semicolon at the end thereof to a comma and adding: "and include in the grants for any such project grants of penicillin and other antibiotic compounds for use in such project;".

[p. 1017]

1.12e(1) HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

H.R. REP. No. 1927, 80th Cong., 2d Sess. (1948)

AUTHORIZING CERTAIN EXPENDITURES FROM APPROPRIATIONS OF THE PUBLIC HEALTH SERVICE

MAY 11, 1948.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. DOLLIVER, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H.R. 4114]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 4114) to amend the Public Health Service Act to permit certain expenditures, and for other pur-

poses, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

[p. 1]

EXPLANATION OF THE BILL BY SECTIONS

The purpose of section 1 of the bill, which amends section 301 (d) of the Public Health Service Act, is to continue in basic legislation the authority of the Public Health Service to purchase and distribute penicillin and other antibiotic compounds for use in research projects for which grants-in-aid are made pursuant to section 301 (d) of the Public Health Service Act. There are several sound reasons for continuing this authority, which is now and has been contained in the appropriation acts. One is the great saving to the Federal Treasury which results in many cases from the central purchase of antibiotic compounds used in the various research projects. It is frequently possible for the Public Health Service to purchase the compounds for as little as one-half of the amount it would have to expend for the same purpose in the form of grants-in-aid if the compounds had to be purchased separately for each individual research project or experiment. Another reason is the desirability of conducting the diverse research experiments and projects with a compound of uniform consistency, quality, and quantity so as to assure accuracy in evaluating results. A third reason is the comparative difficulty which individual recipients of the research grants experience in attempting to purchase the less readily available compounds.

[p. 2]

FEDERAL SECURITY AGENCY,
Washington 25, D.C., June 11, 1947.

The honorable the SPEAKER OF THE HOUSE OF REPRESENTATIVES,
Washington 25, D.C.

DEAR MR. SPEAKER: I am enclosing for your consideration a draft of a bill amending the Public Health Service Act (42 U.S.C., ch. 6A) to make permanent authority, heretofore carried in annual appropriation acts, under which the Public Health Service is permitted to make certain expenditures in carrying out the purposes of that act.

The purpose of the first section, which amends section 301(d) of the Public Health Service Act, is to continue in basic legislation the authority of the Public Health Service to purchase and distribute penicillin and other antibiotic compounds for use in research projects for which grants-in-aid are

[p. 4]

made pursuant to section 301(d) of the Public Health Service Act (this authorization was omitted from the Federal Security Agency Appropriation Act, 1947, but is included in the President's Budget for the fiscal year 1948).

There are several sound reasons for continuing this authority. One is the desirability of conducting the diverse research experiments and projects with a compound of uniform consistency, quality, and quantity so as to assure accuracy in evaluating results. Such uniformity can be assured, particularly in the case of compounds developed comparatively recently, only through central purchase of the compound by the Public Health Service from the same sources. It is almost impossible to achieve when the compounds are purchased individually by the many institutions or agencies conducting the projects. Another reason is the comparative difficulty which individual recipients of the grants-in-aid experience in attempting to purchase the less readily available compounds. A third reason is the great saving to the Federal Treasury which results in many cases from the central purchase of antibiotic compounds used in the various research projects. It is frequently possible for the Public Health Service to purchase the compounds for as little as one-half of the amount it would have to expand for the same purpose in the form of grants-in-aid if the compounds had to be purchased separately for each individual research project or experiment.

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[p. 5]

PUBLIC HEALTH SERVICE ACT, AS AMENDED

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TITLE III—GENERAL POWERS AND DUTIES OF PUBLIC HEALTH SERVICE

PART A—RESEARCH AND INVESTIGATIONS

IN GENERAL

SEC. 301. The Surgeon General shall conduct in the Service, and encourage, cooperate with, and render assistance to other appropriate public authorities, scientific institutions, and scientists in the conduct of, and promote the coordination of, research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man, including water purification, sewage treatment, and pollution of lakes and streams. In carrying out the foregoing the Surgeon General is authorized to—

(a) Collect and make available through publications and other appropriate means, information as to, and the practical application of, such research and other activities;

(b) Make available research facilities of the Service to appropriate public authorities, and to health officials and scientists engaged in special study;

(c) Establish and maintain research fellowships in the Service with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most brilliant and promising research fellows from the United States and abroad;

(d) Make grants in aid to universities, hospitals, laboratories, and other public or private institutions, and to individuals for such research projects as are recommended by the National Advisory Health Council, or, with respect to cancer, recommended by the National Advisory Cancer Council, or, with respect to mental health, recommended by the National

Advisory Mental Health Council *and include in the grants for any such project grants of penicillin and other antibiotic compounds for use in such project;*

(e) Secure from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants from the United States or abroad;

(f) For purposes of study, admit and treat at institutions, hospitals, and stations of the Service, persons not otherwise eligible for such treatment; and

(g) Adopt, upon recommendation of the National Advisory Health Council, or, with respect to cancer, upon recommendation of the National Advisory Cancer Council, or, with respect to mental health, upon recommendation of the National Advisory Mental Health Council, such additional means as he deems necessary or appropriate to carry out the purposes of this section.

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[p. 8]

1.12e(2) SENATE COMMITTEE ON LABOR AND PUBLIC WORKS

S. REP. No. 1578, 80th Cong., 2d Sess. (1948)

AMENDING THE PUBLIC HEALTH SERVICE ACT TO PERMIT CERTAIN EXPENDITURES

JUNE 9 (legislative day, JUNE 8, 1948.—Ordered to be printed

Mr. TAFT, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany H.R. 4114]

The Committee on Labor and Public Welfare, to whom was referred the bill (H. R. 4114) to amend the Public Health Service Act to permit certain expenditures, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that it do pass.

PURPOSE OF THE BILL

The sole purpose of the bill is to incorporate into the Public Health Service Act, which is the basic law governing the Public

Health Service, the authority of the Service to expend funds for certain specified purposes which have heretofore been authorized annually in the appropriations for the Public Health Service. It would not increase the present authority of the Public Health Service; nor would it increase the current expenditures of the Public Health Service.

EXPLANATION OF THE BILL BY SECTIONS

The purpose of section 1 of the bill, which amends section 301 (d) of the Public Health Service Act, is to continue in basic legislation the authority of the Public Health Service to purchase and distribute penicillin and other antibiotic compounds for use in research projects for which grants-in-aid are made pursuant to section 301 (d) of the Public Health Service Act. There are several sound reasons for continuing this authority, which is now and has been contained in the appropriation acts. One is the substantial saving of funds which results in many cases from the central purchase of antibiotic compounds used in the various research projects. It is frequently possible for the Public Health Service to purchase the compounds for as little as one-half of the amount it would have to expend for the same purpose in the form of grant-

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in-aid if the compounds had to be purchased separately for each individual research project or experiment. Another reason is the desirability of conducting the diverse research experiments and projects with a compound of uniform consistency, quality, and quantity so as to assure accuracy in evaluating results. A third reason is the comparative difficulty which individual recipients of the research grants experience in attempting to purchase the less readily available compounds.

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FEDERAL SECURITY AGENCY,
Washington, June 11, 1947.

The honorable the PRESIDENT PRO TEMPORE,
United States Senate, Washington, D.C.

DEAR MR. PRESIDENT: I am enclosing for your consideration a draft of a bill amending the Public Health Service Act (42 U.S.C., ch. 6A) to make permanent authority, heretofore carried in annual appropriation acts, under which the Public Health Service is permitted to make certain expenditures in carrying out the purposes of that act.

The purpose of the first section, which amends section 301(d) of the Public Health Service Act, is to continue in basic legislation the authority of the Public Health Service to purchase and distribute penicillin and other anti-

biotic compounds for use in research projects for which grants-in-aid are made pursuant to section 301(d) of the Public Health Service Act (this authorization was omitted from the Federal Security Agency Appropriation Act, 1947, but is included in the President's Budget for the fiscal year 1948). There are several sound reasons for continuing this authority. One is the desirability of conducting the diverse research experiments and projects with a compound of uniform consistency, quality, and quantity so as to assure accuracy in evaluating results. Such uniformity can be assured, particularly in the case of compounds developed comparatively recently, only through central purchase of the compound by the Public Health Service from the same sources. It is almost impossible to achieve when the compounds are purchased individually by the many institutions or agencies conducting the projects. Another reason is the comparative difficulty which individual recipients of the grants-in-aid experience in attempting to purchase the less readily available compounds. A third reason is the great saving to the Federal Treasury which results in many cases from the central purchase of antibiotic compounds used in the various research projects. It is frequently possible for the Public Health Service to purchase the compounds for as little as one-half of the amount it would have to expend for the same purpose in the form of grants-in-aid if the compounds had to be purchased separately for each individual research project or experiment.

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1.12e(3) CONGRESSIONAL RECORD, VOL. 94 (1948)

1.12e(3)(a) May 18: Amended and passed House, p. 6008

[No Relevant Discussion on Pertinent Section]

1.12e(3)(b) June 12: Passed Senate, p. 7933

AMENDMENT OF PUBLIC HEALTH SERVICE ACT

The bill (H. R. 4114) to amend the Public Health Service Act to permit certain expenditures, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

[p. 7933]

1.12f CAREER COMPENSATION ACT OF 1949

October 12, 1949, P.L. 81–351, Title V, §521(e), 63 Stat. 835

* * * * * * *

(e) Subsection (d) of section 214 is amended by deleting therefrom the words "longevity pay" and substituting in lieu thereof the words "the computation of basic pay".

[p. 835]

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