Senate

PUBLIC RESOURCES AND ECOLOGY

Jount Meeting with

ASSEMBLY

WEDNESDAY, FEBRUARY 14, 1973

The meeting was called to order at 2:45 p.m.

Senator Wilson in the Chair.

PRESENT: Senator Echols
Senator Dodge
Senator Bryan
Senator Blakemore
Senator Hecht

Mr. Jacobsen
Mr. Crawford
Dr. Broadbent
Mr. Bremner, Chairman of Assembly Committee
Mr. Smalley
Mrs. Gojack
Mrs. Ford

Many interested citizens which list is attached hereto marked Exhibit A.

Senator Wilson informed the group that no bills would be considered today, but he introduced Mr. William Van Ness, Chief Counsel of the Senate Interior and Insular Affairs Committee. Mr. Van Ness was to present information on pending Federal legislation which may affect the state and have a direct bearing upon land use and policy and planning legislation. Mr. Van Ness was present to advise the committees and generally discuss Senate Bill 268 which has been introduced into the United States Senate and is pending before the Interior and Insular Affairs Committee.

Mr. Van Ness stated that one of the things which the State Legislature has to consider and work very hard on the next few weeks, is the fact that the State Legislature meets every two years and that the State should get a start at the land planning program this year and do as much as possible, even though it would be working under a very speculative envirnment, in that it would not know what the Federal Legislation is going to say, what it is going to require, how much money it is going

to make available to the state, how receptive the Federal Officals of the major land management agencies will be toward working with the state after it has established a land use policy.

Public opinions have changing rapidly over the last three or four years. Land, now is more than a commodity, it is a public resource which involves both private and public responsibilities with respect to decisions about the land, the uses to which it is dedicated. The Federal legislation and bills now before congress are an outgrowth of that concept and in the judgment of many people of the failure of some states to excercise what are basically state's rights and state's responsibilities as to the management of land and decision making about the land. Meaning all the subdivisions of the state, county government, regional or municipal government, special types of districts for water, sewer and other purposes. All of them have some land use management and decision making responsibility.

The Federal Government has no lease power authority or management responsibility over privately owned or state owned lands. This is vested constitutionally in state government and this power has been delegated in local governments by the state. These were outgrowths of a series of enabling acts for practically every state in the Union and were adopted sometime after 1922. These were model state codes presented to the State Legislatures to deal with the problems presented in terms of keeping taverns out of residential districts, and keeping other types of activities away from an area where people wanted a special single purpose type of use made.

The Federal Government now feels that it is inadequate to only focus on the urban, organized incorporated land use areas. Especially in the west where there are great areas of undeveloped lands. These are the opportunity areas, but increasingly the problem areas, in a sense that all kinds of developments are taking place there that are not planned and in which there is inadequate opportunity for state review and when it is a multi-county problem to have some input, be advised of what is proposed and include some other course of decision. This is the type of legislation that the Federal legislation has responded to.

At the present time there are three Federal National Land Use policy bills pending. (1) a bill drafted and introduced by Senator Jackson which was adopted by the

Senate in September of last year. A parallel measure was reported out of the House Interior Committee, it did not clear the Rules Committee and the House did not act on it. It is his judgment that there will be a land use bill passed probably by September or October of this year. (2) an administration bill submitted by the President, which is patterned after the bill he submitted last year and is not too dissimilar in overall terms from the Jackson bill. It is an enabling act. It starts out with the proposition that the best government is that government closest to the people, which means local government. It does separate certain categories of land use decisions which are of more than local concern, even to interstate concerns, such as watershed, regional air shed that may involve some kind of public works proposal which might cross the boundaries of two or more states. All of the decisions should not be left up to private enterprize or the Federal Agency which is making the proposals. (3) This is a bill which was introduced about a week ago it has a different concept and philosophy than the other two. It is a bill by Senator Muskie which would give to Environmental Protection Administration authority to grant permits to the states once they found that the states had set up an adequate permitting authority themselves. Basically, what it does, it takes a lot of decisions now made at the local level and says they are major decisions of statewide concern and before the use of the land is changed a state permit must be obtained. The state can,however, delegate some of this decisional authority to local governments.

Similar proposals to that were offered on the floor last September and was defeated in the Senate. Primarily, many people viewed it as taking power away from local government and vesting all of the power in the state and some in the Federal Government. Members of the Senate did not feel this was a good policy. It is a major piece of legislation and has to be seriously considered.

The Jackson bill and the Administration bill have been critized because they are quite general and vest authority in the state, they assume state responsibility, the state Legislatures can define specifically what the policy can be for their individual state, recognizing their differing terrain, their differing geographical characteristics, the differing needs of their people and the state of industrial or urban or rural development that they now have. The Muskie bill takes a different attach. It does try to identify what the specific policy should be. Some of the policies are as follows:

It favors retaining in agricultural status any land which is currently in agricultural status. It puts the burden

to change that status on the individual property owner. It says the Secretary of Agricultural, now Mr. Butz, would go out and classify all the lands in the United States as to whether or not it was high productive agricultural land. After such determination is made, in order to change the status of that land, the property owner would have to petition the Governor and the Governor would have to certify that there is a legitimate need to do this.

Mr. Wilson inquired if this meant that if an individual owned a five acre lot that he would have to petition the Governor and the Governor in turn has to petition the Secretary of Agriculture to make any changes?

He was told that the bill was not detailed enough to know what the limits are to it. I believe there is an exception to it with respect to a single family residence that would apply to your period of time. It sounds a bit extreme. I think the point he made is that many people seriously and honestly think that this is the kind of thing that we need. Many people think that the land is becoming so degraded and many institutions of Government are not exercising their responsibility with respect to having a rational planning arrangement for the land and feel that they need this strong medicine. There will be hearings on it. If the Muskie bill itself is not moved through the legislative process when the Jackson or the Administration bill is reported out of committee and is on the floor, amendments of that nature will be taken out of that bill and will be offered. The bill states as a matter of national policy that is binding upon the States that we favor redevelopment of old land areas, before we touch anything that is new.

Senator Wilson asked if Mr. Van Ness sees the Muskie bill as an alternative to the Jackson bill and a bill which is most likely to pass in Congress.

Mr. Van Ness stated that it is clearly the most advanced bill. Ten days of hearings were held in the last Congress and they have just completed two days of hearings in this Congress. This seems to be the other option and it is not too dissimilar to the Administration bill. The great criticism of the Jackson bill is that it doesn't have this specific criteria laid out; the Federal criteria which is binding upon state government.

Mr. Wilson asked that assuming the Jackson bill passes, the question would be how well it is impleted by the State, how well the states react to it and develop their own program, and how direct the Federal control over the land use and local zoning becomes.

The answer was yes and Mr. Van Ness feels that either the Jackson bill or the Administration bill would take the approach that the states ought to be doing this job and in order to do it they need money, staff resources and Federal back-up and assistance. If that doesn't work within two years, it is quite clear that stronger medicine in the form of Federal legislation will be a viable alternative and the trend of the time is that more and more people will be of that point of view.

Mr. Wilson stated that this would probably give the states some motive to, in a sense, get their land planning act together. Assuming the Jackson bill passing, will you give us some idea as to what the State of Nevada would have to do to comply. Generally, our problem is that this act will pass after we have recessed, and we will not reconvene again for two years. This means that we have to define adequate jurisdiction in the appropriate administrative department to carry out the bill, if the state is going to qualify. We are going to have to do this before the bill is in final form and ultimately signed by the President. Now, with that handicap in mind what kind of jurisdiction are we talking about creating.

Mr. Van Ness: There are a number of things that the state would have to do and I am not familiar with the statutes of the state of Nevada in terms of what they currently provide. I think the first thing that has to be done is that you have to identify who, at the state level, is going to be the managing office, the responsible authority; that department of Government who is going to have general oversight. It will not have to do all the land use planning functions at the state level, that may not be needed or desired under the circumstances. But the Jackson bill and the Administration bill say that there has to be a single state agency identified either by the Legislature or the Governor to be the agency who gets the grant and aid money and is the agency who sends to the Federal Government the documents and progress reports which are necessary as a condition to further grant aid and eligibility. As a minimum, this must be done. Secondly the state has to satisfy the Federal Government that it is making a good faith effort as exercising states rights and responsibility, that it has put together a competent, professional staff and not a staff of planners, necessarily, because I don't think that is required or necessarily desirable. We are not talking about sitting down with maps and drawing cities and highways and water resource projects and recreational areas. This is the kind of planning that has dominated so much of the past and in large measure much of it has been futile. It has given planning a bad name in may respects.

The Jackson and Administration bills view planning as a process and as a process the fundamental and missing link

has always been information about the land resource base, what its environmental resource mineral possibilities are. Too much planning has been abstract planning without a good data base. I am told that there are relatively few sites in the United States that are capable of handling major regional airports, nevertheless, we have no survey under way to identify what those sites are and set them aside and preserve them. Many time housing projects are being set up on those sites, which could just as well have gone on some other site. There are relatively few sites that are adaptable for power lines, etc, in freedom from earthquake hazard, freedom from ecological problems, relationship to population center, but the country as a whole has never done anything on this in terms of setting these areas aside. So the date gathering process is an important aspect of this. It may require legislation. You may want private enterprise to do land use kind of studies in your state to provide certain minimal data that is useful to the state.

The four major areas which must be considered in your desire to enact state legislation this year are the areas of critical environmental concern. These are areas that are fragile environmentally. They just won't take all kinds of human or other uses. Examples are beaches, flood plain, certain wet lands. If these areas are going to be there for the next generation, they are going to have to have special management that is going to require certain restrictions on the kind of uses that can take place there.

The second one relates to key facilities, which are things like major regional airports, major highways and highway interchanges where growth takes place, major energy facility systems, power plants, major transmission lines. These are the kinds of facilities which dictate the shape of the future, where growth takes place, both residential and commercial. That's where industries tend to site for reasons of convenience. They are the major intrastructures that in effect provide the backbone of the nation's communications-transportation system. That is where development takes place, so it is a state's responsibility in terms of planning and in determining where those facilities should be sited and to make sure that you aren't vying and imposing upon both the present and future generations costs that are needless. The third area is developments and uses which are of regional benefit. These could be the recreation areas and parks they could the location of a new college or other educational institution. They have the same kind of growth generating things, but also other things are involved here in terms of

The equity of siting a new college, for example and how the distances are that young people have to travel to get to use that facility. It is a state responsibility to look at these things.

The fourth category is described as large scale developments. This signifies things like larkge industrial parks and I suppose most states seek to induce, through favorable tax treatment, providing buildings, lands, whatever heavy or moderately heavy industry to locate there.

The four major things are the things that the state legislature has to address itself to in order to qualify under either of those two acts.

Mr. Dodge: These evaluations, or land aptitudes, would the state be looking at both private and public lands?

No, there is no provision in this bill that tells the state to go out and inventory Federal lands, by the same token, it tells the Federal Government to go out and make an inventory of the state lands. There is a provision in the Jackson which says to the states, "If you do a good job planning in compliance to the Federal Act, if you staff up and make some judgments about your future, then all Federal agencies have to act in accordance with your plan. They can't do anything that's incompatible with it." By the same token, if the Federal Government plans a public works facility within your state, they come to the state agency first and see if it is incompatible, or if the state wants it, or if it is desirable or makes sense. They seek to see if they can serve some state purpose or see if it would fit state planning by changing it somehow. Secondly it gives the state the opportunity to plan for the use of Federal lands. You have a relatively land locked community and part of the long range plan is that they want small cluster development. Say, two or three hundred homes with open space around them and open space transportation systems. That means they are going to have to spread out. It seems to me that a well thought of plan would give the people a chance to go to the Federal Government and have the land turned over to them it can be managed better in this way, human needs can be better met. This gives the state a better leg up in terms of dealing with the Federal Government Agencies. Thirdly, the Federal Agencies record in this regard is not all that good. I think if the state exercises a little iniative and gets out ahead of them a little bit they can pretty much dictate some Federal policies. One of the provisions provides that Federal lands where they are checkerboarded, as the strip following the railroad land, there is a directive to the Federal agencies, where these lands are interspersed with state land, should follow the state program and whatever the state planning is, so long as it is in compliance with the act to manage those Federal lands on a similar matter.

Mr. Bryan: Mr. Van Ness, as I understand it, you are basically saying that under the Jackson bill there is no provision for the land planning agency to exercise any kind of jurisdiction over the Federal lands, which to Nevada, means 86.4%. Yet, you have indicated that if the state does a good job the Federal Government will adhere to the compatibility. Should the initial inventory, which is required by the state include Federal land, even though the state has no jurisdiction over it, and if not, how can we talk about this compatibility when it seems that we have a mutual exclusive jurisdiction.

The committee last year considered this very question. It is a constitutional question. The public lands belong to all of the people of the nation. When you talk in terms of guarantee legislative authority to give the states, a policy making authority with respect to the use of those lands, we are proposing to delegate to the State of Nevada, in this case, the management authority with respect to those lands, but those lands belong to the people of all states. It is a tough philisophical question and there is no easy answer. In my judgment, Congress is not willing to take the question on. There is no great action spurring device that says this is a critical problem. But in Nevada, it is a critical problem.

Mr. Wilson: What your saying is until a state demonstrates its competency and willingness as a matter of policy to provide and protect a resource, why should jurisdiction be relinquished to a local state government.

Mr. Blakemore: Well, we might sell the other 13% back to the Federal Government.

Mr. Van Ness: I don't mean to say, no matter how good the state planning is, the Federal Government is not going to turn over its responsibility to those Federal lands. That is not going to happen, in my judgment. The Federal Government does not have the man power and resources to do the job. If the state establishes some kind of policy with respect to the administration of some unit of this land and is doing a good job of it, I am saying that I believe the Federal Agencies will go along with that state plan and will follow that plan in terms of its management policy. This is a necessary first step in terms of getting to the point where some longer range arrangements can be made to deal with these checkerboard problems.

Mr. Bryan: Are you saying that the initial inventory that must be made relates only to the Non-Federal land?

No. The state has the responsibility with respect to the inventory of state owned lands where they are checker-

boarded, the Jackson bill has a provision which directs the Federal authorities to cooperate with the state and part of that cooperation very well could be perhaps that Congress should consider legislation that would require the appropriate Federal Agency to also inventory its land at the same time to have a total look at the resources of that general area.

Mr. Dodge: Are you saying that the Administration bill and the Jackson bill are so loose in this regard that they don't have some sort of system of dove-tailing this sort of thing together so that - is there no provision in there for acceptance by some Federal Agency of the validity of a zoning plan that might involve both Federal and State land and an agreement by the Federal Government to abide by that zoning.

There is no provision in the Aministration bill on that point. The Jackson bill which was passed by the Senate last year does have. It doesn't come out and specifically say that the Federal has to accept whatever the state's zoning decision. But there is a directive for the Federal Government to follow the state plan, if the state plan is in accordance with Federal requirements.

Mr. Wilson: Bill 632 provided a detailed list of items that had to be included to have an adequate state wide land use planning process, essentially an inventory, will the Federal funding available include that process as applied, not just to private and state owned lands, but also to the Federally owned lands?

Yes, it will. First of all on the Funding, the Jackson bill of last year provided a hundred million dollars a year grant and aid money to the state and that is to be 90% and 10%. Ninety percent of the cost of the state program would be picked up out of those monies, assuming the hundred million was adequate for all fifty states. That money would be available to the states, both for staffing, setting up the office, going out and beginning the inventory process, by the same token the act recognized that you couldn't administer this kind of program out of the BLM, or Forest service or out of some traditional public land management agency. They created a new office in the department of Interior to work with the states. One of the responsibilities of that office was to establish a land use information and data center, to gather date about the lands and to assist the states in making that data available to them. We have satellite programs that assess various charastistics about the land, but there is a real breakdown in communications in the sense that we have a lot of that data, but it is never analized and never made available to the states themselves for their planning purposes. These are the kinds of

functions that office would have. Secondly an effort is mandated to make uniform a lot of the data that we now have. For example the departments of Agriculture, Forest Service, the Park Service, BLM, Soil Conservation Service, all are gathering data all the time, but it is all different kinds of data. It is not uniform and nobody has put it all together into a form that is usable as a central bank.

Senator Wilson: With respect to the planning process which was mandated by the bill, 268, what kind of planning are we looking at? The answer was 90 - 10 and the same thing would apply here. The Senate cut this down last year. It was cut from an $800,000,000 program over eight years to $170,000,000 over five years. One of the reasons probably was that some the legislators had not followed the legislation and didn't know what it meant, nor that the states would not need this kind of monitary assistance. An effort will be made to get that back up to at least $100,000,000 a year, to restore the 90-10 aspect. The formula is relatively loose to divide this. It tells the Secretary of the Interior to promulgate guidelines as to how it will be apportioned. (1) Size of the state, (2) what are the developmental presures on that state, (3) look at the critical areas of environmental concern in that state. Nevada is a large state and in order to get the job done aircraft must be utilized and instrumentation in terms of this iventory and date gathering. Mr. Van Ness feels that Nevada's portion will probably a large amount.

Senator Wilson wanted to know if there was money in the budget for this and was informed that there was money in the budget, but that to Mr. Van Ness' knowledge the Administration bill would probably be introduced on that day. There was talk of a 2/3 - 1/3 split and probably in the neighborhood of $100,000,000. Senator was concerned that there might be a freeze if the money was not in the budget, but was informed that money was in the budget, but Mr. Van Ness was not sure of how much. The President proposed $20,000,000 to the states in his budget message. If Congress appropriates this any state which is geared up and ready to qualify could immediately submit a grant and aid program and share in that. There are very few states ready at this present time.

Dr. Broadbent stated that several years ago, this state made a request for a six million acre land grant to this state which is probably now a "dead duck". He wanted to know if either of these two pieces of legislation propose deeding any part of the Federal holdings to the state and was informed that they did not, although there are other pieces of legislation pending which would perhaps deal with that aspect. These pieces of legislation would grant authority in an institutional means to provide Federal lands to states which could demonstrate the need for it.

They propose an Organic Act for the BLM which would tell what the management regime, philosophy and policy is going to be with respect to the management of those lands. It covers easements and the need of local communities and states for increased land resource base and sets up provisions for handling. This bill is pending.

Senator Dodge: Does the Congress feel that in order for a state to practically perform it is actually going to have to creat these lands for certain uses within the state, or is this still in a planning stage.

The Act requires that the state initiate this planning process which runs to inventory, staffing and establishing a state institution. Coming up with state resources, enough to match what the Federal formula is would also help. This can go on for three, but not for more. After three years the state must come up with a land use program. This consists of both that planning process and the actual decisions the state has made about its land resource stage. Those decisions are made in the context of the four subject matter that I spoke of before.

The state has to identify and defines what are the critical areas of concern and decides and establishes whatever restrictions if there are to be any of the management regime and under the Administration bill and the Jackson, the Federal Government is not invited to look behind the state value judgment. The state must act in good faith. The thrust of the bill is that the state and local governments are best equipped to do this job. If the state is not working in faith, or doing a good job the money can be cut off. The Jackson bill proposes that there be sanctions and strong ones in the event that a state does nothing toward this program. The sanctions in the Jackson bill were that three sources of trust fund monies available to the state would be cut off in stages, the highway trust fund, the land and water conservation fund and the airport and airways redevelopment fund. The state's entitlement to those funds would be cut off at the end of the first year when a state was not complying, by 7%, at the end of the second year there still was not compliance then it would be cut back 14%, at the end of the third year it would go up to 21%. This is a controversial provision which was deleted last year, but I feel however, that the thinking has changed. Whether this money should be spent to protect recreation areas with sound programs.

Senator Wilson: You are saying that with respect to these four critical areas of concern, the state has to have jurisdictional power define and at least set certain minimum standards to enforce this policy. Mr. Van Ness agreed with this statement of fact.

The state has to define, but does not necessarily have to enforce. The state can delegate this to city or county government.

Senator Bryan wanted to know if either of the bills had any veto power over the state. He was informed that the Jackson bill has a provision with respect to right of appeal and right of review on the part of the state. If the state feels it is doing a good job and the Governor of that state is informed that his grant and aid money is going to be cut off because there not compliance, he can petition and he has right of review and appeal by a three panel group; A governor from another state, an impartial Federal official and the third member would be an individual citizen who has knowledge of land use planning and who has been selected by first two members. This three member group, if it feels the state has complied, can provide that these funds shall be made available.

Elmo DeRicco wanted to know about the retroactive aspect of this funding. If the state of Nevada makes this funding effective as of July 1 and if the Federal bills do not become effective until August, unless there is some retroactive aspect as to matching funds, the state may be without funding from the Federal funding for at least two. years.

This was an observation which had not been brought before the committee and Mr. Van Ness promised to carry the same back to Chairman Jackson. There is a time problem for which the state cannot be faulted. Mr. Van Ness suggested that the program get underway in a small way.

Mr. Van Ness presented certain materials to the Committee which he felt might be helpful, a copy of each of which is attached hereto.

Mr. Ernest Gregory of the Department of Health pointed out that the state is now involved in three different deadlines which dictate Federal funding. (1) The water polution control bill in 1975, the (2) the air polution and now we are faced with another deadline, the land use planning.

Mr. Van Ness felt that these should all be coordinated if at all possible. The state legislature's conference should call this to the attention of the Federal Government.

Senator Dodge asked if these three bills were compatible with other legislation along the same lines, or if we would run into red tape in other pieces of isolated legislation.

Mrs. Ford inquired as to how the Florida bill was working, because the Assembly had one which was very similar, but Mr. Van Ness had not been directly in touch with the people involved. It was his feeling that there had not been enough time to tell.

No was no further discussion and the meeting was adjourned at 4:05 p.m.

Respectfully submitted

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APPROVED:

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Thomas R. C. Wilson
Chairman

Elmo DeRicco	Nev. Dept. of Cons.
Ray Knisley	Nevada T.R.P.A.
Ray Whitney	
William J. Van Wagenen	U.S. Senate
Roland D. Westergard	State Engineer
W. Howard Gray	
Hewitt C. Wells	Trout Unlimited - Nev. Wildlife Federation
[illegible]	[illegible]
Adrien O. Hutchens	Nev. Div. Water Resources
Jim Huff	League of Women Voters
Ben Evans	RNR Dept. Univ. of Nevada
GARY SPEEGLE	BIOLOGY DEPT. UNIV. OF NEVADA PUBLIC LANDS CLASS
Eric Gregory	Nev. Division of Health
Bruce Arkell	State Planning Coordinator
Dr. Nevell	[illegible]
Robert E. Guinn	Nevada Motor Transport Assn.
[illegible]	Nevada Franchised Auto Dealers
[illegible]	League of Women Voters of Nev.
Session S. Wheeler	Univ. of Nevada (Public Lands Class)
Dana Bres	" " " " "
Jim Bath	" " " " "
Frank D'Amore	" " " " "
Charles Tiernan	Individual
Jack M. Hirsch, Jr.	Watershed Mgmt Student
Marlene Martin	Intern, Sen. Hecht
[illegible]	U.N.R.
Robert Sullivan	Comm. Rio Basin Council of Governments
Hugh Stephens	Water Planning Coordinator
Wayne N. Capurro	Nevada Wildlife Federation
Harold H. Brown	Bureau of Land Management
Daryl E. Capurro	Nevada Franchised Auto Dealers Nevada Motor Transport Assn.
[illegible]	[illegible]

Mr. President, I do not introduce this bill lightly. In the past, I have been asked about Arkansas and have not recommended additional judgeships, because I did not feel they were needed. But that is not the case now.

Mr. President, I understand the Senate Subcommittee on Improvements in Judicial Machinery will give this legislation a hearing in connection with its processing of the omnibus judgeship bill. I am confident when all the facts are known that the Eastern District will receive the relief it needs.

By Mr. MUSKIE (for himself, Mr. BROOKE, Mr. COTTON, Mr. HATHAWAY, Mr. KENNEDY, Mr. PASTORE, Mr. RIBICOFF, Mr. ROTH, Mr. WEICKER, and Mr. PELL):

S. 791. A bill to amend the Export Administration Act of 1969 with respect to the exclusion of agricultural commodities from export controls. Referred to the Committee on Banking, Housing and Urban Affairs.

EXPORT CONTROLS ON CATTLEHIDES

Mr. MUSKIE. Mr. President, Senators BROOKE, COTTON, HATHAWAY, KENNEDY, MCINTYRE, PASTORE, PELL, RIBICOFF, ROTH, WEICKER, and I are today introducing legislation that will permit the President to reinstitute export controls on cattlehides.

On July 15, 1972, Secretary of Commerce Peterson, acting under the Export Administration Act, imposed controls on cattlehides after the most careful, and I must say unduly deliberate, study. In announcing this action, Secretary Peterson underlined the administration's reluctance to impose controls, but indicated the absolute necessity for doing so. He cited the record high prices of hides and the Argentinian and Brazilian embargoes on hide exports as the major reasons for the administration's decision to impose controls.

A scant 2 weeks after Secretary Peterson's action, Congress passed an amendment to the Export Administration Act of 1969 which severely restricted the President's authority to impose export controls on hides. Since last summer, the price of hides has risen; tanneries have closed; and unemployment in the leather industry has been at an intolerably high level. In my own State of Maine, between 1968 and June of 1972, employment in Maine's leather footwear industry declined from 26,900 employees to 18,500. During 1971–72, 13 shoe firms in Maine employing 3,000 people have closed. The pattern is not unique to Maine. We must not allow the situation to deteriorate further through uncontrolled increases in cattlehide prices. Legislation is needed to restrict American export of cattlehides, so that the prices of these hides do not rise to a level beyond the reach of the shoe and leather industries in the United States. It is my hope that this bill will be acted on quickly by Congress. Its passage is essential to the health of these vital American industries.

By Mr. MUSKIE:

S. 792. A bill to amend the Federal Water Pollution Control Act, and for other purposes. Referred to the Committee on Public Works.

ENVIRONMENTAL PROTECTION PERMIT LEGISLATION

Mr. MUSKIE. Mr. President, during the opening weeks of the new Congress, Members in both Houses, and particularly in this body, have observed over and over again that the legislative branch is losing its power and its place in the system of checks and balances to the executive branch. In many areas these complaints and concerns are justified; the President has ignored legislative and appropriations decisions of the Congress at will, arrogating to himself and to his office decisions which are explicitly reserved to the Congress.

But I am also concerned, Mr. President, that the Congress itself is contributing to its own decline as a responsive and effective institution. Increasingly we have found it convenient to delegate to the executive or to the courts decisions for which we are responsible. Increasingly we have legislated procedures and called them policy. And increasingly we have avoided the task we were elected to perform—making tough decisions in areas of public policy which cry out for our attention.

One of the areas of public policy which demands attention we have not given is the development and protection of the Nation's limited land resources. It is true that the Senate has considered and passed legislation to require the States to develop land use policies; but, once again, this legislation would have delegated almost unlimited discretion to the executive and to the States to decide what was good land use and what was bad land use. Once again, the Congress would have passed the buck—with no instructions on what to do with it.

The task of creating policies to regulate land use decisions cannot be left solely to the States or to the executive. The buck stops here—in the Congress. Only here can the Federal interest in the public health and welfare be balanced against private decisions regarding property use. Only here can land use regulatory policies be set that take into account all the conflicting interests and make the appropriate tradeoffs from a national perspective.

There is no question of the need for such a policy and for regulation of land development decisions based on such a policy. In fact, such a regulatory mechanism is required in both the Clean Air Act and the Water Pollution Control Act. Implementation plans and programs under both acts must include, where necessary, land use controls. Uncertain land use policies regarding the development of land resources and the need for effective regulatory procedures also lie at the root of our difficulties in solving the energy crisis, in dealing with transportation problems, and in preserving biologically productive land areas.

Just as Congress has recognized that the problems of air and water pollution respect no State boundaries and demand national solutions, so, too, we are now realizing the national scope of our energy and transportation crises. It is time, however, that we also recognized the national scope of other problems which result directly from our lack of a national policy to regulate our use of limited land resources:

The quality of rural life is increasingly threatened as local citizens are crowded off the land and out of their houses by wealthy vacationers seeking recreational property and rural homes.

Highway construction and urban renewal programs devised without respect for people's lives and communities have robbed city dwellers of open space, recreational opportunities, pleasant surroundings, and often their homes.

Commercial and industrial site selection decisions have transformed and often permanently degraded large areas of land, simply because inadequate consideration was given to the effects of the attendant transportation, energy, housing, and waste treatment needs of the people who would come with the development.

Unplanned development and land use has destroyed flood plains, valuable wetlands, timberlands, and farmlands.

These are national problems; and until we set basic regulatory policy on a national level, these problems will continue to plague us. It is not enough for Congress to say that land use planning is good public policy—though land use planning is essential; and it is not enough to require the States to develop land use plans of their own—though they must act expeditiously to develop such plans. Those kinds of decisions are not really decisions at all; they merely are new applications of the same old, bad habits in failing to cope with yet another pressing issue. Pronouncements of rhetoric have never constituted effective, substantive policy. Nowhere is this truth plainer than in our experiences under the National Environmental Policy Act; although that law has provided some valuable procedural protections, it offers no relief from bad decisions which are a product of good procedure—because it contains no enforceable standards and guidelines against which to measure those decisions.

We should not make the same mistakes in developing national land use regulatory legislation that we have made in other areas; we cannot afford to. We must not sit still and allow the States or the Federal bureaucracy to create fragmented, disoriented, and often contradictory regulatory policies and programs which will permit private, selfish decisions to exacerbate critical national problems and override the public interest.

The bill which I introduce today, the Environmental Protection Permit Act, would require the establishment of regulatory mechanisms at the State level to review private land development decisions, and it would establish in law specific criteria against which to assess those State programs and to permit or deny them to take effect.

Under the provisions of this bill, which would become title VI of the Water Pollution Control Act, the Environmental Protection Agency would be prohibited from making grants for the construction of waste treatment facilities under the Water Pollution Control Act, delegating control of water pollution permit programs to States, or granting extensions of deadlines for meeting air quality standards under the Clean Air Act in any State which does not have an approved

program for granting environmental protection permits. This enforcement provision is, of course, subject to refinement, but it recognizes the fact that effective air and water pollution control requires the effective regulation of our limited land resources.

The specific land use policy criteria set forth in this bill are clear statements of the elements of good land use. They are the product of lessons the Subcommittee on Air and Water Pollution has learned from hearings in Machiasport, Maine, and Lake Tahoe, from the development and implementation of the Clean Air Act and the Water Pollution Control Act, and from years of hearings on the economic and social roots of environmental pollution. They are by no means complete in setting forth all the necessary guidelines, but they are a set of criteria from which we can refine an effective set of final guidelines.

The provisions of this bill also reflect beginning efforts which have been made to regulate land use in several States, particularly the State of Maine. In establishing the land use regulation commission in 1969, Maine assumed a position of national leadership in resource analysis and mapping, comprehensive planning, establishment of land use standards and land use districts, and enforcement. The Maine Land Use Regulation Commission establishes standards for and restraints upon the use of land in the unorganized townships of the State, 49 percent of Maine's total land area and more than 10 million acres.

Coupled with the site selection permit program administered by the State's environmental improvement commission, the LURC has given the people of Maine an opportunity to protect their public property rights against private waste.

Nothing is more central to the development of a national growth policy and to the preservation of a livable environment than effective land use planning and regulation. As Dr. George Wald has said:

There is nothing more valuable in the cosmos than an acre of land on earth.

Unless we in Congress understand and act on our responsibility to make the hard, tough policy decisions which we were elected to make, we and our children will be witnesses to the defenseless waste of that land.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill together with the bill itself be printed at this point in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 792

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Federal Water Pollution Control Act is amended by adding at the end thereof a new title to read as follows:

"TITLE VI—ENVIRONMENTAL PROTECTION PERMITS

"SEC. 601(a) The Administrator shall not, at any time after June 30, 1975, (1) make any grant in a state in accordance with the provisions of Title II of this Act, (2) approve any state permit program in accordance with the provisions of Section 402 of this Act or (3) grant any extension of time for achievement of air quality standards in accordance with the provisions of section 110(e) and 110(f) of the Clean Air Act (42 U.S.C. 1857 et. seq.), unless at the time of the grant application for a project in such state or at the time of submission by such state of a permit program or a request for extension of time for compliance with air quality standards, that state has in effect an environmental protection permit program approved by the Administrator in accordance with the provisions of this title.

"(b) Any approval of a state permit program in accordance with section 402 of this Act and any extension of the effective date for compliance with air quality standards granted in accordance with subsection (e) or (f) of section 110 of the Clean Air Act for a state shall be suspended where such state does not have, before July 1, 1975, an environmental protection permit program approved by the Administrator in accordance with the provisions of this title, and such suspension shall remain in effect until that state has an approved environmental protection permit program.

"SEC. 602(a)(1) Upon application of a state, the Administrator shall approve a state environmental protection permit program as adequate when he determines that (A) such state has an adequate process for issuing permits, (B) there is an adequate mechanism to oversee and enforce compliance with permit requirements to assure that no proposed development or expansion of capacity of any industrial, commercial or residential facility and no other development or activity which would in any way affect existing utilization of land will occur without an environmental protection permit issued by the state in accordance with the provisions of this title, and (C) in issuing permits, the state will follow the environmental protection criteria specified in subsection (c).

"(2) Approvals of state environmental protection permit programs granted by the Administrator shall be valid for a period not to exceed four years from the date on which approval is granted.

"(3) Application for reapproval, or changes in or amendments to the state environmental protection permit program shall be reviewed and approved by the Administrator in the same manner as initial applications for approval of the state environmental protection permit program.

"(4) Whenever the Administrator determines, after a public hearing, that (A) a state is not administering a program approved under this title in accordance with requirements of this title, or (B) a state has issued any environmental protection permit in violation of the criteria specified in subsection (c) of this section, he shall so notify the state and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the state, and made public, in writing, the reasons for such withdrawal.

"(b) For the purposes of this title, an adequate process for issuing permits shall include (1) a program for developing policies and procedures to implement the environmental protection permit program which shall include:

"(A) adequate opportunity for public hearings during development and revision of the environmental protection permit program in each major population center of the State and at such other places in the State as are necessary to assure that all persons living within the State have adequate opportunity to attend a public hearing on the environmental protection permit program at a place within a reasonable distance from their homes;

"(B) adequate opportunity, on a continuing basis, for participation by the public and the appropriate officials or representatives of local government in development, revision and implementation of the environmental protection permit program;

"(C) processes to review and revise as necessary, on at least a bi-annual basis, guidelines, rules and regulations to implement the environmental protection permit program published by the State or by political subdivisions of the State in cases where the States' responsibilities have been delegated in accordance with the provisions of section 603 of this title;

"(D) a mechanism for coordinating all State programs and all Federal grant-in-aid or loan guarantee programs under which the State or its political subdivisions, or private persons within the State, are receiving assistance to assure that such programs are conducted in a manner consistent with the guidelines, rules and regulations published by the State or its political subdivisions and intended to implement the environmental protection permit program;

"(E) adequate provision to coordinate planning activities of a State with the activities relating to environmental protection permit programs of surrounding States; and

"(F) assurance that the taxation policies of the State and its political subdivisions are consistent with and supportive of the goals of the State environmental protection permit program, and

"(2) Procedures for issuance of individual environmental protection permits which provide that:

"(A) there shall be a public hearing, with adequate notice, or an opportunity for such a hearing, regarding the issuance of each environmental protection permit;

"(B) there shall be an administrative appeals procedure where any person who participated in the public hearing relating to the issuance of the permit can, without the necessity of representation by counsel, challenge a decision to issue or to refuse to issue a permit;

"(C) all information presented to the State or a local government with regard to any application for issuance of a permit shall be available for public inspection at a place designated by the unit of government to which the application for an environmental protection permit is made; and

"(D) decisions relating to applications for environmental protection permits shall be announced publicly at a time and place specified at least 30 days in advance of the announcement.

"(c) The Administrator shall not approve a State environmental protection permit program which does not assure compliance with the following environmental protection criteria:

"(A) public or private development will be permitted only if in the process of development, and in the completed project, the development will not result in violation of emission or effluent limitations, standards or other requirements of the Clean Air Act and this Act;

"(B) industrial, residential or commercial development will not occur on agricultural land of high productivity, as determined on a regional basis by the Secretary of Agriculture, unless specifically approved by the Governor as necessary to provide adequate housing for year-round residents that would not otherwise be available;

"(C) industrial, residential or commercial development will not occur where it would exceed the capacity of existing systems for power and water supply, waste water collection and treatment, solid waste disposal and resource recovery, or transportation, unless such systems are planned for expansion and have adequate financing to support operation and expansion as necessary to meet the demands of the new development without violation of the emission or effluent limita-

tions, standards or other requirements of the Clean Air Act or this Act at any place where such expansion of such systems or any activities relating thereto may occur;

"(D) redevelopment and improvement of existing communities and other developed areas is favored over industrial, commercial, or residential development which will utilize existing agricultural lands, wild areas, woodlands, and other undeveloped areas, and that development contrary to these principles shall be allowed only where specifically approved by the Governor as necessary to provide significant and permanent jobs, year-round housing, and educational opportunities for low and middle-income families;

"(E) no industrial or commercial development shall occur only where there exist adequate housing opportunities, on a non-discriminatory basis and within a reasonable distance or any such development, for all persons who are or may be employed in the operation of such development;

"(F) no development shall occur on water-saturated lands such as marshlands, swamps, bogs, estuaries, salt marshes, and other wetlands without replacement of the ecological values provided by such lands;

"(G) there shall be no further commercial, residential or industrial development of the flood plains of the navigable waterways in the state;

"(H) those responsible for making less permeable or impermeable any portion of the landscape will be required to hold or store runoff water or otherwise control runoff from such lands so that it does not reach natural waterways during storm conditions or times of snow-melt;

"(I) to the extent possible, upland watersheds will be maintained for maximum natural water retention;

"(J) utilities, in locating utility lines, shall make maximum possible multiple use of utility rights-of-way; and

"(K) any major residential development will include open space areas sufficient to provide recreational opportunities for all residents of the proposed development.

"(d) A State may exempt from the requirements of an environmental protection permit program any single family residential building constructed by a person on land owned by such person and intended to be his principal residence on a year-round basis, where such person has not, within the previous five-year period, constructed another such residential building which was or would have been eligible for exemption in accordance with the provisions of this subsection.

"SEC. 603. The Administrator may approve as adequate in accordance with the provisions of this title, a State environmental protection permit program which delegates the permit granting responsibility assigned under this title to one or more political subdivisions of a State where such State continues general responsibility for establishing policies for the environmental protection permit program and the Administrator determines that the other responsibilities of the State under this title will be adequately performed.

"SEC. 604(a). The Administrator is authorized to make grants to any unit of local government within a State which, as a result of actions taken to implement the State environmental protection permit program, has suffered a loss of property tax revenues (both real and personal). Grants made under this section may be made for the tax year in which the loss of tax revenue first occurs and for each of the following two years: *Provided, however,* That 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 preceeding the date of enactment of this title and the actual property tax revenue received by the local government for the tax year in which the tax loss first occurs and for each of the two tax years following the year in which the tax loss first occurs.

"(b) Grants under this section may be made only where there has been no reduction in the tax rates and the tax assessment valuation factors employed by the local government in determining its tax valuation and tax rates. Where there has been such a reduction in the tax rate or the tax assessment valuation factors, then, for the purposes of determining the amount of a grant under this section for the year or years in which such reduction in the tax rates or the tax valuation factors is in effect, the Administrator shall use the tax rate and tax assessment valuation factors of the local government in effect at the time of the loss of tax revenues in determining the property tax revenues which would have been received by such local government had such reduction of tax rate or tax assessment valuation factors not occurred.

"SEC. 605. (a) The Administrator is authorized to make grants, upon such terms and conditions as he deems appropriate, for the development and revision of a statewide environmental protection permit program.

"(b) Such grants may be in an amount up to 75 per centum of the cost of establishing and developing and up to one-half of the cost of maintaining and revising the statewide environmental protection permit program: *Provided, however,* That grants under this section may be made to political subdivisions of a State only in those instances where a State has delegated to a political subdivision part or all of its permit granting functions in accordance with the provisions of section 603 of this title.

"SEC. 606. Each department, agency and instrumentality of the executive legislative and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in development of or a change in the use of any land, shall comply with State and local requirements respecting environmental protection, including requirements that permits be obtained, to the same extent that any person is subject to such requirements. The President may exempt any activity of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so, except that no such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this title granted during the preceding calendar year, together with his reason for granting each such exemption.

"SEC. 607. Nothing in this title shall be construed to require or authorize that any State environmental protection permit program include provisions to supersede or otherwise avoid the authority of any political subdivision of a State to refuse to permit any development within the area of its jurisdiction.

"SEC. 608. (a) There are authorized to be appropriated to the Administrator of the Environmental Protection Agency, for grants in accordance with the provisions of section 604 of this title, not to exceed $100,000,000 for the fiscal year ending June 30, 1974, $100,000,000 for the fiscal year ending June 30, 1975, and $100,000,000 for the fiscal year ending June 30, 1976.

"(c) There are authorized to be appropriated to the Administrator of the Environmental Protection Agency for implementation of the provisions of this Act, other than section 604 or 605, $25,000,000 for the fiscal year ending June 30, 1974, $25,000,000 for the fiscal year ending June 30, 1975, and $25,000,000 for the fiscal year ending June 30, 1976.

"(c) There are authorized to be appropriated to the Administrator of the Environmental Protection Agency for implementation of the provisions of this Act, other than section 604 or 605, $25,000,000 for the fiscal year ending June 30, 1974, $25,000,000 for the fiscal year ending June 30, 1975, and $25,000,000 for the fiscal year ending June 30, 1976.

"(d) Sums appropriated in accordance with the provisions of this title shall remain available until expended.

"(e) The Administrator, after public hearings, shall promulgate such regulations as he deems necessary to implement the provisions of this title."

SECTION-BY-SECTION ANALYSIS: ENVIRONMENTAL PROTECTION PERMIT LEGISLATION

This legislation would become Title VI of the Federal Water Pollution Control Act.

Section 601 states that after June 30, 1975, EPA is prohibited from making waste treatment grants or approving state permit programs under the Federal Water Pollution Control Act or granting extensions of deadlines for meeting air quality standards under the Clean Air Act in any state which does not have an approved program for granting environmental protection permits. Further, existing EPA approvals of state permit programs or extensions of air quality standards are suspended in states that do not have approved permit programs by July 1, 1975.

Section 602(a) requires that approval of a state environmental protection permit program be conditioned on the state having (A) an adequate process for issuing permits, (B) procedures to oversee and enforce compliance with permit requirements to assure that no development occurs without environmental protection permit being issued by the state and (C) procedures to assure compliance with the site selection criteria specified in subsection (c). Approvals of state environmental protection permit programs are valid for up to four years, and applications for reapproval, or changes in or amendments to the state environmental protection permit program must be approved by EPA in the same manner as the original permit program.

EPA can revoke a permit when it determines that (A) a state is not administering a program in accordance with the law or (B) a state has issued any environmental protection permit violating criteria specified in subsection (c) and if, after notification of the violation by EPA, the state does not take corrective action within 90 days. EPA cannot withdraw approval of any state program without first notifying the state, and making public, in writing, the reasons for the withdrawal.

Section 602(b) states that an adequate process for issuing permits must include (1) a program for developing policies and procedures to implement the environmental protection permit program which include:

(A) adequate opportunity for public hearings during development and revision of the permit program in each major population center of the state and at such other places as necessary to assure that all persons in the state have adequate opportunity to attend a public hearing on the environmental protection program at a place within a reasonable distance from their homes;

(B) adequate opportunity, on a continuing basis, for participation by the public and local government officials in development, revision and implementation of the permit program;

(C) processes to review and revise as necessary, on at least a bi-annual basis, state and local guidelines, rules and regulations to implement the environmental protection permit program.

(D) a mechanism to coordinate all state programs and all Federal grant-in-aid or loan guarantee programs under which the state or its political subdivisions, or private persons within the state, are receiving assistance, to assure that such programs are conducted in a manner consistent with the requirements of the environmental protection permit program;

(E) coordination of planning activities with the environmental protection permit programs of surrounding states; and

(F) assurance that state and local taxation policies are consistent with and supportive of the goals of the environmental protection permit program; and

(2) Procedures for issuance of individual environmental protection permits which provide

(A) a public hearing, with adequate notice, or an opportunity for such a hearing, regarding the issuance of each environmental protection permit;

(B) an administrative appeals procedure where any person who participated in the public hearing relating to the issuance of the permit can, without the necessity of representation by counsel, challenge a decision to refuse to issue or to issue a permit;

(C) public availability of all information presented to the state or a local government with regard to any application for issuance of a permit; and

(D) public notice, at least 30 days in advance, of the time of announcement of decisions relating to applications for environmental protection permits.

Section 602(c) requires that no state environmental protection permit programs be approved which does not assure compliance with the following environmental protection criteria:

(A) public or private development will not be permitted which can cause violation of the Clean Air Act or the Federal Water Pollution Control Act;

(B) development will not occur on high productivity agricultural land, unless specifically approved by the Governor as necessary to provide adequate housing for year-round residents;

(C) no development will occur that would exceed the capacity of existing systems for power and water supply, waste water collection and treatment, solid waste disposal and resource recovery, or transportation unless such systems are planned for expansion and have adequate financing to support operation and expansion as necessary to meet the demands of the new development without violation of the Clean Air Act or the Federal Water Pollution Control Act at any place where such expansion of such systems or any activities relating thereto may occur;

(D) redevelopment and improvement of existing communities and other developed areas is favored over development which will utilize existing agricultural lands, wild areas, woodlands, and other undeveloped areas, with development contrary to these principles allowed only where approved by the Governor as necessary to provide significant and permanent jobs, year-round housing, and educational opportunities for low and middle-income families;

(E) industrial or commercial development will occur only where there is available adequate housing, on a non-discriminatory basis and within a reasonable distance of the development, for all persons who are or may be employed in the operation of the development;

(F) no development will occur on water-saturated lands such as marshlands, swamps, bogs, estuaries, salt marshes, and other wetlands without replacement of the ecological values provided by those lands;

(G) there will be no further commercial, residential or industrial development of the flood plains of navigable waterways;

(H) persons making any portion of the landscape less permeable or impermeable will be required to hold or store runoff water or otherwise control runoff from such lands so that it does not reach natural waterways during storm conditions or times of snowmelt;

(I) to the extent possible, upland watersheds will be maintained for maximum natural water retention;

(J) utilities, in locating utility lines, will maximize multiple use of utility rights-of-way; and

(K) any major residential development includes open space areas sufficient to provide recreational opportunities for all residents of the proposed development.

Section 602(d) allows states to exempt from the requirements of an environmental protection permit program any single family home constructed by a person on his own land and intended to be his principal residence on a year-round basis, if that person has not, within the previous five years, constructed another similar home.

Section 603 permits delegation of state permit granting responsibilities to local government in the state, where the state continues general responsibility for establishing policies for the environmental protection permit program and the other responsibilities of the state will be adequately performed.

Section 604 authorizes EPA to make grants to any local government which, as a result of actions taken to implement the permit program, has suffered a loss of real or personal property tax revenues. Grants may be made for the tax year in which the loss of revenue first occurs and for each of the following two years, but, that the grant for any tax year cannot exceed the difference between (1) the annual average of all property tax revenues received by the local government in the three years immediately proceeding enactment of this title, and (2) the actual property tax revenue received for the tax year in which the tax loss first occurs and for each of the two succeeding tax years. Grants can be made only where there has been no reduction in tax rates or tax assessment valuation factors. Where there has been such a reduction in the tax rate or the tax assessment valuation factors, EPA must use the tax rate and tax assessment valuation factors in effect at the time of the loss of tax revenues in determining the property tax revenues which would have been received by the local government.

Section 605 authorizes EPA to make grants for the development and revision of statewide environmental protection permit programs.

The grants may cover up to 75% of the cost of establishing and developing and up to one-half of the cost of maintaining and revising the state-wide environmental protection permit program. Grants can be made to political subdivisions only in those instances where a state has delegated to them part or all of its permit issuing functions.

Section 606 requires that Federal agencies (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in development of or a change in the use of any land, must comply with State and local requirements respecting environmental protection, including requirements that permits be obtained, to the same extent that any person is subject to such requirements. The President may exempt any Federal activity only if he determines it to be in the paramount interest of the United States to do so. However, no exemption can be granted due to lack of funds unless the funds have been specifically requested in the budget and the Congress has failed to appropriate them. Exemptions shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President must report to Congress each January all exemptions granted during the preceding calendar year, together with his reason for granting each of the exemptions.

Section 607 provides that nothing in this title is to be construed to require or authorize that any state environmental protection permit program override the authority of any political subdivision of a state to prohibit any development within the area of its jurisdiction.

Section 608(a). For tax loss reimbursement grants there are authorized to be appropriated $100,000,000 for fiscal year 1974, $100,000,000 for fiscal year 1975, and $100,000,000 for fiscal year 1976.

(b) For state program grants there are authorized to be appropriated $100,000,000 for fiscal year 1974, $100,000,000 for fiscal year 1975, and $100,000,000 for fiscal year 1976.

(c) For EPA administration there are authorized to be appropriated $25,000,000 for fiscal year 1974, $25,000,000 for fiscal year 1975, and $25,000,000 for fiscal year 1976.

(d) Authorizes appropriated sums to remain available until spent.

(e) Give EPA authority to publish regulations necessary to implement the law.

By [redacted] (for himself and Mr. JAVITS):

S. 794. A bill to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes. Referred to the Committee on Labor and Public Welfare.

COLLECTIVE BARGAINING RIGHTS FOR EMPLOYEES OF NONPROFIT HOSPITALS

Mr. [redacted]. Mr. President, I introduce today a bill which I believe is vitally needed to remedy the denial of collective bargaining rights to employees of nonprofit hospitals which are guaranteed to other American workers under the National Labor Relations Act. I am honored to be joined in introducing this measure by my colleague from New York (Mr. JAVITS).

The bill I am offering is short and simple. It removes the present exclusion of employees on nonprofit private hospitals from the coverage of the National Labor Relations Act. But while it is short and simple in appearance, its impact upon the livelihood of many of the workers in nonprofit private hospitals is great. Enactment of this bill will assure these workers the protection of an orderly procedure to participate effectively in their labor-management relations, for two and a half decades.

Testimony presented last Congress before the Senate Labor Subcommittee of the Committee on Labor and Public Welfare on legislation (H.R. 11357) to obtain this protection for employees of nonprofit hospitals presented strong arguments for this measure.

It dramatized the plight of thousands of men and women working for nonprofit hospitals without the protection and without the benefit of group representation in labor negotiations with their employers while the right of employees of proprietary hospitals are protected by the National Labor Relations Act.

I have always supported the rights of workers to bargain collectively through

CHAPTER 262

PLANNING COMMISSIONS — STATE AND COUNTY

PLANNING AID TO LOCAL GOVERNMENTS

Senate Bill No. 93. By Senators Schieffelin, Bermingham, Decker, H. Fowler, MacManus, Strickland, Vollack, Anderson, Noble, and Stockton; also Representatives Arnold, Bain, Black, Dittemore, Fentress, Hinman, R. Jackson, Lamm, Miller, Moore, Newman, Schmidt, Benavidez, Bryant, Byerly, Carroll, DeMoulin, Friedman, Fuhr, Gallagher, Gustafson, Hart, Horst, Johnson, Kirscht, Koster, Lamb, Lindley, McCormick, Mullen, Pepper, Quinlan, Sack, Safran, Shore, Souter, Stonebraker, and Strang.

AN ACT

CONCERNING THE ESTABLISHMENT OF A PROGRAM OF PLANNING AID TO LOCAL GOVERNMENTS, AND MAKING AN APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Colorado:

Section 1. Chapter 106, Colorado Revised Statutes 1963, as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 5

PLANNING AID TO LOCAL GOVERNMENTS

106-5-1. Short title. This article shall be known and may be cited as the "Colorado Planning Aid Fund Act".

106-5-2. Legislative declaration. The general assembly finds and declares that the rapid growth and development of the state has resulted in demands for land use planning not only statewide but also in cities, towns, counties, and regions throughout the state; that certain of these units of local government may not be financially able adequately to plan for the demands of such growth; and that in order to provide for necessary planning assistance to such units of local government, it is the intention of the general assembly to establish a state-local government planning aid fund.

106-5-3. Planning fund — qualification. (1) There is hereby created in the office of the state treasurer the state-local government planning aid fund. There shall be credited to said fund such moneys as may, from time to time, be appropriated by the general assembly for purposes of this article.

(2) (a) Moneys in the state-local government planning aid fund shall be available to municipalities, counties, and regional planning agencies which:

(b) Are located in areas designated by the Colorado land use commission as areas of critical planning need;

(c) Have been designated by the Colorado land use commission as in need of planning funds; and

(d) Have submitted and agreed to a specific work program, including an estimated total cost, for the use of planning funds which has been approved by the Colorado land use commission.

(3) In no event shall any municipality, county, or regional planning agency receive from said planning fund, nor shall the Colorado land use commission or the state become liable for, any moneys in an amount in excess of two-thirds of the estimated total costs of any specific work program approved by the Colorado land use commission.

(4) (a) The Colorado land use commission may designate as an area of critical planning need any area in the state which is experiencing the lack of land use plans to provide adequately for its planning needs and in which the Colorado land use commission finds:

(b) Problems related to inadequate land use planning, such as overtaxed utilities, traffic congestion, water pollution, poor accessibility, or natural or man-made hazardous circumstances; or

(c) Land development forces which may have a significant impact on the area, require extensive public investment, or represent an adverse effect upon a natural resource.

106-5-4. Reimbursement. (1) Any municipality, county, or regional planning agency which has received approval from the Colorado land use commission under section 106-5-3 and has also received the approval of the governor, shall receive planning aid funds not to exceed two-thirds of the estimated total actual costs which will be incurred in carrying out an approved work program.

(2) The state-local planning aid fund shall be administered by the Colorado land use commission, which shall authorize payments to municipalities, counties, and regional planning agencies on the basis of vouchers approved by the Colorado land use commission.

(3) The Colorado land use commission shall review the progress of all work programs on a monthly basis according to procedures prescribed by the commission. Payments shall be made on the basis of the work completed as prescribed by the commission, either by full payment for the first two-thirds of the estimated total actual costs that are incurred, or by two-thirds payment of all estimated total actual costs that are incurred. Any right to payments hereunder shall, in any event whatsoever, be subject to the limitations of section 106-5-3 (3).

(4) The state-local government planning aid fund may receive and utilize gifts and grants from private or federal or other governmental sources in addition to moneys appropriated by the general assembly.

Section 2. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the state treasury not otherwise appropriated, to the Colorado land use commission, for the fiscal year beginning July 1, 1971, the sum of two hundred thousand dollars ($200,000), or so much thereof as may be necessary,

for planning aid to counties, municipalities, and regional planning agencies as provided in this act. None of the moneys appropriated in this section shall be reduced by any amounts received from federal, local, or private sources.

Section 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 6, 1971

West's
FLORIDA STATUTES
ANNOTATED
Official Classification

Vol. 14
§§ 370 to 387.

Cumulative Annual Pocket Part

For Use In 1973

Replacing prior Pocket Part in back of volume

Including Legislation Enacted Through The Special Sessions Of 1972

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379.12 Prosecutions for violations

It shall be the duty of the sheriff of the county in which any of the lands embraced in the district are located, to cooperate with the division and the county fire wardens in the enforcement of the several provisions of this chapter. It is hereby made the duty of the lawfully constituted prosecuting attorneys of the several courts within the Everglades fire control district, having trial jurisdiction of offenses committed against the provisions of this chapter, to prosecute any and all such violations in the manner and to the extent provided and required by law in the discharge of their official duties in connection with the violation of other criminal laws.
Amended by Laws 1969, c. 69-106, §§ 14, 35; Laws 1970, c. 70-309, § 1.

CHAPTER 380. ENVIRONMENTAL LAND AND WATER MANAGEMENT [NEW]

Former Chapter 380, which related to public health, generally, was renumbered in Fla.St.1969 Provisions of § 380.01 appear in Fla.St.1969 as § 381.492 and provisions of § 380.011 appear as Fla.St. 1969, § 381.502.

380.012 Short title

This chapter shall be known and may be cited as "The Florida Environmental Land and Water Management Act of 1972."
Laws 1972, c. 72-317, § 1.

Laws 1972, c. 72-317, §§ 11 to 13, provide:

"Section 11. A sum of one hundred fifty thousand dollars ($150,000) is appropriated from the general revenue fund to the department of administration for the purpose of paying salaries and other administrative expenses and costs necessary to carry out the terms of this act for the period from May 1, 1972 through June 30, 1973.

"Section 12. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provisions to other persons or circumstances, is not affected.

"Section 13. This act shall become effective July 1, 1972, except that sections 9 and 11 shall become effective May 1, 1972, and except that no area shall be designated as an area of critical state concern pursuant to paragraph (a), subsection (2) of section 5 until a favorable vote at a referendum on a state bond program for the acquisition of lands of environmental importance to the state or region."

380.021 Purpose

It is the legislative intent that, in order to protect the natural resources and environment of this state as provided in section 7 of Article II of the state constitution, insure a water management system that will reverse the deterioration of water quality and provide optimum utilization of our limited water resources, facilitate orderly and well-planned development, and protect the health, welfare, safety, and quality of life of the residents of this state, it is necessary adequately to plan for and guide growth and development within this state. In order to accomplish these purposes, it is necessary that the State of Florida establish land and water management policies to guide and coordinate local decisions relating to growth and development; that such state land and water management policies should, to the maximum possible extent, be implemented by local governments through existing processes for the guidance of growth and development; and that all the existing rights of private property be preserved in accord with the constitutions of this state and of the United States.
Laws 1972, c. 72-317, § 2.

For the effective date of this section, see § 380.012 note.

Library references
Health ⇐25.5

380.031 Definitions

As used in this chapter:

(1) "Administration commission" or "commission" means the governor and the cabinet, and for purposes of this chapter the commission shall act on a simple majority.

(2) "Development order" means any order granting, denying, or granting with conditions an application for a development permit.

(3) A "development permit" includes any building permit, zoning permit, plat approval, or rezoning, certification, variance, or other action having the effect of permitting development as defined in this chapter.

(4) "Developer" means any person, including a governmental agency, undertaking any development as defined in this chapter.

(5) "Governmental agency" means:

(a) The United States or any department, commission, agency, or other instrumentality thereof;

(b) This state or any department, commission, agency, or other instrumentality thereof;

(c) Any local government, as defined in this chapter, or any department, commission, agency, or other instrumentality thereof;

(d) Any school board or other special district, authority, or other governmental entity.

(6) "Land" means the earth, water, and air, above, below, or on the surface, and includes any improvements or structures customarily regarded as land.

(7) "Land development regulations" include local zoning, subdivision, building, and other regulations controlling the development of land.

(8) "Land use" means the development that has occurred on land.

(9) "Local government" means any county or municipality and, where relevant, any joint airport zoning board.

(10) "Major public facility" means any publicly owned facility of more than local significance.

(11) "Parcel of land" means any quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit, or which has been used or developed as a unit.

(12) "Person" means an individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

(13) "Regional planning agency" means the agency designated by the state land planning agency to exercise responsibilities under this chapter in a particular region of the state.

(14) "Rule" means a rule adopted under chapter 120, Florida Statutes.

(15) "State land development plan" means a comprehensive statewide plan or any portion thereof setting forth state land development policies.

(16) "State land planning agency" means the agency designated by law to undertake statewide comprehensive planning.

(17) "Structure" means anything constructed, installed, or portable, the use of which requires a location on a parcel of land. It includes a movable structure while it is located on land which can be used for housing, business, commercial, agricultural, or office purposes either temporarily or permanently. Structure also includes fences, bill boards, swimming pools, poles, pipelines, transmission lines, tracks, and advertising signs.

Laws 1972, c. 72-317, § 3.

For the effective date of this section, see § 380.012 note.

Library references
Health ⇐25.5

380.04 Definition of development

(1) "Development" means the carrying out of any building or mining operation or the making of any material change in the use or appearance of any structure or land and the dividing of land into three (3) or more parcels.

(2) The following activities or uses shall be taken for the purposes of this chapter to involve development, as defined in this section:

(a) A reconstruction, alteration of the size, or material change in the external appearance, of a structure on land.

(b) A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land.

(c) Alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal, including any coastal construction as defined in section 161.021, Florida Statutes.

(d) Commencement of drilling, except to obtain soil samples, mining, or excavation on a parcel of land.

(e) Demolition of a structure.

(f) Clearing of land as an adjunct of construction.

(g) Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

(3) The following operations or uses shall not be taken for the purpose of this chapter to involve development as defined in this section:

(a) Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way.

(b) Work by any utility and other persons engaged in the distribution or transmission of gas or water, for the purpose of inspecting, repairing, renewing, or constructing on established rights-of-way any sewers, mains, pipes, cables, utility tunnels, power lines, towers, poles, tracks, or the like.

(c) Work for the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure.

(d) The use of any structure or land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling.

(e) The use of any land for the purpose of growing plants, crops, trees, and other agricultural or forestry products; raising livestock; or for other agricultural purposes.

(f) A change in use of land or structure from a use within a class specified in an ordinance or rule to another use in the same class.

(g) A change in the ownership or form of ownership of any parcel or structure.

(h) The creation or termination of rights of access, riparian rights, easements, covenants concerning development of land, or other rights in land.

(4) "Development," as designated in an ordinance, rule, or development permit includes all other development customarily associated with it unless otherwise specified. When appropriate to the context, development refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of subsection (1).

Laws 1972, c. 72-317, § 4.

For the effective date of this section, see § 380.012 note.

380.05 Areas of critical state concern

(1) (a) The state land planning agency may from time to time recommend to the administration commission s[illegible]as of critical state concern. In

its recommendation the agency shall specify the boundaries of the proposed areas and state the reasons why the particular area proposed is of critical concern to the state or region, the dangers that would result from uncontrolled or inadequate development of the area, and the advantages that would be achieved from the development of the area in a coordinated manner and recommend specific principles for guiding the development of the area. However, prior to the designation of any area of critical state concern by the administration commission, an inventory of lands owned by the state shall be filed with the state land planning agency. The state land planning agency shall request all political subdivisions and other public agencies of the state and the federal government to submit an inventory of lands owned within the State of Florida.

(b) Within 45 days following receipt of a recommendation from the agency, the administration commission shall either reject the recommendation as tendered or adopt the same with or without modification and by rule designate the area of critical state concern and the principles for guiding the development of the area.

(2) An area of critical state concern may be designated only for:

(a) An area containing, or having a significant impact upon, environmental, historical, natural, or archaeological resources of regional or statewide importance.

(b) An area significantly affected by, or having a significant effect upon, an existing or proposed major public facility or other area of major public investment.

(c) A proposed area of major development potential, which may include a proposed site of a new community, designated in a state land development plan.

(3) Each regional planning agency may recommend to the state land planning agency from time to time areas wholly or partially within its jurisdiction that meet the criteria for areas of critical state concern as defined in this section. Each regional planning agency shall solicit from the local governments within its jurisdiction suggestions as to areas to be recommended. A local government in an area where there is no regional planning agency may recommend to the state land planning agency from time to time areas wholly or partially within its jurisdiction that meet the criteria for areas of critical state concern as defined in this section. If the state land planning agency does not designate as an area of critical state concern an area substantially similar to one that has been recommended by a regional planning agency or local government, it shall respond in writing to the regional planning agency or local government as to its reasons therefor.

(4) Prior to submitting any recommendation to the administration commission under subsection (1) of this section, the state land planning agency shall give notice to all local governments and regional planning agencies that include within their boundaries any part of any area of critical state concern proposed to be designated by the rule, in addition to any notice otherwise required under chapter 120, Florida Statutes.

(5) After the adoption of a rule designating an area of critical state concern the local government having jurisdiction may submit to the state land planning agency its existing land development regulations for the area, if any, or shall prepare, adopt and submit new or modified regulations, taking into consideration the principles set forth in the rule designating the area as well as the factors that it would normally consider.

(6) If the state land planning agency finds that the land development regulations submitted by a local government comply with the principles for guiding the development of the area specified under the rule designating the area, the state land planning agency shall by rule approve the land development regulations. No proposed land development regulation within an area of critical state concern becomes effective until the state land planning agency rule approving it becomes effective.

(7) The state land planning agency and any applicable regional planning agency shall, to the extent possible, provide technical assistance to local governments in the preparation of land development regulations for areas of critical state concern.

(8) If any local government fails to transmit land development regulations within six (6) months after the adoption of a rule designating an area of critical state concern, or if the regulations transmitted do not comply with the principles for guiding development set out in the rule designating the area of critical state concern, in either case, within 120 days, the state land planning agency shall submit to the administration commission recommended land development regulations applicable to that local government's portion of the area of critical state concern unless it determines that the area is no longer of critical state concern. Within 45 days following receipt of a recommendation from the agency, the administration commission shall either reject the recommendation as tendered or adopt the same with or without modification, and by rule establish land development regulations applicable to that local government's portion of the area of critical state concern. In the rule, the administration commission shall specify the extent to which its land development regulations shall supersede local land development regulations or be supplementary thereto. Notice of any proposed rule issued under this section shall be given to all local governments and regional planning agencies in the area of critical state concern, in addition to any other notice required under chapter 120, Florida Statutes. The land development regulations adopted by the administration commission under this section may include any type of regulation that could have been adopted by the local government. Any land development regulations adopted by the administration commission under this section shall be administered by the local government as if the regulations constituted, or were part of the local land development regulations.

(9) If the state land planning agency determines that the administration of the local regulations is inadequate to protect the state or regional interest, the state land planning agency may institute appropriate judicial proceedings to compel proper enforcement of the land development regulations.

(10) At any time after the adoption of land development regulations by the administration commission under this section, a local government may propose land development regulations under subsection (5) which, if approved by the state land planning agency as provided in subsection (6), shall supersede any regulations adopted under subsection (8) of this section.

(11) Land development regulations adopted by a local government in an area of critical state concern may be amended or rescinded by the local government, but the amendment or rescission becomes effective only upon approval thereof by the state land planning agency under subsection (6) in the same manner as for approval of original regulations. Land development regulations for an area of critical state concern adopted by the administration commission under subsection (8) may be amended by rule in the same manner as for original adoption.

(12) If, within twelve (12) months after the adoption of the rule designating an area of critical state concern, land development regulations for the district have not become effective under either subsection (6) or subsection (8), the designation of the area as an area of critical state concern terminates. No part of such area may be redesignated until at least twelve (12) months after the date the designation terminates.

(13) No person shall undertake any development within any area of critical state concern except in accordance with this chapter.

(14) If an area of critical state concern has been designated under subsection (1) and if land development regulations for the area of critical state concern have not yet become effective under subsection (6) or subsection (8), a local government may grant development permits in accordance with such land development regulations as were in effect immediately prior to the designation of the area as an area of critical state concern.

(15) Neither the designation of an area of critical state concern nor the adoption of any regulations for such an area shall in any way limit or modify the rights of any person to complete any development that has been authorized by registration of a subdivision pursuant to chapter 478, Florida Statutes, by recordation pursuant to local subdivision plat law, or by a building permit or other authorization to commence development on which there has been reliance and a change of position, and which registration or recordation was accomplished, or which permit or authorization was issued, prior to the approval under subsection (6), or the adoption under subsection (8), of land development regulations for the area of critical state concern. If a developer has by his actions in reliance on prior regulations obtained vested or other legal rights that in law would have prevented a local government from changing those regulations in a way adverse to his interests, nothing in this chapter authorizes any governmental agency to abridge those rights.

(16) In addition to any other notice required to be given under the local land development regulations, the local government shall give notice to the state land planning agency of any application for a development permit in any area of critical state concern, except to the extent that the state land planning agency has in writing waived its right to such notice in regard to all or certain classes of such applications. The state land planning agency may by rule specify additional classes of persons who shall have the right to receive notices of and participate in hearings under this section.

(17) Within the twelve (12) month period following July 1, 1972, the administration commission shall not designate more than five hundred thousand (500,000) acres as areas of critical state concern. At no time shall the administration commission designate a land area to be an area of critical state concern if the effect of such designation would be to subject more than five per cent (5%) of the land of the state to supervision under this section, except that if any supervision by the state is retained, the area shall be considered to be included within the limitations of this subsection.

(18) The administration commission may by rule terminate, partially or wholly, the designation of any area of critical state concern.
Laws 1972, c. 72-317, § 5.

For the effective date of this section, see § 380.012 note.

Revisor's Note—1972:
Section 13, ch. 72-317 provides that no area shall be designated as an area of critical state concern pursuant to paragraph (2) (a) until a favorable vote at a referendum on a state bond program for the acquisition of lands of environmental importance to the state or region.

Library references:
Health ⇐25.5

380.06 Developments of regional impact

(1) "Development of regional impact," as used in this section, means any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county.

(2) Prior to February 1, 1973, the state land planning agency, after consultation with the environmental land management study committee established pursuant to § 380.09, shall recommend to the administration commission specific guidelines and standards for adoption pursuant to this subsection. Prior to March 15, 1973, the administration commission shall by rule adopt guidelines and standards to be used in determining whether particular developments shall be presumed to be of regional impact. Such rules shall not become effective prior to July 1, 1973. In adopting its guidelines and standards, the administration commission shall consider and be guided by:

(a) The extent to which the development would create or alleviate environmental problems such as air or water pollution or noise;

(b) The amount of pedestrian or vehicular traffic likely to be generated;

(c) The number of persons likely to be residents, employees, or otherwise present;

(d) The size of the site to be occupied;

(e) The likelihood that additional or subsidiary development will be generated; and

(f) The unique qualities of particular areas of the state.

(3) Each regional planning agency may recommend to the state land planning agency from time to time types of development for designation as developments of regional impact under subsection (2). Each regional planning agency shall solicit from the local governments within its jurisdiction suggestions regarding developments to be recommended.

(4) (a) If any developer is in doubt whether his proposed development would be a development of regional impact, he may request a determination from the state land planning agency. Within sixty (60) days of the receipt of such request, the state land planning agency shall issue a binding letter of interpretation with respect to the proposed development.

(b) Requests for determinations made pursuant to this subsection shall be in writing and in such form as prescribed by the state land planning agency.

(5) A developer may undertake development of regional impact if:

(a) The land on which the development is proposed is within the jurisdiction of a local government that has adopted a zoning ordinance under chapter 163 or chapter 176, or under appropriate special or local laws and the development has been approved under the requirements of this section; or

(b) The land on which the development is proposed is within an area of critical state concern and the development has been approved under the requirements of § 380.05; or

(c) The developer has given written notice to the state land planning agency and to any local government having jurisdiction to adopt zoning or subdivision regulations for the area in which the development is proposed, and after ninety (90) days have passed no zoning or subdivision regulations have been adopted or designation of area of critical state concern issued.

(6) If the development of regional impact is to be located within the jurisdiction of a local government that has adopted a zoning ordinance, the developer shall file an application for development approval with the appropriate local government having jurisdiction. The application shall contain, in addition to such other matters as may be required, a statement that the developer proposes to undertake a development of regional impact as defined under this section.

(7) The appropriate local government shall give notice and hold a hearing on the application in the same manner as for a rezoning under section 176.051, Florida Statutes, or as provided under the appropriate special or local law and shall comply with the following additional requirements:

(a) The notice of hearing shall state that the proposed development would be a development of regional impact;

(b) The notice shall be published and given in the usual manner, but at least four (4) weeks in advance of the hearing; and

(c) The notice shall be given to the state land planning agency, to the applicable regional planning agency, and to such other persons as may have been designated by the state land planning agency as entitled to receive such notices.

(8) Within 30 days after receipt of the notice required in subsection (7) (c), the regional planning agency, if one has been designated for the area including the local government, shall prepare and submit to the local government a report and recommendations on the regional impact of the proposed development. In preparing its report and recommendations the regional planning agency shall consider whether, and the extent to which:

(a) The development will have a favorable or unfavorable impact on the environment and natural resources of the region;

(b) The development will have a favorable or unfavorable impact on the economy of the region;

(c) The development will efficiently use or unduly burden water, sewer, solid waste disposal, or other necessary public facilities;

(d) The development will efficiently use or unduly burden public transportation facilities;

(e) The development will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment; and

(f) The development complies or does not comply with such other criteria for determining regional impact as the regional planning agency shall deem appropriate.

(9) The state land planning agency shall print each week, and mail to any person upon payment of a reasonable charge to cover costs of preparation and mailing, a list of all notices of applications for developments of regional impact that have been filed with the state land planning agency.

(10) If the development is in an area of critical state concern, the local government shall approve it only if it complies with the land development regulations therefor under § 380.05.

(11) If the development is not located in an area of critical state concern, in considering whether the development shall be approved, denied, or approved subject to conditions, restrictions, or limitations, the local government shall consider whether, and the extent in which:

(a) The development unreasonably interferes with the achievement of the objectives of an adopted state land development plan applicable to the area;

(b) The development is consistent with the local land development regulations; and

(c) The development is consistent with the report and recommendations of the regional planning agency submitted pursuant to subsection (8) of this section.

(12) Nothing in this section shall limit or modify the rights of any person to complete any development that has been authorized by registration of a subdivision pursuant to chapter 478, Florida Statutes, by recordation pursuant to local subdivision plat law, or by a building permit or other authorization to commence development on which there has been reliance and a change of position, and which registration or recordation was accomplished, or which permit or authorization was issued, prior to the effective date of the rules issued by the administration commission pursuant to subsection (2) of this section. If a developer has, by his actions in reliance on prior regulations, obtained vested or other legal rights that in law would have prevented a local government from changing those regulations in a way adverse to his interests, nothing in this chapter authorizes any governmental agency to abridge those rights.

Laws 1972, c. 72-317, § 6.

For the effective date of this section, see § 380.012 note.

Library references
Health ⇐25.5

380.07 Florida land and water adjudicatory commission

(1) There is hereby created the Florida Land and Water Adjudicatory Commission, which shall consist of the Administration Commission.

(2) Whenever any local government issues any development order in any area of critical state concern, or in regard to any development of regional impact, a copy of such order shall be transmitted to the state land planning agency and the owner or developer of the property affected by such order. Within thirty (30) days after the order is rendered, either the owner, developer, an appropriate regional planning agency, or the state land planning agency may appeal the order to the Florida land and water adjudicatory commission by filing a notice of appeal with the commission. The appellant shall furnish a copy of the notice of appeal to the opposing party, as the case may be, and to the local government which issued the order. The filing of the notice of appeal shall stay the effectiveness of the order, and shall stay any judicial proceedings in relation to the development order, until after the completion of

the appeal process. Upon motion and good cause shown the Florida land and water adjudicatory commission may permit materially affected parties to intervene in the appeal.

(3) Prior to issuing an order, the Florida land and water adjudicatory commission shall hold a hearing pursuant to the provisions of part II, chapter 120, Florida Statutes. The commission shall encourage the submission of appeals on the record made below in cases in which the development order was issued after a full and complete hearing before the local government or an agency thereof.

(4) The Florida land and water adjudicatory commission shall have the power to designate a hearing officer to conduct hearings, who shall have the power to issue notices of hearings and subpoenas requiring the attendance of witnesses and the production of evidence, to administer oaths, and to take testimony as may be necessary or in conformity with this chapter. Such hearing officer shall certify and file with the commission recommendations, findings of fact, and a proposed order.

(5) Within one hundred twenty (120) days, the Florida land and water adjudicatory commission shall issue a decision granting or denying permission to develop pursuant to the standards of this chapter, and may attach conditions and restrictions to its decisions. Decisions of the commission shall contain a statement of the reasons therefor. Decisions of the commission are subject to judicial review under part III of chapter 120, Florida Statutes.
Laws 1972, c. 72-317, § 7.

For the effective date of this section, see § 380.012 note.

Library references
States ⟨⟩45.07.
C.J.S. States §§ 52, 66.

380.08 Protection of landowners' rights

(1) Nothing in this chapter authorizes any governmental agency to adopt a rule or regulation or issue any order that is unduly restrictive or constitutes a taking of property without the payment of full compensation, in violation of the constitutions of this state or of the United States.

(2) If any governmental agency authorized to adopt a rule or regulation or issue any order under this chapter shall determine that, to achieve the purposes of this chapter, it is in the public interest to acquire the fee simple or lesser interest in any parcel of land, such agency shall so certify to the state land planning agency, the Board of Trustees of the Internal Improvement Trust Fund, and other appropriate governmental agencies.

(3) If any governmental agency denies a development permit under this chapter, it shall specify its reasons in writing and indicate any changes in the development proposal that would make it eligible to receive the permit.
Laws 1972, c. 72-317, § 8.

For the effective date of this section, see § 380.012 note.

380.09 Environmental land management study committee

(1) There is hereby created an Environmental Land Management Study Committee to consist of fifteen (15) members. The governor shall appoint nine (9) members and designate one (1) as chairman. The governor shall include among the members appointed by him one representative from each of the following: environmental interests, organized labor, business interests, the home construction industry, the academic community, the land sales industry, the real estate profession, and agriculture interests and shall consider other professions and occupations which may be affected by the provisions of this chapter. The president of the senate shall appoint three (3) members and the speaker of the house shall appoint three (3) members. Members of the committee shall serve without compensation, but shall be reimbursed for all necessary expenditures in the performance of their duties. The committee shall continue in existence until its duties are terminated, but not later than June 30, 1974.

(2) The committee shall study all facets of land resource management and land development regulation with a view toward insuring that Florida's land

use laws give the highest quality of human amenities and environmental protection consistent with a sound and economic pattern of well planned development, and shall recommend such new legislation or amendments to existing legislation as are needed to achieve that goal.

(3) As part of its work the committee shall review the land use laws of other states, the relevant federal laws, the progress of the American Law Institute's project to draft a model land development code, and the general pattern of court decisions in the land use area. The committee shall examine techniques for encouraging new types of well planned development, including methods of regulating planned unit developments and new communities.

(4) The committee shall also consult with local governments and regional planning agencies regarding their land use problems and with relevant state agencies, including the Florida environmental inventory council, created under section 370.0212, Florida Statutes, and it shall obtain the views of the public, including the views of businesses and professions concerned with use of land, and of other interested groups.

(5) The committee shall prepare and submit to the governor and the legislature not later than December 30, 1973, a report which shall contain:

(a) Such proposals for changes in legislation as are recommended by the committee;

(b) Drafts of model development ordinances which will assist local governments in adopting development ordinances as required by this chapter;

(c) Analyses of, and comments on, other relevant state-commissioned studies and reports, including reports prepared by the Florida environmental inventory council, created under section 370.0212, Florida Statutes;

(d) Review of, and recommendations on, the current status and effectiveness of regional planning agencies with regard to land and water management; and

(e) Such other findings and recommendations as the committee chooses to make.

(6) The committee shall prepare and submit an interim report to the governor not later than December 31, 1972, and to the legislature not later than March 15, 1973.

(7) The committee shall employ an executive director and may employ such other staff and consultants as needed to carry out its functions.

(8) The department of administration shall provide necessary staff to the committee.

(9) Prior to submitting any recommendation or issuing any rule under this chapter, the state land planning agency shall consult with and obtain the advice of the committee.

Laws 1972, c. 72-317, § 9.

For the effective date of this section, see § 380.012 note.

Library references
Health ⇐25.5.

380.10 Adoption of standards and guidelines

(1) The initial standards and guidelines adopted by the administration commission pursuant to § 380.06(2) shall be transmitted to the secretary of the senate and the clerk of the house of representatives for presentation to the next regular session of the legislature. These initial standards and guidelines shall then be approved or disapproved by concurrent resolution of the legislature or be modified by law, and, upon concurrence by both houses of the legislature, the provisions of the standards and guidelines thereof shall become effective as the initial standards and guidelines of the administration commission. In the event the legislature disapproves the initial standards and guidelines, the administration commission shall adopt by rule new standards and guidelines and submit said standards and guidelines to the legislature pursuant to this section.

(2) Subsequent to the regular session of the legislature the standards and guidelines may be revised subject to the provisions of this act without legislative approval.

Laws 1972, c. 72-317, § 10.

For the effective date of this section, see § 380.012 note.

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PROCEEDINGS AND DEBATES OF THE 93d CONGRESS, FIRST SESSION

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Senate

TUESDAY, JANUARY 9, 1973

By Mr. JACKSON (for himself, Mr. BELLMON, Mr. BENNETT, Mr. CHURCH, Mr. DOMINICK, Mr. FANNIN, Mr. GRAVEL, Mr. GURNEY, Mr. HATFIELD, Mr. HUMPHREY, Mr. INOUYE, Mr. MAGNUSON, Mr. METCALF, Mr. MOSS, Mr. PASTORE, Mr. RANDOLPH, Mr. RIBICOFF, Mr. STEVENS, Mr. TAFT, and Mr. TUNNEY):

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

LAND USE POLICY AND PLANNING ASSISTANCE ACT OF 1973

Mr. JACKSON. Mr. President, I introduce, for myself and several of my colleagues, Land Use Policy and Planning Assistance Act of 1973, a bill to assist the States to develop land use programs for critical areas and uses of more than local concern.

This measure would provide Federal technical and financial assistance to the States to encourage the development of better information, institutions, procedures, and methods for land use planning and management so as to remedy the increasingly evident inadequacies in much of today's land use decisionmaking. The States would be encouraged to strengthen the land use decisionmaking authority and capacity of local governments and to develop, in full partnership with those governments, land use programs concerning land use decisions which have impacts way beyond the localities' jurisdictions. The measure also provides important new authority designed to improve coordination between the public lands planning efforts of the Federal Government and the planning activities of State and local governments.

Mr. President, this measure was first introduced by me in January of 1970. After 4 days of hearings, the Senate Committee on Interior and Insular Affairs reported the proposal in December of 1970. As no floor action was taken in the 91st Congress, I again introduced the proposal early in 1971. The administration also proposed a similar measure which was featured in the President's 1971 and 1972 environmental messages to Congress. Ten days of hearings were held on the Land Use Policy and Planning Assistance Act in the Senate during the 92d Congress, four by the Interior Committee and three each by the Commerce and the Banking, Housing and Urban Affairs Committees. After numerous executive sessions and consultations with the National Governors' Conference, the League of Cities-Conference of Mayors, representatives of industry, and environmental groups, the Interior Committee again reported the Land Use Policy and Planning Assistance Act. On September 19, 1972, after considering and accepting several excellent amendments offered or endorsed by my distinguished colleagues, Mr. BAYH, Mr. BOGGS, Mr. BUCKLEY, Mr. COOPER, Mr. FANNIN, Mr. HANSEN, Mr. RANDOLPH, Mr. SPARKMAN, Mr. TALMADGE, and Mr. TUNNEY, the Senate passed the act by a vote of 60 to 18.

As is well known, I was and remain opposed to two successful amendments striking the sanctions from the act and reducing the funding by two-thirds. Several amendments proposed by Mr. MUSKIE which were not adopted did raise significant issues which deserve further scrutiny. Therefore, although the proposal I introduce today is virtually identical to the Senate-passed measure, the committee will hold hearings early in February where these issues and the critical questions of funding and sanctions can be fully explored.

Mr. President, the Land Use Policy and Planning Assistance Act is a realistic and widely favored proposal. It has received the endorsement of the administration, the National Governor's Conference, nearly 30 individual Governors, the National Association of Counties, the League of Cities-Conference of Mayors, all of the major environmental organizations, many users of the land—industry, forest products representatives, farm groups, and water resource associations—and such prestigious and varied publications as Business Week, the New York Times, the Wall Street Journal, both the Washington Post and Star, the Boston Globe, the St. Louis Post-Dispatch, the Christian Science Monitor, and the Minneapolis Star. The need for land use policy legislation has been identified by the Douglas Commission, the Kerner Commission, the Kaiser Committee, and the Advisory Commission on Intergovernmental Relations. Congress recognizes and must respond to this need.

The Land Use Policy and Planning Assistance Act of 1973 is of critical importance if this Nation is to meet the increasing pressures of industrialization, technological advances, population growth, and rapid urbanization, and to attain our economic, social, and environmental goals. As land use increasingly becomes the focal point for conflicts over national, State, and regional goals, public officials and private citizens alike view with dismay the chaotic, ad hoc, short-term, crisis-by-crisis, case-by-case land use decisionmaking employed all too frequently today.

Sobering statistics suggest that, unless our land use decisionmaking processes are vastly improved at all levels of government—local, State, and Federal—the United States will be unable to meet the emerging land use crisis. Over the next 30 years, the pressures upon our finite land resource will result in the dedication of an additional 18 million acres or 28,000 square miles of undeveloped land to urban use. Urban sprawl will consume an area of land approximately equal to all the urbanized land now within the 228 standard metropolitan statistical areas—the equivalent of the total area of the States of New Hampshire, Vermont, Massachusetts, and Rhode Island. Each decade, new urban growth will absorb an area greater than the entire State of New Jersey. The equivalent of 2½ times the Oakland-San Francisco metropolitan region must be built each year to meet the Nation's housing goals. In the next two decades, one industry alone—the energy industry—will require vast areas of land: New high-voltage transmission lines will consume 3 million acres of new rights-of-way, while at least 225 new major generating stations will require hundreds of thousands of acres of prime industrial sites.

In short, between now and the year 2000, we must build again all that we have built before. We must build as many homes, schools, and hospitals in the next three decades as we built in the pervious three centuries. In the past, many land use decisions were the exclusive province of those whose interests were selfish, short-term and private. In the future—in the face of immense pressures on our limited land resource—these land use decisions must be long-term and public.

These and other statistics made it strikingly evident that, to avoid a national land use crisis and to advance a design calculated to meet, without dictating, national goals, values, and requirements, we must enact legislation to assist State and local governments to improve their land use planning and management capability. This view is shared by the administration, the National Governors Conference and many individual Governors, and almost all of the witnesses who appeared before the Senate Interior Committee in the last 3 years.

Russell Train, Chairman of the Council on Environmental Quality, stated:

> It is a matter of urgency that we develop more effective nationwide land use policies and regulations . . . Land use is the single most important element affecting the quality of our environment which remains substantially unaddressed as a matter of national policy. Land is our most valuable resource. There will never be any more of it.

Not only is land finite, but unlike air, water, and many minerals and materials, land too often cannot be "recycled." Mountains carved by strip mines, wetlands dredged and filled, or streams channelized frequently cannot be returned to their former use or beauty. Land, once committed to a use today, be it social, economic, or environmental, may be unable to support uses which our children will find preferable in the future. As President Nixon noted in a letter to me—CONGRESSIONAL RECORD, September 14, 1972, pages S 14935–6:

> As a Nation we have taken our land resources for granted too long. We have allowed ill-planned or unwise development practices to destroy the beauty and productivity of our American earth . . . The country needs this (legislation) urgently.

Future land use decisionmaking, however, should serve more than environmental values alone. It should not be viewed as mission-oriented either in the narrow sense of fostering a specific set of functional activities or in the larger sense of pursuing exclusively a specific goal, be it protecting the environment, improving social services, or increasing economic benefits. Rather, it must balance competing environmental, economic, and social requirements and values to avoid the costly mistakes of both thoughtless, precipitate development and unwarranted, dilatory opposition to beneficial development.

Many of the most crucial problems and conflicts facing all levels of government in the areas of protection of environmental quality, siting of energy facilities and industrial plants, design of transportation systems, provision of recreational opportunities, and development of natural resources are the direct result of past failures to anticipate public requirements for land and to plan for its use. The economic loss, the delays, the resource misallocations, and the social and environmental costs which this failure to plan has cost the Nation are in large measure unnecessary expenses which could have been avoided had appropri-

ate planning been undertaken earlier. The adoption of the Land Use Policy and Planning Assistance Act of 1973 and a good faith effort by the States to exercise responsibility for the planning and management of land use activities which are of more than local concern will greatly reduce needless conflicts, will avoid misallocations of scarce resources, will save public and private funds, will insure that public facilities and utilities—powerplants, highways, airports, and recreational areas—are available when needed, and will improve State-Federal relations in all areas of mutual concern.

The Land Use Policy and Planning Assistance Act of 1973 contains the best features of my previous land use policy measures, the administration's proposal, and the many recommendations received during the 3 years of committee deliberations. It contains as well significant amendments adopted on the floor of the Senate prior to its passage.

The central purpose of the proposal is to provide Federal technical and financial assistance to the States to encourage them to exercise States' rights and improve their knowledge, institutions, procedures and methods for land use planning and management. The measure also provides important new authority designed to improve coordination between the planning effort of the Federal Government and State governments.

The grant-in-aid program to the States, was reduced by amendment on the floor from $800 million over 8 years to $170 million over 5 years. The grant funds cover up to 66⅔ percent of the cost of developing the State land use programs for the first 2 years and 50 percent of the cost thereafter—reduced from 90 percent for 5 years and 66⅔ percent thereafter by amendment.

The State is required to develop a statewide planning process within 3 years. The process must include a data and information base, adequate funding, competent staff, and an appropriate agency to coordinate planning at the State level.

The State is then required to develop, within 5 years of enactment, a land-use program which focuses on four categories of critical areas and uses of more than local concern. These areas and uses are considered to be of State interest because decisions concerning them have impacts on citizens, the environment, and the economy totally out of proportion to the jurisdiction and the interests of the local zoning body or land-use regulatory entity. These four categories of areas and uses of more than local concern are: First, areas of critical environmental concern—for example, beaches, flood plains, wetlands, historic areas; second, key facilities—for example, major airports, highway interchanges and frontage access highways, recreational lands and facilities, and facilities for the development, generation and transmission of energy; third, development and land use of regional benefit; and fourth, large-scale development—for example, major subdivisions or industrial parks.

I wish to make clear that the act does not contemplate sweeping changes in the traditional responsibilty of local government for land-use management. Decisions of local concern will continue to be made by local government. However, for land-use decisions which would have significant impacts beyond the jurisdiction of the local public or private decisionmakers, the act provides for wider public participation and review by the State, as representative of the large constituency affected by these decisions.

The procedure for and the nature of, State involvement in land-use decisions are left largely to the determination of the individual States. Two alternative but not mutually exclusive techniques of implementation of State land-use programs are given: Local implementation pursuant to State guidelines and direct State planning. However, the act contains language endorsed by the League of Cities-Conference of Mayors which expresses a preference for the former alternative.

The more innovative State land-use laws of recent years support this local governments-State Government partnership. The authority of local governments—the level of Government closest to the people—to conduct land-use planning and management is in fact bolstered in the great majority of laws of some 40 States concerning areas and uses of more than local concern—wetlands, coastal zone, flood plain, powerplant siting, open space, and strip mining laws. The localities are encouraged to employ fully their land use controls. State administrative review is provided only in accordance with flexible State guidelines relating only to those decisions on areas and uses that are of clearly more than local concern. And even should disapproval of a local government action result from such a review, State preemption of the decisionmaking authority would not necessarily occur; rather, in most cases, the local government would be provided full opportunity to take any of numerous actions which would comply with the State's guidelines.

The proposal would not preclude direct State implementation through State land-use planning and regulation. Hawaii and Vermont have already enacted legislation which in part calls for such direct State implementation. Other States are directly engaged in land-use planning for unincorporated areas. However, embodied in the measure is the expectation that direct State implementation, preempting local land-use planning controls, will continue to be the exception rather than become the rule and that that joint local-State government land use decisionmaking and implementation will prevail.

Another point which should be emphasized is that the Federal review of State land-use programs is to focus not on the substance of each program, but on whether each State has authority to develop and implement its program and whether it is making good faith efforts to do so. This is in keeping with the proposal's purpose to encourage better and effective land use decisionmaking at the State and local levels, and not to provide substantial new land use decisionmaking authority on the Federal level.

Guidelines for the act are to be promulgated through an interagency process with the principal responsibility of formulating those guidelines residing in the Executive Office of the President. As the proposal provides for a grant-in-aid program of major dimensions which requires administration by line agency personnel, daily administrative responsibility is given to the Department of the Interior. To insure the absence of the mission-oriented bias of any existing office or bureau in the administration of the proposal, the proposal creates a new Office of Land Use Policy Administration within the Department, separate from any such office or bureau.

Certainly, the land use impacts of Federal and federally assisted programs exert the most profound influences upon local, State, and National land use patterns. Yet these programs either have conflicting land use implications or the Federal officials administering them are not full cognizant of their land-use impact. My proposal requires the Federal Government to "put its own house in order" at the same time that it asks the States to do likewise. The Secretary of the Interior is directed to consult with heads of other agencies and to form a national advisory board on land-use policy to provide interagency communication concerning the land use impacts of and policies embodied in Federal and federally assisted programs.

The act also encourages coordinated planning and management of Federal lands and adjacent non-Federal lands. Both the Federal Government and the State and local governments are required to provide for compatible land uses on adjoining lands under their respective jurisdictions. In addition, short-term ad hoc joint Federal-State committees, composed of representatives of affected Federal agencies, State agencies, local governments, and user groups, may be established by the Secretary of the Interior to study general or specific conflicts between uses of Federal lands and uses of adjacent non-Federal lands. The Secretary is directed to resolve such conflicts or, where he lacks the requisite authority, to recommend legislative solutions to Congress.

Finally, what is this measure's relationship to other land use legislation which may be introduced this Congress? Approximately 300 land-use policy bills were referred to 13 committees in the 92d Congress. The most important of these measures were: the public lands, the surface mining, the powerplant siting, and the coastal zone management proposals. Virtually all of these bills focused on individual uses or areas of critical concern and more than local significance, and encouraged the States to assume a degree of control over them. In addition, the Congress is giving increasing attention to national growth policy, in general, and various aspects of growth policy such as rural revitalization. In relation to the myriad of land use and growth policy considerations and legislative proposals which Congress may consider, the Land Use Policy and Planning Assistance Act is expected to serve as an umbrella measure or an "enabling act" which would encourage the States to develop the financial, institutional, and human resources, and require of the States legislation to establish the necessary machinery and procedures, to insure that, first, the States will be receptive to any of those considerations or proposals which become law, and second, the many planning tasks which such laws will require will be conducted effectively and not in isolation one from another.

Mr. President, the chaotic land use decisionmaking of today will insure an unsightly, unproductive, and unrewarding land resource for future generations of Americans. To avoid this unfortunate tomorrow, we must improve our land use policy, procedures, and institutions. I commend the Land Use Policy and Planning Assistance Act of 1973 to the Senate as the best vehicle to achieve this improvement.

Mr. President, I ask unanimous consent to place in the RECORD an updated review of the purpose and background of the Land Use Policy and Planning Assistance Act which I submitted for the RECORD last year prior to Senate passage of the act and the full text of the proposal.

There being no objective, the review and bill ordered to be printed in the RECORD, as follows:

REVIEW OF PURPOSE AND BACKGROUND OF THE LAND USE POLICY AND PLANNING ASSISTANCE ACT

This review is divided into two sections:

1. A brief review of the history of government involvement in land use planning and an outline of the basic legal authority involved; and

2. A discussion of what the bill does not do and a discussion of what the bill does do.

HISTORY

1. The police power of the respective States is an inherent power of government to take such actions as are necessary and Constitutionally permissible to protect public health, safety and welfare.

2. The power to plan for and to regulate land use derives from the police powers of the individual States.

3. The Federal government has no police power to regulate lands within a State which are privately owned or owned by the State. Only the State has Constitutional authority to control and regulate these lands.

4. The Federal government does have police power authority as well as express Constitutional authority to regulate the use of the public lands.

5. The States have exercised land use controls for hundreds of years in one form or another. It was only in the early part of the 20th Century, however, that the States began to do so in a broad and general way. This came with the adoption of model State laws which generally delegated zoning authority—a part of the State's inherent police powers—to units of local government. The purpose of these delegations of police power authority to counties, cities and other units of local government was to enable them to develop master plans, to zone for permissible uses, and to establish local planning bodies.

6. The development of land use planning and local zoning was in response to very real land use problems and conflicts which had costly, wasteful, and undesirable impacts upon the public;

Dirty industrial activities would develop in the middle of residential communities;

Unsightly and aesthetically offensive developments—slaughterhouses, tanneries, etc., would drive down the value of adjacent business and residential property;

Business activities thought by many to be undesirable if not closely regulated—taverns, movie theatres, dance halls, nightclubs—would be located near schools, churches or in quiet residential areas.

Land use planning and the exercise of zoning authority were designed to deal with these and other problems of a purely local nature.

7. Prior to the development of a statutory framework for land use planning and controls the remedies available to injured parties were litigation in the courts based upon the inadequate common law doctrines of "nuisance" and "trespass."

8. Today, the growing litigation over land use questions at all levels of government—power plant siting, location of heavy industry, projects such as the trans-Alaska pipeline, etc.—indicate land use problems are no longer entirely local in scope and that the planning concepts of the 1920's are no longer adequate to the changing public values and increasingly complex problems of the 1970's.

9. Today, after a half of a century of experience, many public officials and citizens feel that traditional zoning concepts and practices leave a great deal of room for improvement. The Act recognizes this, but "does not require . . . radical or sweeping changes in the traditional relationship and responsibility of local government for land use management" (Committee Report No. 92-869) The Act does not propose Federal zoning as it is both unconstitutional and unwise. Nor does it propose "statewide zoning" or "comprehensive master planning" which would only produce costly, dilatory, duplicative and often inflexible regulation of the vast majority of land use problems that are of concern, interest and knowledge only to the local units of government.

10. Instead, the Act encourages a continual "process of planning" wherein the right of local government to exercise land use powers is reasserted on all land use decisions and the State government is asked to join in partnership with local government on land use decisions of more than local concern, both governments acting in response to the decisions of state and local legislative bodies on substantive issues and with full citizen participation.

11. In the Act, the State governments are encouraged to assist localities with guidelines for local planning or through cooperative planning only on those land use questions which are of *more than local concern* which go beyond the boundaries of only one locality and have an impact upon a number of local units of government and which determine the shape of the future environment—decisions concerning highways, airports, and mass transit systems; major power plants and transmission corridors, areas to be preserved or closely regulated (environmental areas, flood plains) and areas for intense development (housing complexes or industrial parks).

12. The trend in most States today is to reverse the process begun in the 1920's of delegating all land use planning authority to units of local government. Increasingly States are selectively assuming an important role with respect to land use problems which are of more than local concern such as power plant siting, location of industrial parks, and the protection of park, beach, coastal or estuarine areas. Over 40 States now have laws regulating one or more critical areas or uses of more than local concern. The Act encourages this trend toward active State responsibility and the elevation of land use decisions of more than local concern to the level of government—county, regional or State—most appropriately suited to decide the question in view of all legitimate values and interests.

B. WHAT THE ACT DOES AND DOES NOT DO

The act does not do any of the following:

1. *Does not mandate, require, or allow "Federal planning" or "Federal zoning."*

The zoning power is based on the State's police power and the Federal government does not have authority to zone State or privately owned lands (with the exception of the District of Columbia which is a special and unique case).

2. *Does not substitute Federal authority or review of State and local decisions on the use of State and local lands.* The Act is an "enabling act" which encourages the State to exercise "States' rights" and develop land use programs. Consistent with the enabling act concept, the Federal government is granted very little authority to review the substance of State land use programs.

3. *Does not provide inflexible Federal standards which require strict State compliance.* Specific Federal substantive requirements are ill-advised because they do not reflect the rich diversity of the States; they are invariably the lowest common denominator; States and local governments know best their own land use problems and their possible solutions; and the Federal zoning which such standards would create is plainly undesirable.

4. *Does not require comprehensive State planning over all its land.* The State land use program is definitely not to be a comprehensive statewide program which preempts the myriad of local decisions, but rather one focused on four categories of critical areas and uses of clearly more than local concern.

5. *Does not mandate State zoning, rather reasserts local zoning powers.* The States are encouraged to develop their programs not by zoning or by producing a master plan, but by reasserting the whole range of local governments' land use authority, and providing guidelines for the exercise of that authority. For example, a State would not, could not, make a basic zoning decision such as on which corner shall the gas station be, but it would have a duty to provide guidelines for local decisionmaking to insure, for example, that one community does not site a massive industrial park directly adjacent to another community's recreational park or wildlife refuge.

6. Not only does not impinge upon or alter the traditional land use responsibilities of urban government, but also does not focus on urban lands Unlike traditional urban and housing planning legislation, this Act does not focus on only one category of land: the intensely developed land. The act encourages a balanced and rational planning process for all categories of land, including the so-called "opportunity areas"—those areas where mistakes have not already been made or irreversible actions already taken—i.e., the rural areas and areas on the urban periphery.

7. Does not tell a State how much or what specific land must be included in the State land use program. The extent of and type of land use to be included in the four critical areas and uses is dependent upon on how the State defines those four areas or uses, e.g., is a shoreline 100 feet wide or a mile? does large scale development include a subdivision of 20 units or 200?

8. Does not alter any landowner's rights to seek judicial redress for what he regards as a "taking." The provisions of the Act do not change the body of law—Federal and State constitutions, statutes and judicial decisions—regarding the police powers and eminent domain. Any State or local restriction of property rights sufficient enough to constitute a "taking" still would require fair compensation.

The act does do the following:

1. Does require States to exercise "State's rights" and State responsibility over those land use planning and policy decisons which are of "more than local concern" and which provide the framework upon which the shape of the future is determined.

2. Does require State governments to develop a process of planning and a State land use program which is "balanced"; that is, a program which protects the environment and assures recreational opportunity, but at the same time provides for necessary social services and essential economic activities—for transportation facilities, reliable energy systems, housing, and residential development.

3. Does contain provisions which insure its compatibility with the HUD 701 planning program, with the Clean Air and Water Pollution Control Acts, with other Federal legislation, and with the Coastal Zone Management law enacted last year.

4. Does provide State government with funds—$170 million over five years—to develop State land use data inventories, to improve the size and competence of professional staff, and to establish an appropriate State planning agency.

5. Does provide the States with wide latitude in determining the method of implementing the Act—reassertion of all local land use powers with State administrative review under State guidelines such as in most State coastal zone, wetlands, flood plain and power plant siting laws, or the rare instance of direct State planning, as in Hawaii or Vermont, or the unincorporated areas of Alaska. An amendment added to the measure last year and endorsed by the League of Cities clearly established an intent that "selection of methods of implementation shall be made so as to encourage the employment of land use controls by local governments."

6. Does endorse the concept that local land use decisions should be made by local government: "The Act does not require or contemplate radical or sweeping changes in the traditional relationship and responsibility of local government for land use management. Decisions of local concern will continue to be made by local government." (page 22, Comm. Rept. No. 92-869).

7. Does provide new authority to State government and encourages coordinated State-Federal planning for Federal lands wtihin a State's boundaries.

S. 268

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Land Use Policy and Planning Assistance Act of 1973".

TITLE I—FINDINGS, POLICY, AND PURPOSE

FINDINGS

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

(b) The Congress finds that the task of land use planning and management is made more difficult by the lack of understanding of, and the failure to assess, the land use impact of Federal, regional, State, and local programs and private endeavors which do not possess or are not subject to readily discernible land management goals or guidelines; and that a national land use policy is needed to develop a national awareness of, and ability to measure, the land use impacts inherent in most public and private programs and activities.

(c) The Congress finds that adequate data and information on land use and systematic methods of collection, classification, and utilization thereof are either lacking or not readily available to public and private land use decisionmakers; and that a national land use policy must place a high priority on the procurement and dissemination of land use data.

(d) The Congress finds that a failure to conduct competent land use planning has, on occasion, resulted in delay, litigation, and cancellation of proposed significant development, including, but not limited to, facilities for the development, generation, and transmission of energy, thereby too often wasting human and economic resources, creating a threat to public services, and invoking decisions to locate activities in areas of least public and political resistance, but without regard to sound environmental, economic, and social land use considerations.

(e) The Congress finds that many Federal agencies conduct or assist activities which have a substantial impact on the use of land, location of population and economic growth, and the quality of the environment, and which, because of the lack of a consistent land use policy, often result in needless, undesirable, and costly conflicts between the Federal agencies and among Federal, State, and local governments, thereby subsidizing undesirable and costly patterns of development; and that a concerted effort is necessary to coordinate existing and future Federal policies and programs and public and private decisionmaking in accordance with a national land use policy.

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

(g) The Congress finds that, because the land use decisions of the Federal Government, including those concerning the Federal lands, often have significant impacts upon statewide and local environments and patterns of development, a national land use policy ought to take into consideration the needs and interests, and invite the participation of, State and local governments and members of the public.

(h) The Congress finds that Federal, regional, State and local decisions and programs which establish or influence the location of land uses often determine whether people of all income levels and races have or are denied access to decent shelter, to adequate employment, and to quality schools, health facilities, police and fire protection, mass transportation, and other public services; and that such decisions and programs should seek to provide the maximum freedom and opportunity, consistent with sound and equitable land use planning and management standards, for all citizens to live and conduct their activities in locations of convenience and personal choice.

DECLARATION OF POLICY

SEC. 102. (a) To promote the general welfare and to provide full and wise application of the resources of the Federal Government in strengthening the environmental, recreational, economic, and social well-being of the people of the United States, the Congress declares that it is a continuing responsibility of the Federal Government, consistent with the responsibility of State and local governments for land use planning and management, to undertake the development and implementation of a national land use policy which shall incorporate environmental, esthetic, economic, social, and other appropriate factors. Such policy shall serve as a guide for national decisionmaking in Federal and federally assisted programs which have land use impacts and in programs which affect the pattern of uses on the Federal lands, and shall provide a framework for the development of State and local land use policies.

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(b) The Congress further declares that it is the national policy to—

(1) favor patterns of land use planning, management, and development which are in accord with sound environmental, economic, and social values and which encourage the wise and balanced use of the Nation's land resources;

(2) assist State governments to develop and implement land use programs for non-Federal lands which will incorporate environmental, esthetic, economic, social, and other appropriate factors, and to develop a framework for the formulation, coordination, and implementation of State and local land use policies;

(3) assist the State and local governments to improve upon their present land use planning and management efforts with respect to areas of critical environmental concern, key facilities, development and land use of regional benefit, and large scale development;

(4) facilitate increased coordination in the administration of Federal programs and in the planning and management of Federal lands and adjacent non-Federal lands so as to encourage sound land use planning and management; and

(5) promote the development of systematic methods for the exchange of land use, environmental, economic, and social data and information among all levels of government.

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

PURPOSE

SEC. 103. It is the purpose of this Act—

(a) to establish a national policy to encourage and assist the several States to more effectively exercise their constitutional responsibilities for the planning and management of their land base through the development and implementation of State land use programs designed to achieve economically and environmentally sound uses of the Nation's land resources;

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

(c) establish reasonable and flexible Federal requirements to give individual States guidance in, and to condition the distribution of certain Federal funds on, the establishment and implementation of adequate State land use programs;

(d) establish the authority and responsibility of the Secretary of the Interior to administer the grant-in-aid program, to review, with the heads of other Federal agencies, statewide land use planning processes and State land use programs for conformity to the provisions of this Act, and to assist in the coordination of activities of Federal agencies with State land use programs;

(e) develop and maintain a national policy with respect to federally conducted and federally assisted projects having land use implications; and

(f) coordinate planning and management of Federal lands and planning and management of adjacent non-Federal lands.

TITLE II—ADMINISTRATION OF LAND USE POLICY

OFFICE OF LAND USE POLICY ADMINISTRATION

SEC. 201. (a) There is hereby established in the Department of the Interior the Office of Land Use Policy Administration (hereinafter referred to as the "Office").

(b) The Office shall have a Director who shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5315), and such other officers and employees as may be required. The Director shall have such duties and responsibilities as the Secretary of the Interior (hereinafter referred to as the "Secretary") may assign.

SEC. 202. The Secretary, acting through the Office, shall—

(a) maintain a continuing study of the land resources of the United States and their use;

(b) cooperate with the States in the development of standard methods and classifications for the collection of land use data and in the establishment of effective procedures for the exchange and dissemination of land use data;

(c) develop and maintain a Federal Land Use Information and Data Center, with such regional branches as the Secretary may deem appropriate, which shall have on file—

(1) plans for federally initiated and federally assisted activities which directly and significantly affect or have an impact upon land use patterns;

(2) to the extent practicable and appropriate, the plans and programs of State and local governments and private enterprises which have more than local significance for land use planning and management;

(3) statistical data and information on past, present, and projected land use patterns which are of more than local significance;

(4) studies pertaining to techniques and methods for the procurement, analysis, and evaluation of data and information relating to land use planning and management; and

(5) such other information pertaining to land use planning and management as the Director deems appropriate;

(d) make the information maintained at the Data Center available to Federal, regional, State, and local agencies conducting or concerned with land use planning and management and to the public;

(e) consult with other officials of the Federal Government responsible for the administration of Federal land use planning assistance programs to States, local governments, and other eligible public entities in order to coordinate such programs;

(f) administer the grant-in-aid program established under the provisions of this Act; and

(g) provide administrative support for the National Advisory Board on Land Use Policy established under section 203 of this Act.

NATIONAL ADVISORY BOARD ON LAND USE POLICY

SEC. 203. (a) The Secretary is authorized and directed to establish a National Advisory Board on Land Use Policy (hereinafter referred to as the "Board").

(b) The Board shall be composed of:

(1) the Director of the Office of Land Use Policy Administration, who shall serve as Chairman;

(2) representatives of the Departments of Agriculture; Commerce; Defense; Health, Education, and Welfare; Housing and Urban Development; and Transportation; the Atomic Energy Commission; and the Environmental Protection Agency, appointed by the respective heads thereof;

(3) observers from the Council on Environmental Quality, the Federal Power Commission, and the Office of Management and Budget, appointed by the respective heads thereof; and

(4) representatives of such other Federal agencies, appointed by the respective heads thereof, as the Secretary may request to participate when matters affecting their responsibilities are under consideration.

(c) The Board shall meet regularly at such times as the Chairman may direct and shall—

(1) provide the Secretary with information and advice concerning the relationship of policies, programs, and activities established or performed pursuant to this Act to the programs of the agencies represented on the Board;

(2) render advice, pursuant to section 502, to the Executive Office of the President and the Secretary concerning proposed guidelines, rules, and regulations for the implementation of the provisions of this Act;

(3) assist the Secretary and the agencies represented on the Board in the coordination of the review of statewide land use planning processes and State land use programs;

(4) provide advice on such land use policy matters as the Secretary may refer to the Board for its consideration; and

(5) provide reports to the Secretary on land use policy matters which may be referred to the Board by the heads of Federal agencies through their respective representatives on the Board.

(d) Each agency representative on the Board shall have a career position within his agency of not lower than GS-15 and shall not be assigned any duties which are unrelated to the administration of land use planning and policy, except temporary housekeeping or training duties. Each representative shall—

(1) represent his agency on the Board;

(2) assist in the coordination and preparation within his agency of comments on (i) guidelines, rules, and regulations proposed for promulgation pursuant to section 502, and (ii) statewide land use planning processes and State land use programs reviewed pursuant to title III of this Act;

(3) assist in the dissemination of land use planning and policy information and in the implementation within his agency of policies and procedures developed pursuant to this Act; and

(4) perform such other duties regarding the administration of land use planning and policy as the head of his agency may direct.

(e) The Board shall have as advisory members two representatives each from State governments and local governments and one representative each from regional interstate and intrastate public entities which have land use planning and management responsibilities. Such advisory members shall be selected by a majority vote of the Board and shall each serve for a two-year period.

INTERSTATE COORDINATION

SEC. 204. (a) The States are authorized to coordinate land use planning, policies, and programs with appropriate interstate entities, and a reasonable portion of the funds made available to such States under the provisions of this Act may be used therefor: *Provided*, That an opportunity for participation in the coordination process by Federal and local governments and agencies as well as members of the public engaged in activities which affect or are affected by State land use planning, policies, and programs is assured: *And provided further*, That nothing in this subsection shall be construed to affect the allotment of funds as provided in section 507 of this Act.

(b) Subject to the approval of Congress by the adoption of an appropriate Act, Congress hereby authorizes States possessing coherent geographic, environmental, demographic, or economic characteristics which would serve as reasonable areas upon which to coordinate land use planning, policies, and programs in interstate areas to negotiate interstate compacts for the purpose of such coordination, with such terms and conditions as to them seem reasonable and appropriate: *Provided*, That such compacts shall provide for an opportunity for participation in the coordination process by Federal and local governments and agencies as well as members of the public engaged in activities which affect or are affected by land use planning, policies, and programs: *And provided further*, That nothing in this subsection shall be construed to affect the allotment of funds as provided in section 507 of this Act.

(c) The Advisory Commission on Intergovernmental Relations shall conduct a review of federally established or authorized interstate agencies, including, but not limited to, river basin commissions, regional development agencies, and interstate compact commissions, for the purpose of coordinating land use planning, policies, and programs in interstate areas. The Advisory Commission on Intergovernmental Relations shall report to the Congress the results of its review conducted under this subsection not later than two fiscal years after the date of enactment of this Act.

TITLE III—PROGRAM OF ASSISTANCE TO THE STATES

SEC. 301. (a) The Secretary is authorized to make annual grants to each State to assist each State in developing and administering a State land use program meeting the requirements set forth in this Act.

(b) Prior to making the first grant to each State during the three complete fiscal year period following the enactment of this Act, the Secretary shall be satisfied that such grant will be used in a manner to meet satisfactorily the requirements for a statewide land use planning process set forth in section 302. Prior to making any further grants during such period, the Secretary shall be satisfied that the State is adequately and expeditiously proceeding to meet the requirements of section 302.

(c) Prior to making any further grants after the three complete fiscal year period following the enactment of this Act and before the end of the five complete fiscal year period following the enactment of this Act, the Secretary shall be satisfied that the State has met and continues to meet the requirements of section 302 and is adequately and expeditiously proceeding to develop a State land use program to meet the requirements of sections 303, 304, and 402.

(d) Prior to making any further grants after the five complete fiscal year period following the enactment of this Act, the Secretary shall be satisfied that the State has met and continues to meet the requirements of sections 303, 304, and 402.

(e) Each State receiving grants pursuant to this Act during the five complete fiscal year period following enactment of this Act shall submit, not later than one year after the date of award of each grant, a report on work completed and scheduled toward the development of a State land use program to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this Act in acordance with the procedures provided in section 305. For grants made after such period, the State shall submit its State land use program not later than one year after the date of award of each grant to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this Act in accordance with the procedures provided in section 305: *Provided*, That if no grant is requested by or active in any State after fiscal years from the date of enactment of this Act, such State shall submit its State land use program within ninety days thereafter to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this Act in accordance with the procedures provided in section 305: *And provided further*, That, should no grant be requested by or active in any State during any two complete fiscal year period after five fiscal years from the date of enactment of this Act, such State shall submit its State land use program within ninety days from completion of such period to the Secretary for determination of State eligibility or ineligibility for grants pursuant of this Act in accordance with the procedures provided in section 305.

STATEWIDE LAND USE PLANNING PROCESSES

SEC. 302. (a) As a condition of continued eligibility of any for grants pursuant to this Act after the three complete fiscal year period following the enactment of this Act, the Secretary shall have determined that th

State has developed an adequate statewide land use planning process, which process shall include—

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

(2) the compilation and continuing revision of data, on a statewide basis, related to population densities and trends, economic characteristics and projections, environmental conditions and trends, and directions and extent of urban and rural growth;

(3) projections of the nature and quantity of land needed and suitable for recreation and esthetic appreciation; conservation and preservation of natural resources; agriculture, mineral development, and forestry; industry and commerce, including the development, generation, and transmission of energy; transportation; urban development, including the revitalization of existing communities, the development of new towns, and the economic diversification of existing communities which posses a narrow economic base; rural development, taking into consideration future demands for and limitations upon products of the land; and health, educational, and other State and local governmental services;

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

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

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

(7) the establishment of a method for identifying large-scale development and development and land use of regional benefit;

(8) the establishment of a method for inventorying and designating areas of critical environmental concern and areas which are, or may be, impacted by key facilities;

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

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

(11) the establishment of a method for coordinating all State and local agency programs and services which significantly affect land use;

(12) the conducting of public hearings, preparation of reports, and soliciting of comments on reports concerning the statewide land use planning process or aspects thereof;

(13) the provision of opportunities for participation by the public and the appropriate officials or representatives of local governments in the statewide planning process and in the formulation of guidelines, rules, and regulations for the administration of the statewide planning process; and

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

(b) In the determination of an adequate statewide land use process of any state, the Secretary shall confirm that the State has an eligible State land use planning agency established by the Governor of such State or by law, which agency shall—

(1) have primary authority and responsibility for the development and administration of a State land use program provided for in sections 303, 304, and 402;

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

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

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

(5) have authority to conduct public hearings with adequate public notice, allowing full public participation in the development of the State land use program;

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

(7) be advised by an advisory council which shall be composed of a representative number of chief elected officials of local governments in urban and nonurban areas. The Governor shall appoint a chairman from among the members. The term of service of each member shall be two years. The advisory council shall, among other things, comment on all State guidelines, rules, and regulations to be promulgated pursuant to this Act participate in the development of the statewide land use planning process and State land use program, and make formal comments on annual reports which the agency shall prepare and submit to it, which reports shall detail all activities within the State conducted by the State government and local governments pursuant to or in conformity with this Act.

STATE LAND USE PROGRAMS

SEC. 303. (a) As a condition of continued eligibility of any State for grants pursuant to this Act after the five complete fiscal year period following the enactment of this Act, the Secretary shall have determined that the State has developed an adequate State land use program, which shall include—

(1) an adequate statewide land use planing process as provided for in section 302 of this Act;

(2) methods of implementation for—

(A) assuring that the use and development of land in areas of critical environmental concern within the State is not inconsistent with the State land use program:

(B) assuring that the use of land in areas within the State which are or may be impacted by key facilities, including the site location and the location of major improvement and major access features of key facilities, is not inconsistent with the State land use program;

(C) assuring that any large-scale subdivisions and other proposed large-scale development within the State of more than local significance in its impact upon the environment is not inconsistent with the State land use program;

(D) assuring that any source of air, water, noise, or other pollution in the areas or from the uses or activities listed in this clause (1) shall not be located where it would result in a violation of any applicable air, water, noise, or other pollution standard or implementation plan;

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

(F) assuring dissemination of information to appropriate officials or representatives of local governments and members of the public and their participation in the development of and subsequent revisions in the State land use program and in the formulation of State guidelines, rules, and regulations for the development and administration of the State land use program; and

(G) conducting a coordinated management program for the land and water resources of any coastal zone within the State in accordance with existing or then applicable Federal or State law.

(b) Wherever possible, selection of methods of implementation of clause (2) of subsection (a) shall be made so as to encourage the employment of land use controls by local governments.

(c) The methods of implementation of clause (2) of subsection (a) shall include either one or a combination of the two following general techniques—

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

(2) direct State land use planning and regulation.

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

(e) Any method of implementation employed by the State shall include an administrative appeals procedure for the resolution of, among other matters, conflicts over any decision or action of a local government for any area or use under the State land use program and over any decision or action by the Governor or State land use planning agency in the development of, or pursuant to, the State land use program. Such procedure shall include representation before the appeals body of, among others, the aggrieved party of interest and the local government or the State government responsible for the decision or action which is the subject of the appeal.

(f) Any person having a legal interest in land, of which a State has prohibited or restricted the full use and enjoyment thereof, may petition a court of competent jurisdiction to determine whether the prohibition diminishes the use of the property so as to require compensation for the loss and the amount of compensation to be awarded therefor.

SEC. 304. As a further condition of continued eligibility of a State for grants pursuant to this Act after the five complete fiscal year period following the enactment of this Act, the Secretary shall review the State land use program of such State and determine that—

(a) in designating areas of critical environmental concern, the State has not excluded any substantial areas of critical environmental concern which are of major planning and management: *Provided*, That, at the request of the Governor of any State, the Secretary shall submit to any such State a description of all areas of critical environmental concern within such State which he considers to be of national significance pursuant to this subsection (a) no later than three fiscal years from date of enactment of this Act. If a request is made by a Governor to the Secretary for a description of such areas after such three fiscal year period, the Secretary shall have sixty days to comply with such request.

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

(c) State laws, regulations, and criteria affecting the State land use program and the areas, uses, and activities over which the State exercises authority as required in section 303 are in accordance with the requirements of this title;

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

(e) the State has coordinated its State land use program with the planning activities and programs of its State agencies, the Federal Government, and local governments as provided for in this title, and with the planning processes and land use programs of other States and local governments within such States with respect to lands and waters in interstate areas; and provided for the participation of, and dissemination of information to, appropriate officials or representatives of local governments and members of the public as provided for in this title; and

(f) the State utilizes, for the purpose of furnishing advice to the Federal Government as to whether Federal and federally assisted projects are consistent with the State land use program, procedure established pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1262), as amended, and title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 1103), and is participating on its own behalf in the programs provided for pursuant to section 701 of the Housing Act of 1954 (68 Stat. 590, 640), as amended.

FEDERAL REVIEW AND DETERMINATION OF GRANT ELIGIBILITY

SEC. 305. (a) During the five complete fiscal year period following the enactment of this Act, the Secretary, before making a grant to any State pursuant to this Act, shall consult with the heads of all Federal agencies listed in subsection (d) of the section and of all other Federal agencies which conduct or participate in construction, development, assistance, or regulatory programs significantly affecting land use in such State, and with the National Advisory Board on Land Use Policy pursuant to subsection (c) of section 203 of this Act, and shall consider their views and recommendations.

(b) After the five complete fiscal year period following the enactment of this Act—

(1) the Secretary, before making a grant to any State pursuant to this Act, shall submit the State land use program of such State to the heads of all Federal agencies listed in subsection (d) of this section and of all other Federal agencies which conduct or participate in construction, development, assistance, or regulatory programs significantly affecting land use in such State, and to the National Advisory Board on Land Use Policy pursuant to subsection (c) of section 203 of this Act. The Secretary shall take into con-

sideration the views of each agency head which are submitted to him by such agency head no later than thirty days after submission of the State land use program to such agency head by the Secretary; and

(2) the Secretary shall not make a grant to any State pursuant to this Act until he has ascertained that the Administrator of the Environmental Protection Agency is satisfied that the State land use program of such State is in compliance with the goals of the Federal Water Pollution Control Act, the Clean Air Act, and other Federal laws controlling pollution which fall within the jurisdiction of the Administrator, and that those portions of the State land use program which will effect any change in land use within the next annual review period are in compliance with the standards, criteria, emission or effluent limitations, monitoring requirements, or implementation plans required by such laws. The Administrator shall be deemed to be satisfied if he does not communicate his views to the Secretary within sixty days of submission of the State land use program to him by the Secretary.

(c) The Secretary may not make any grant to any State pursuant to this Act unless he has been informed by the Secretary of Housing and Urban Development that he is satisfied that the statewide land use planning process or State land use program of such State with respect to which the grant is to be made (1) conforms to the objectives of section 701 of the Housing Act of 1954, as amended, and to the relevant planning assisted under that section, including the provisions related to functional plans, and housing, public facilities, and other growth and development objectives, and (2) meets the requirements of this Act insofar as they pertain to large-scale development, development of regional benefit, large-scale subdivisions, and the urban development of lands impacted by key facilities. The Secretary of Housing and Urban Development shall be deemed to be satisfied if he does not communicate his views to the Secretary within sixty days after the statewide land use planning process or State land use program has been submitted to him by the Secretary.

(d) The Secretary shall determine a State eligible or ineligible for a grant pursuant to this Act not later than six months following receipt for review of the application of the State for its first grant, a report of the State on its previous grant, or the State land use program of the State as provided in section 301.

(e) Pursuant to subsections (a) and (b) of this section the Secretary shall consider the views of the heads of the Departments of Agriculture; Commerce; Defense; Health, Education, and Welfare; Housing and Urban Development; and Transportation; the Atomic Energy Commission; the Federal Power Commission; and the Environmental Protection Agency.

(f) A State may revise at any time its State land use program: *Provided*, That such revision does not render the State land use program inconsistent with the requirements of this Act: *And provided further*, That any significant revision is reported to the Secretary. The Secretary shall make a temporary determination, prior to the full review of the State land use program pursuant to section 305, of whether such revision would render the State land use program inadequate for purposes of complying with the requirements of this Act, and shall inform the State of his determination.

(g) (1) In the event the Secretary determines that a State is ineligible for grants pursuant to this Act or, having found a State eligible for such grants, subsequently determines that grounds exist for withdrawal of such eligibility, he shall notify the President, who shall order the establishment of an ad hoc hearing board (hereinafter referred to as "hearing board"), the membership of which shall consist of:

(A) the Governor of a State which is not the State for which grant eligibility is in question and which does not have a particular interest in whether grant eligibility or ineligibility is determined, selected by the President within thirty days after notification by the Secretary, or, within ten days thereafter, such alternate person as the Governor selected by the President may designate;

(B) one knowledgeable, impartial Federal official who is not an official of an agency listed in clauses (1) through (3) of subsection (b) of section 203, selected by the President within thirty days after notification by the Secretary; and

(C) one knowledgeable, impartial private citizen, selected by the other two members: *Provided*, That if the other two members cannot agree upon a third member within twenty days after the appointment of the second member to be appointed, the third member shall be selected by the President within twenty days thereafter.

(2) The Secretary shall specify in detail, in writing, to the hearing board his reasons for considering a State ineligible, or for withdrawing the eligibility of a State, for grants pursuant to this Act. The hearing board shall hold such hearings and receive such evidence as it deems necessary. The hearing board shall then determine whether a finding of ineligibility would be reasonable, and set forth in detail, in writing, the reasons for its determination. If the hearing board determines that ineligibility would be unreasonable, the Secretary shall find the State eligible for grants pursuant to this Act. If the hearing board concurs in the finding of ineligibility or withdrawal of eligibility, the Secretary shall find the State ineligible for grants pursuant to this Act. Ineligibility shall be deemed to have been determined by the hearing board if no determination in writing is made by it within ninety days of its appointment.

(3) Members of hearing boards who are not regular full-time officers or employees of the United States shall, while carrying out their duties as members, be entitled to receive compensation at a rate fixed by the President, but not exceeding $150 per diem, including traveltime, and, while away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law for persons intermittently employed in Government service. Expenses shall be charged to the account of the Executive Office of the President.

(4) Administrative support for hearing boards shall be provided by the Executive Office of the President.

(5) The President may issue such regulations as may be necessary to carry out the provisions of this subsection.

CONSISTENCY OF FEDERAL ACTIONS WITH STATE LAND USE PROGRAMS

SEC. 306. (a) Federal projects and activities significantly affecting land use, including but not limited to grant, loan, or guarantee programs, such as mortgage and rent subsidy programs and water and sewer facility construction programs, shall be consistent with State land use programs which conform to the provisions of sections 303, 304, and 402 of this Act, except in cases of overriding national interest, as determined by the President. Procedures provided for in regulations issued by the Office of Management and Budget pursuant to the criteria specified in section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1262–3), as amended, and title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 1103–4), together with such additional procedures as the Office of Management and Budget may determine are necessary and appropriate to carry out the purpose of this Act, shall be utilized in the determination of whether Federal projects and activities are consistent with the State land use programs.

(b) (1) Any State or local government submitting an application for Federal assistance for any program, project, or activity having significant land use implications in an area or for a use subject to a State land use program in a State found eligible for grants pursuant to this Act shall transmit to the relevant Federal agency the views of the State land use planning agency and/or the Governor and, in the case of an application of a local government, the views of such local government and the relevant areawide planning agency designated pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and/or title IV of the Intergovernmental Cooperation Act of 1968, as to the consistency of such activity with the State land use program: *Provided*, That, if a local government certifies that a plan or description of an activity for which application is made by the local government has lain before the State land use planning agency and/or the Governor for a period of sixty days without indication of the views of the State land use planning agency and/or the Governor, the application need not be accompanied by such views.

(2) The relevant Federal agency shall, pursuant to subsections (a) and (b) (1) of this section, determine, in writing, whether the proposed activity is consistent or inconsistent with the State land use program.

(3) No Federal agency shall approve any proposed activity which it determines to be inconsistent with a State land use program in a State found eligible for grants pursuant to this Act.

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

FEDERAL ACTIONS IN THE ABSENCE OF STATE ELIGIBILITY

SEC. 307. (a) The Secretary shall have authority to terminate any financial assistance extended to a State under this Act and withdraw his determination of grant eligibility whenever, in accordance with section 305, the statewide land use planning process or the State land use program of such State is determined not to meet the requirements of this Act.

(b) Where any major Federal action significantly affecting the use of non-Federal lands is proposed after five fiscal years from the date of enactment of this Act in a State which has not been found eligible for frants pursuant to this Act, the responsible Federal agency shall hold a public hearing in such State at least one hundred eighty days in advance of the proposed action concerning the effect of the action on land use, taking into account the relevant considerations set out in sections 302, 303, 304, and 402 of this Act, and shall make findings which shall be submitted for review and comment by the Secretary, and where appropriate, by the Secretary of Housing and Urban Development. Such findings of the responsible Federal agency and comments of the Secretary and, where appropriate, the Secretary of Housing and Urban Development shall be made part of the detailed statement required by section 102(2) (C) of the National Environmental Policy Act of 1969 (83 Stat. 852, 853). This subsection shall be subject to exception where the President determines that the interests of the United States so require.

TITLE IV

FEDERAL-STATE COORDINATION AND COOPERATION IN THE PLANNING AND MANAGEMENT OF FEDERAL AND ADJACENT NON-FEDERAL LANDS

SEC. 401. (a) All agencies of the Federal Government charged with responsibility for the management of Federal lands shall consider State land use programs prepared pursuant to this Act and State, local government, and private needs and requirements as related to the Federal lands, and shall coordinate the land use inventory, planning and management activities on or for Federal lands with State and local land use inventory, planning, and management activities on or for adjacent non-Federal lands to the extent such coordination is practicable and not inconsistent with paramount national policies, programs, and interests.

(b) For the purposes of this section, any agency proposing any new program, policy, rule, or regulation relating to Federal lands shall publish a draft statement and a final statement concerning the consistency of the program, policy, rule, or regulation with State and local land use planning and management, and, where inconsistent, the reasons for such inconsistency, forty-five days and fifteen days, respectively, prior to the establishment of such program or policy or the promulgation of such rule or regulation, and, except where otherwise provided by law, shall conduct a public hearing, with adequate public notice, on such program, policy, rule, or regulation prior to the publication of the final statement.

SEC. 402. (a) As a condition of continued eligibility of any State for grants pursuant to this Act, after the five complete fiscal year period following the enactment of this Act, the Secretary shall have determined that—

(1) the State land use program developed pursuant to sections 303 and 304 of this Act includes methods for insuring that Federal lands within the State, including but not limited to units of the national park system, wilderness areas, and game and wildlife refuges, are not damaged or degraded as a result of inconsistent land use patterns in the same immediate geographical region; and

(2) the State has demonstrated good faith efforts to implement such methods in accordance with subsection (b) of section 304.

(b) The procedures for determination of grant eligibility provided for in section 305 shall apply to this section.

AD HOC FEDERAL-STATE JOINT COMMITTEES

SEC. 403. (a) The Secretary, at his discretion or upon the request of the Governor of any State involved, shall establish an Ad Hoc Federal-State Joint Committee or Committees (hereinafter referred to as "joint committee" or "committees") to review and make recommendations concerning general and specific problems relating to jurisdictional conflicts and inconsistencies resulting from the various policies and legal requirements governing the planning and management of Federal lands and of adjacent non-Federal lands. Each joint committee shall include representatives of the Federal agencies having jurisdiction over the Federal lands involved, representatives of affected user groups, including recreation and conservation interests, and officials of affected State agencies and units of local government. Prior to appointing representatives of user groups and officials of local governments, the Secretary shall consult with the Governor or Governors of the affected State or States and local governments. The Governor of each State shall appoint the officials of the affected agencies of his State who shall serve on the joint committee.

(b) Each joint committee shall terminate at the end of two years from the date of its establishment.

(c) Each member of a joint committee may be compensated at the rate of $100 for each day he is engaged in the actual per-

formance of duties vested in his joint committee. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently: *Provided, however,* That no compensation except travel and expenses in addition to regular salary shall be paid to any full-time Federal or State official.

(d) Each joint committee shall have available to it the services of an executive secretary, professional staff, and such clerical assistance as the Secretary determines is necessary. The executive secretary shall serve as staff to the joint committee or committees and shall be responsible for carrying out the administrative work of the joint committee or committees.

(e) The specific duties of any joint committee shall be assigned by the Secretary and may include—

(1) conducting a study of, and making recommendations to the Secretary concerning methods for resolving, general problems with and conflicts between land use inventory, planning, and management activities on or for Federal lands and State and local land use inventory, planning, and management activities on or for adjacent non-Federal lands, including, where relevant, the State land use programs developed pursuant to sections 303, 304, and 402 of this Act;

(2) investigating specific conflicts between the planning and management of Federal lands and of adjacent non-Federal lands and making recommendations to the Secretary concerning their resolution;

(3) assisting the States and the Office of Land Use Policy Administration in the development of systematic and uniform methods among the States and between the States and the Federal Government for collecting, compiling, exchanging, and utilizing land use data and information; and

(4) advising the Secretary, during his review of State land use programs, of opportunities for reducing potential conflicts and improving coordination in the planning and management of Federal lands and of adjacent non-Federal lands.

(f) Upon receipt of the recommendations of a joint committee upon a problem or conflict pursuant to subsection (e) of this section the Secretary shall—

(1) where he has legal authority, take any appropriate and necessary action to resolve such problem or conflict;

(2) where he does not have jurisdiction over or authority concerning the Federal lands which are involved in the problem or conflict, work with the appropriate Federal agency or agencies to develop a proposal designed to resolve the problem or conflict and to enhance cooperation and coordination between the planning and management of Federal lands and of adjacent non-Federal lands; and

(3) if he determines that the legal authority to resolve such problems or conflicts is lacking in the executive branch, recommend enactment of appropriate legislation to the Congress.

(g) In taking or recommending action pursuant to the recommendations of a joint committee, the Secretary shall give careful consideration to the purposes of this Act and not resolve any problem with or conflict between the planning and management of Federal lands and of adjacent non-Federal lands in a manner which would impair the national purposes or objectives to which the Federal lands involved are dedicated and for which they are being managed.

BIENNIAL REPORT ON FEDERAL-STATE COORDINATION

SEC. 404. The Secretary shall report biennially to the President and the Congress concerning—

(a) problems in and methods for coordination of planning and management of Federal lands and planning and management of adjacent non-Federal lands, together with recommendations to improve such coordination;

(b) the resolution of specific conflicts between the planning and management of Federal lands and of adjacent non-Federal lands; and

(c) at the request of the Governor of any State involved, any unresolved problem with or conflict between the planning and management of Federal lands and of adjacent non-Federal lands, together with any recommendations the Secretary and the Governor or Governors may have for resolution of such problem or conflict.

SEC. 405. (a) Prior to the making of recommendations on any problem or conflict pursuant to subsection (e) of section 403, each joint committee shall conduct a public hearing or provide an opportunity for such a hearing in the State on such problem or conflict, with adequate public notice, allowing fully participation of representatives of Federal, State, and local governments and members of the public. Should no hearing be held, the joint committee shall solicit the views of all affected parties and submit a summary of such views, together with its recommendations, to the Secretary.

(b) Prior to the making of recommendations or the taking of actions pursuant to subsection (f) of section 403, the Secretary shall review in full the relevant hearing record or, where none exists, the summary of views of affected parties prepared pursuant to subsection (a) of this section, and may, in his discretion, hold further public hearings.

SEC. 406. Upon request of a joint committee, the head of any Federal department or agency or federally established or authorized interstate agency is authorized: (i) to furnish to the joint committee, to the extent permitted by law and within the limits of available funds, such information as may be necessary for carrying out the functions of the joint committee and as may be available to or procurable by such department, agency, or interstate agency; and (ii) to detail to temporary duty with the joint committee, on a reimbursable basis, such personnel within his administrative jurisdiction as the joint committee may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

TITLE V—GENERAL

DEFINITIONS

SEC. 501. For the purposes of this Act—

(a) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(b) The term "local government" means any general purpose county or municipal government, or any regional combination thereof, or, where appropriate, any other public agency which has land use planning authority.

(c) The term "Federal lands" means any land owned by the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof, except lands held in trust for the benefit of Indians, Aleuts, and Eskimos.

(d) The term "non-Federal lands" means all lands which are not "Federal lands" as defined in subsection (c) of this section and are not held by the Federal Government in trust for the benefit of Indians, Aleuts and Eskimos.

(e) The term "areas of critical environmental concern" means areas as designated by the State on ~~non-Federal lands~~ where uncontrolled development could result in irreversible ~~damage~~ to important historic, cultural, or esthetic values, or natural systems or processes which are of more than local significance, or could unreasonably endanger life and property as a result of natural hazards of more than local significance. Such areas, subject to State definition of their extent, shall include—

(1) coastal wetlands, marshes, and other lands inundated by the tides;

(2) beaches and dunes;

(3) significant estuaries, shorelands, and flood plains of rivers, lakes, and streams;

(4) areas of unstable soils and with high seismicity;

(5) rare or valuable ecosystems;

(6) significant undeveloped agricultural, grazing, and watershed lands;

(7) forests and related land which require long stability for continuing renewal;

(8) scenic or historic areas; and

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

(f) The term "key facilities" means public facilities on non-Federal lands which tend to induce development and urbanization of more than local impact and major facilities on non-Federal lands for the development, generation, and transmission of energy.

(g) The term "development and land use of regional benefit" means land use and private development on non-Federal lands for which there is demonstrable need affecting the interests of constituents of more than one local government which outweighs the benefits of any applicable restrictive or exclusionary local regulations.

(h) The term "large scale development" means private development of non-Federal lands which, because of its magnitude or the magnitude of its effect on the surrounding environment, is likely to present issues of more than local significance in the judgment of the State. In determining what constitutes "large scale development" the State should consider, among other things, the amount of pedestrian or vehicular traffic likely to be generated; the number of persons likely to be present; the potential for creating environmental problems such as air, water, or noise pollution; the size of the site to be occupied; and the likelihood that additional or subsidiary development will be generated.

GUIDELINES, RULES AND REGULATIONS

SEC. 502. (a) The Executive Office of the President shall issue guidelines to the Federal agencies and the States to assist them in carrying out the requirements of this Act. The Executive Office shall submit proposed guidelines to the Secretary, the Board, the heads of agencies represented on the Board, and representatives of State and local governments, and shall consider their comments prior to formal issuance of such guidelines.

(b) The Secretary, after appropriate consultation with representatives of the States and, where appropriate, representatives of local governments, and upon the advice of the Board and the heads of Federal agencies represented on the Board, shall promulgate rules and regulations to implement the guidelines formulated pursuant to subsection (a) of this section and to administer this Act, except with respect to subsection (g) of section 305 of this Act.

BIENNIAL REPORT

SEC. 503. The Secretary, with the assistance of the Office and the Board, shall report biennially to the President and the Congress on land resources, uses of land, and current and emerging problems of land use.

UTILIZATION OF PERSONNEL

SEC. 504. Upon the request of the Secretary, the head of any Federal agency is authorized: (i) to furnish to the Office such information as may be necessary for carrying out the functions of the Office and as may be available to or procurable by such agency, and (ii) to detail to temporary duty with the Office, on a reimbursable basis, such personnel within his administrative jurisdiction as the Office may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

TECHNICAL ASSISTANCE

SEC. 505. The Office may provide, directly or through contracts, grants, or other arrangements, technical assistance to any State found eligible for grants pursuant to this Act to assist such State in the performance of its functions under this Act.

HEARINGS AND RECORDS

SEC. 506. (a) For the purpose of carrying out the provisions of this Act, the Director, with the concurrence of the Secretary, may hold such hearings, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of the proceedings and reports thereon as he deems advisable.

(b) The Director is authorized to administer oaths when he determines that testimony shall be taken or evidence received under oath.

(c) To the extent permitted by law, all appropriate records and papers of the Office shall be made available for public inspection during ordinary office hours.

ALLOTMENTS

SEC. 507. (a) Annual grants authorized by section 301 to States found eligible for financial assistance pursuant to this Act shall be made in amounts not to exceed 66⅔ per centum of the estimated cost of developing the State land use programs for the two complete fiscal year period following the enactment of this Act and amounts not to exceed one-half of such cost for the next three fiscal years.

(b) Grants pursuant to this Act shall be allocated to the States on the basis of regulations of the Secretary, which regulations shall take into account the amount and nature of each State's land resource base, population, pressures resulting from growth, financial need, and other relevant factors.

(c) Any grant pursuant to this Act shall increase, and not replace, State funds presently available for State land use planning and management activities. Any grant made pursuant to this Act shall be in addition to, and may be used jointly with, grants or other funds available for land use planning, programs, surveys, data collection, or management under other federally assisted programs.

(d) No funds granted pursuant to this Act may be expended for the acquisition of any interest in real property.

PAYMENTS

SEC. 508. The method of computing and paying amounts pursuant to this Act shall be as follows:

(a) The Secretary shall, prior to the beginning of each calendar quarter or other period prescribed by him, estimate the amounts to be paid to each State under the provisions of this Act for such period, such estimate to be based on such records of the States and information furnished by them, and such other investigation as the Secretary may deem necessary.

(b) The Secretary shall pay to a State, from the allotments available therefor, the amounts so estimated by him for any period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which he finds that his estimate of the amount to be paid such State for any prior period under this Act was greater or less than the amount which should have been paid to such State for such prior period under this Act. Such payments shall be made through the disbursing facilities of the Department of the Treasury, at such times and in such installments as the Secretary may determine.

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FINANCIAL RECORDS

SEC. 509. (a) Each recipient of a grant pursuant to this Act shall make reports and evaluations in such form, at such times, and containing such information concerning the status, disposition, and application of Federal funds and the operation of the statewide land use planning process or State land use program as the Secretary may require by regulations published in the Federal Register, and shall keep and make available such records as may be required by the Secretary for the verification of such reports and evaluation.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of a recipient of a grant pursuant to this Act which are pertinent to the determination that funds granted pursuant to this Act are used in accordance with this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 510. To carry out the purposes of this Act, there are authorized to be appropriated to the Secretary for grants to the States not more than $40,000,000 for each of the first two fiscal years following the enactment of this Act and $30,000,000 for each of the next three fiscal years.

SEC. 511. For each of the five full fiscal years following the enactment of this Act, there are authorized to be appropriated $10,000,000 to the Secretary to be used exclusively for the administration of this Act. After the end of the fourth fiscal year after the enactment of this Act, the Secretary shall review the programs established by this Act and shall submit to Congress his assessment thereof and such recommendations for amendments to the Act as he deems proper and appropriate.

EFFECT ON EXISTING LAWS

SEC. 512. Nothing in this Act shall be construed—

(a) to expand or diminish Federal, interstate or State jurisdiction, responsibility, or rights in the field of land and water resources planning, development or control; to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States, or of two or more States, a State, or a region and the Federal Government; to limit the authority of Congress to authorize and fund projects;

(b) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as new authority or responsibilities have been added by the provisions of this Act;

(c) as superseding, modifying or repealing existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of land and water resources or to exercise licensing or regulatory functions in relation thereto; or to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico;

(d) as granting to the Federal Government any of the constitutional or statutory authority now possessed by State and local governments to zone non-Federal lands;

(e) to delay or otherwise limit the adoption and vigorous enforcement by any State of standards, criteria, emission or effluent limitations, monitoring requirements, or implementation plans which are no less stringent than the standards, criteria, emission or effluent limitations, monitoring requirements, or implementation plans required by the Federal Water Pollution Control Act, the Clean Air Act, or other Federal laws controlling pollution, and

(f) to adopt any Federal policy or requirement which would prohibit or delay States or local governments from adopting or enforcing any law or regulation which results in prohibition or control to a degree greater than required by this Act of land use development in any area over which the State or local government exercises jurisdiction.